



W. Douglas Kemper

Of Counsel

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Doug Kemper focuses his practice on trial advocacy and defense of tort liability, including personal injury, premises liability, professional liability, insurance coverage and bad faith, investigation of insurance fraud, and analysis of contractual and coverage issues in liability, casualty, commercial and property policies. He has litigated liability and coverage issues in state and federal appellate courts as well. In addition, Doug has advised Fortune 500 companies on criminal law and procedure issues arising in the workplace, and has litigated noncompete agreements from both sides.

Doug also practices in the Long-Term Care/Nursing Home Defense area, where he has represented long-term care facilities in litigation involving a broad array of claims, including medical negligence, staffing issues, resident abuse, fraudulent charting and violations of patient rights. He also deals regularly with HIPAA compliance issues and enforcement of alternative dispute resolution (ADR) agreements, which he has litigated in appellate courts.

Doug began his career as an Assistant Commonwealth's Attorney and served as lead counsel on nearly 100 trials, including four capital murder cases, and prepared an extensive array of cases for grand jury presentation. He then moved into civil litigation, where his trial advocacy resulted in numerous defense verdicts in areas of personal injury, premises liability and insurance contract claims. He also defended trial wins and cases won on motion practice before appellate courts.

Doug served as a judge in Jefferson Circuit Court, where he presided over felony criminal cases and a wide variety of civil litigation. In 2006, he presided over two murder cases involving application of the Commonwealth's newly enacted Castle Doctrine self-defense law, and the procedure he devised for applying the new law was adopted by the Kentucky Supreme Court with only a slight modification, and established the precedent for trial courts in Kentucky to follow. Doug's experience also includes serving in Washington, D.C.

Services

- Alternative Dispute Resolution
- Appellate
- Complex Tort & General Casualty
- Insurance & Reinsurance Coverage
- Insurance & Reinsurance Defense
- Contractual/Extra-Contractual Liability Litigation
- National Trial Team

as a Presidential Management Fellow, where he worked as an auditor for U.S. Government Accountability Office and as a budget analyst at the U.S. Office of Management and Budget. Doug was a paralegal instructor at Bellarmine University from 1998–2000.

Education

- University of Kentucky College of Law (J.D., 1993)
 - Faculty Cup for Most Outstanding Graduate; Moot Court Award for Most Outstanding Brief
- Indiana University Bloomington (M.P.A., 1988)
- University of Louisville (B.S., 1986)

Bar Admissions

- Kentucky

Court Admissions

- U.S. Court of Appeals, Sixth Circuit
- U.S. District Court, Eastern District of Kentucky
- U.S. District Court, Western District of Kentucky
- U.S. District Court, Middle District of Tennessee
- U.S. District Court, Western District of Tennessee

Professional Affiliations

- Louisville Bar Association

Awards & Honors

- Rated AV® Preeminent™ by Martindale-Hubbell

Client Wins

Kemper Files Motion to Dismiss, Convincing Opposing Counsel to Enter an Agreed Order to Dismiss Claim with Prejudice

Doug Kemper (Of Counsel-Louisville, KY) succeeded in a motion to dismiss the firm's insurer client. Plaintiff homeowners claimed the client's Insured, a home inspection company, conducted a negligent pre-purchase inspection of the home and failed to discover and report numerous problems that if properly disclosed would have negated the purchase. Plaintiffs asserted claims of negligence, breach of contract, violation of the Kentucky Consumer Protection Act, negligence per se, and fraud, and sought punitive damages for alleged misrepresentations about the insured company's work and certification that the inspection would be conducted by a licensed professional. Our client carrier denied coverage for the claims, which were specifically excluded in an

endorsement. The plaintiffs then amended their complaint to join our carrier client in a Declaratory Judgment action obligating the carrier to provide coverage for the plaintiffs' claim. Doug filed a Rule 12 motion to dismiss for failure to state a claim, arguing that (1) because Kentucky is a "no direct action" state, the plaintiffs could not assert a claim directly against the carrier, and (2) the plaintiffs lacked standing to bring a Declaratory Judgment action to litigate a coverage issue between an insurer and its insured. Upon review of our Motion to Dismiss, counsel conceded that the motion was well taken and offered to enter an Agreed Order to dismiss the carrier with prejudice.

Kemper Obtains Complete Vindication of Rehab Center in Van Accident

Doug Kemper (Of Counsel-Louisville, KY) represented a drug rehabilitation center and its insurer in litigation involving a three-vehicle accident that resulted in catastrophic injuries to the 11 passengers in our client's van, many of whom were ejected from the vehicle during the accident. Although it was clear that the accident was caused by one of the other drivers, all 11 plaintiffs joined liability claims against the rehab center and its driver. After settling the liability claims against the at-fault driver and the Underinsured Motorist carrier, the plaintiffs took aim at our client seeking to open the door to a \$2 million liability insurance policy. The plaintiffs claimed there were not enough working seatbelts and that our driver had a duty to make sure everyone was belted before driving the van. After extensive discovery and motion practice, 9 of the 11 plaintiffs voluntarily dismissed their claims against our client and Doug prevailed on summary judgment to dismiss the claims of the 2 remaining plaintiffs, resulting in complete vindication of our client's position.

Kemper and Dutton Receive Affirmance on Application of Personal Injury versus MVRA Statute of Limitations

Louisville, Kentucky, Of Counsel Doug Kemper and Associate Cyrus Dutton obtained affirmance of a case in which the plaintiff and our client were involved in a motor vehicle accident. After the accident, our client exited his vehicle and pulled the plaintiff out of his driver-side door. Upon making contact with the ground, the plaintiff broke bones in his foot and ankle. The plaintiff filed suit almost two years after the accident, claiming that the statute of limitations of the Motor Vehicle Reparations Act (MVRA) should apply. The Meade County Circuit Court dismissed the plaintiff's Complaint on Summary Judgment. The plaintiff appealed the trial court's order, and on appeal, the Kentucky Court of Appeals found that the appellant's injuries did not arise out of the use of a motor vehicle, but were caused by the third-party intentional tort of assault. As such, the Court of Appeals found that the two-year statute of limitations under the MVRA did not apply; rather, the appellant's complaint was barred by the one-year statute of limitations for personal injury claims.

Kemper and Dutton Granted Motion for Summary Judgment in Bad Faith Claim

Doug Kemper (Of Counsel-Louisville, KY) and Cyrus Dutton (Associate-Louisville, KY) were granted their motion to dismiss by Jefferson Circuit Court, Jefferson County, Kentucky, with added language to make its ruling immediately final and appealable. The plaintiff, an Ohio resident, was involved in a multi-party motor vehicle accident in Kentucky with another Ohio resident insured by our client, an insurer incorporated in Ohio with its principal place of business in Ohio. Liability for the accident was disputed, and the plaintiff sued the insured and joined third-party bad faith and punitive damages claims against the insurer alleging statutory and common law bad faith claims for failing to pay the claim.

Doug and Cy moved to dismiss the bad faith claims on the grounds that Ohio law applies under a Conflict of Law analysis, and that Ohio does not recognize third-party bad faith claims against insurers. The motion was granted.