

# W. DOUGLAS KEMPER

## EXEMPLAR TRIAL EXPERIENCE

W. Douglas Kemper | Of Counsel  
502.238.7860  
[doug.kemper@wilsonelser.com](mailto:doug.kemper@wilsonelser.com)



Doug Kemper began his career as an Assistant Commonwealth's Attorney and served as lead counsel on nearly 100 trials, including four capital murder cases. In civil litigation, Doug focuses his practice on trial advocacy and defense of tort liability and continued representation at the appellate level. He has defended 15 civil trials over his career and has taken nine defense verdicts. Below are a few of his recent noteworthy cases.

### CORNETT v. THOMAS

Letcher Circuit Court

**Personal Injury MVA/2021**

Obtained a \$370,000 jury award in a rear-end collision case where plaintiff asked for \$6 million in damages. Plaintiff alleged extreme aggravation of preexisting degenerative conditions of her cervical and lumbar spine that her orthopedic surgeon testified would require two surgeries. Pre-trial disclosure indicated plaintiff would seek \$66 million, but the trial court granted directed verdict on the permanent impairment and punitive damages claims. We used two of plaintiff's own treating physicians (that she did not include on her witness list) to demonstrate that her condition was chronic and active at the time of the accident.

### AESTHETIC PLASTIC SURGERY INSTITUTE OF LOUISVILLE v. KEITH FORWITH, STEVEN SHOTTS & ANDREW GOULD.

Jefferson Circuit Court (Bench Trial)  
Kentucky Court of Appeals

**Defend Against Enforcement  
of Non-compete/2014**

Defeated enforcement of non-compete for doctor clients that would prevent them from leaving a surgical center group to join a new practice. Plaintiff claimed the doctors would owe a multimillion-dollar penalty if they left as planned; however, we established that the steps they had taken two years before to officially disassociate themselves from the group were effective in starting the clock running under the contract terms. The doctors were allowed to leave as planned without penalty, and the trial court's decision was affirmed by the Kentucky Court of Appeals.

## TELECOM DECISION MAKERS v. BIRCH COMMUNICATIONS

W.D. Kentucky

**Contract Dispute/2014**

Successfully argued in post-trial motion practice that our client was entitled to enforce an arbitration clause in a contract despite having acceded to the trial court's jurisdiction for purposes of determining whether the contract was effectively assigned as part of an asset purchase agreement. Plaintiff was required to pursue its claim through arbitration, which resulted in a much better result for our client. Plaintiff had sought \$3 million in damages in a contract dispute for our client's failure to pay commissions after purchasing assets (including plaintiff's contracts) from another company. We disclaimed the contracts based on our client's position that it did not purchase "all or substantially all" of the prior company's assets, as required for the contracts to remain valid and enforceable against the purchasing company.

## HALL v. GOSS AVENUE ANTIQUES

Jefferson Circuit Court  
Kentucky Court of Appeals

**Premises Liability & Negligent Hiring/2013**

Successfully argued that a person who assaulted plaintiff on our client's premises was not the client's employee. The circuit court granted our novel motion to bifurcate the proceeding to allow the first part of the trial to focus solely on the issue of whether the assailant was our client's employee, rather than on the \$300,000 demand. Our argument prevailed, which precluded any further proceedings related to plaintiff's substantial injuries. We continued representation at the Kentucky Court of Appeals, which affirmed the trial court's judgment in favor of our client. The assailant was prosecuted criminally.

## COMMONWEALTH v. FINERTY

Jefferson District Court

**Stalking & Harassment/2003**

Obtained acquittal for our client in a bench trial by demonstrating there was no valid basis for plaintiff's criminal claim against her supervisor, alleging he stalked and harassed her at work and her home. The alleged victim was simply seeking to leverage her position for a more favorable resolution of the civil action against her employer (which was then settled for a nominal cost-of-defense amount).

## CAMPBELL v. FISHER

W.D. Kentucky

**Personal Injury MVA/2002**

Obtained a judgment in our client's favor, despite the trial court's directed verdict on liability for a rear-end motor vehicle accident on an expressway. Plaintiff claimed \$1 million in damages, including permanent impairment. We were able to demonstrate that plaintiff was habituated to pain pills, and greatly exaggerated her alleged injuries to continue getting prescriptions for those. The jury awarded nothing in damages, and a judgment was entered in favor of our client.