



James H. Kelly Jr.

Retired

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Jim Kelly practices law in the areas of business/commercial litigation, insurance litigation, products liability and personal injury. He has been lead counsel in more than 150 jury trials; more than 200 arbitrations, mediations, and other ADR; and more than 60 appearances in Federal and State Courts of Appeal.

Mr. Kelly was recognized in *The Best Lawyers in America*® for Commercial Litigation, Insurance Law, Antitrust Litigation, Mergers & Acquisitions Litigation, Securities Litigation, Trusts & Estates Litigation, and Personal Injury Litigation in 2018 and each of the 24 years immediately preceding. He was also named a 2012 "Lawyer of the Year" for the Greensboro region in the area of Insurance Law by *The Best Lawyers in America*®. Mr. Kelly is a lecturer in alternative dispute mediation, trial advocacy, and insurance and products liability laws. He has been named to *Business North Carolina's* "Legal Elite" list for many years and in 2011, 2019, 2021 and 2023, he was selected to *Business North Carolina's* "Legal Elite Hall of Fame" in the area of Business Litigation. Mr. Kelly has also been recognized as a North Carolina "Super Lawyer" in Business Litigation and Insurance Coverage by *Super Lawyers* magazine every year since its inception, and named to the national *Super Lawyers Corporate Counsel* listing. He is AV® rated by Martindale-Hubbell.*

* CV, BV, and AV are registered certification marks of Reed Elsevier Properties Inc., used in accordance with the Martindale-Hubbell certification procedure's standards and policies.

Experience

Represented Progress Energy in a complex matter alleging various business torts, including tortious interference with contract and unfair and deceptive trade practices claims pending in the North Carolina Business Court. The Court granted summary judgment for our client on all claims alleged by two of the plaintiffs. The claims of a third plaintiff were resolved shortly before the Court ruled on a pending summary judgement motion.

The firm served as lead counsel in defending claims based on breach of warranty and negligence allegedly resulting in an explosion at a North Carolina pharmaceutical plant, which destroyed the entire facility causing deaths and serious injury. After several years of litigation, the claims against our client were settled for less than



5 percent of the client's exposure.

Served as lead counsel in representing National Textiles LLC, the plaintiff-policyholder, in litigation alleging breach of duty to defend, breach of contract, and unfair and deceptive trade practices. Confidential settlement reached at mediation after insurer refused to indemnify insured for settlement of business tort claims.

Prosecuted claims relative to CPA and his company involving business break-up with former partners, including allegations of unfair trade practice, breach of fiduciary duty, misrepresentation and theft of business accounts.

Represented a consumer products manufacturing company when minority shareholders in the corporation brought suit against the company and its directors and officers alleging that the company defrauded shareholders and violated state securities laws in the partial redemption of their shares of company stock. We successfully negotiated a favorable business solution that allowed the company to dispense with the ongoing distraction of the dispute at a reasonable cost. Case pending.

The firm served as lead counsel representing BellSouth in a putative class action in which the plaintiffs alleged that BellSouth's customer billings with respect to Universal Service Fund charges were deceptive. We obtained the dismissal of the claims on the merits in Atlanta federal district court, which decision was upheld on appeal by the Eleventh Circuit Court of Appeals. After the Georgia litigation was resolved, plaintiffs filed a substantively-identical class action in North Carolina state court. We obtained an injunction from the North Carolina federal district court enjoining the plaintiff from re-litigating the class claims in a separate state court action. On appeal, the Fourth Circuit Court of Appeals affirmed, holding that such an injunction was appropriate under the "relitigation exception" to the federal Anti-Injunction Act, which generally bars federal courts from enjoining actions filed in state court.

Served as lead in-house counsel representing BellSouth in this significant antitrust case, which raised issues under essential facilities doctrine and the intersection of antitrust law and the Federal Telecommunications Act of 1996. The United States Supreme Court ultimately decided the antitrust liability issues in a companion case in BellSouth's favor. *Verizon Commc'ns Inc. v. Law Offices of Curtis V. Trinko, LLP*, 540 US 398 (2004).

Education

Duke University School of Law J.D. (1968)

Davidson College B.A. Political Science and English

Admissions

North Carolina (1968)

Court Admissions



U.S. Court of Appeals for the Federal Circuit

U.S. Court of Appeals for the Fourth Circuit

U.S. District Court for the Eastern District of North Carolina

U.S. District Court for the Middle District of North Carolina

U.S. District Court for the Western District of North Carolina

U.S. Supreme Court

Professional & Community Activities

American College of Trial Lawyers, Fellow

North Carolina Bar Association

North Carolina Association of Defense Attorneys, Past President

Defense Research Institute, Past State Chairman

National Institute of Trial Advocacy

North Carolina Bar Association, Administration of Justice Task Force, Past Chairman

North Carolina Board of Legal Specialization, Past Chairman

U.S. Army, Capt., Ret.

Insights

[News Releases](#)

Kilpatrick Townsend Attorneys Recognized in Business North Carolina Magazine's 2023 "Legal Elite"
January 9, 2023

[News](#)

Seven Kilpatrick Townsend Attorneys Recognized in Business North Carolina Magazine's 2021 "Legal Elite"
January 6, 2021

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Kilpatrick Townsend Attorneys Selected To Business North Carolina Magazine's 2019 "Legal Elite"
January 10, 2019

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Kilpatrick Townsend Attorneys Named 2018 North Carolina Super Lawyers
February 6, 2018



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Record-Breaking Recognition for Kilpatrick Townsend in The Best Lawyers in America® 2018

August 15, 2017