



John Kingston

Partner

St. Louis
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PRACTICES

- Business Litigation
- Class Action
- Appellate

EDUCATION

- Boston University School of Law, J.D., magna cum laude, 1999, Editor, Law Review, Edward F. Hennesey Distinguished Scholar, G. Joseph Tauro Scholar, Paul J. Liacos Scholar
- Phillips University, B.A., 1995, Snodgrass Award

ADMISSIONS

- Missouri
- Illinois USDC, Southern District
- Missouri USDC, Eastern District
- Missouri USDC, Western District
- US Ct Appeals, 4th Circuit (Covers MD, NC, SC, VA, WV)
- US Ct Appeals, 6th Circuit (Covers KY, MI, OH, TN)
- US Ct Appeals, 8th Circuit (Covers AR, IA, MN, MO, NE, ND, SD)

REPRESENTATIVE CLIENTS

- Charter Communications, Inc.
- SupplyOne, Inc.
- TracFone Wireless, Inc.

John handles complex commercial litigation in state and federal courts across the nation.

A first-chair trial lawyer, John has tried jury trials and bench trials in state and federal courts across the nation. He has briefed and argued appeals in federal and state appellate courts and in the Supreme Court of Missouri.

John is a vigorous and resourceful advocate who works closely with clients through all stages of litigation to understand the core issues of each dispute and to develop litigation strategies that efficiently achieve his client's goals.

John routinely works with cross-disciplinary teams in specialized practice areas. He is adept at understanding industry-specific disputes and persuasively presenting his clients' positions to judges and juries that are not industry experts. John has tried cases involving allegations of patent infringement, civil conspiracy, breach of fiduciary obligations, antitrust violations, trademark infringement, false advertising, professional malpractice, and claims arising under the Supremacy Clause and Commerce Clause of the United States Constitution.

John is a Senior Fellow in the Litigation Counsel of America, a peer-selected honorary society for trial lawyers representing less than one-half of one percent of American lawyers. Fellows are selected based upon excellence and accomplishments in trial work and superior ethical reputation.

John is a former law clerk to the Hon. Boyce F. Martin, Chief Judge of the United States Court of Appeals for the Sixth Circuit and to the Hon. Carol E. Jackson, Chief Judge of the United States District Court for the Eastern District of Missouri.

Experience

- **Maryland Heights, et al., v. TracFone Wireless, Inc. and Springfield, Missouri v. TracFone Wireless, Inc.**

Suing on behalf of hundreds of Missouri municipalities, the City of Maryland Heights sought back taxes on TracFone's wholesale and resale sales of prepaid wireless service. TracFone and the class reached a mutually agreeable settlement after TracFone obtained summary judgment against the class on all claims for back taxes on wholesale sales.

COMMUNITY

- Board of Directors, Repertory Theatre St. Louis
- Co-Chair Pro Bono Committee, Thompson Coburn LLP

AFFILIATIONS

- Senior Fellow, Litigation Counsel of America
- Missouri Organization of Defense Lawyers
- Missouri Bar Association
- Bar Association of Metropolitan St. Louis
- Board of Directors, Federal Bar Association, Eastern District of Missouri

EMPLOYMENT

- Thompson Coburn LLP Partner, 2008-Present Associate, 2003-2007
- U.S. District Court for the Eastern District of Missouri Clerk for Chief Judge Carol E. Jackson, 2002-2003
- U.S. Court of Appeals for the Sixth Circuit Clerk for Chief Judge Boyce F. Martin, 2001-2002
- Bryan Cave LLP Associate, 1999-2001

Opting out of the class action lawsuit, the City of Springfield likewise sued TracFone for back taxes. In similar tax litigation, Springfield had traditionally received a substantial premium in excess of its projected payments as a class member. The TracFone lawsuit proceeded to trial on the issue of damages after TracFone refused to pay Springfield's typical premium.

John sat first chair in the Springfield trial, which was the first in the nation involving an adjudication of the proper methodology for identifying internet access charges among bundled services under the Internet Tax Freedom Act. The final judgment was roughly half of TracFone's last settlement offer (and an amount substantially below the City's projected recovery had it not opted out of the class).

- **Triad Packaging, Inc. v. SupplyOne, Inc.**

John first-chaired a two week jury trial on behalf of Philadelphia-based SupplyOne, Inc. in Statesville, North Carolina. SupplyOne had been sued by a local manufacturer seeking roughly \$4 million dollars for alleged antitrust violations, breach of contract, and fraud. At trial, the jury sided with SupplyOne. After the plaintiff appealed, John successfully argued his client's case to the United States Court of Appeals for the Fourth Circuit. Ultimately, the plaintiff that sued SupplyOne for \$4 million was forced to pay SupplyOne more than \$350,000.

- **Bettcher Industries, Inc. v. Bunzl USA, Inc.**

An Ohio manufacturer sued Bunzl in Toledo, Ohio, for patent infringement. John joined the trial team shortly after the presiding judge found (in the context of a preliminary injunction decision) that there was a "substantial likelihood" that the plaintiff would prevail on its patent claims at trial. After a two-week trial, the jury reached a different conclusion—returning a defense verdict on all eleven counts of plaintiff's patent infringement claim.

- **Minority Shareholder Representation**

Although his focus is commercial litigation, John has at various times represented minority shareholders seeking to exit closely held corporations. In the last three instances, his investigation uncovered management misconduct that artificially depressed the value of his client's ownership interest. In all three instances, the shareholders filed suit based on the misconduct revealed by John's investigation, their recovery was more than quadruple the originally proposed buyout price. Disclosure of the parties' identities is precluded by the terms of the applicable settlement agreements.

Publications

- Co-Author, "Four Strategies for Avoiding Privilege Pitfalls" *ABA Commercial & Business Litigation*, Volume 25, Issue 1, February 27, 2024

Recognitions

- Listed in "Chambers USA" for Litigation: General Commercial in Missouri; St. Louis & Surrounds, 2023 (by Chambers & Partners)

