

Kim M. Jackson

Partner

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Office Location:

Kim Jackson defends attorneys and other professionals in malpractice claims, handles all forms of coverage and bad faith disputes, defends catastrophic injury cases, typically focusing on premises liability, represents companies and professionals in various types of complex commercial litigation and defends employers in employment discrimination claims.

Kim also has extensive experience defending individuals and companies in automobile and other personal injury cases, food product liability, pharmaceutical liability, wrongful death, and motor carrier liability.

Professional Experience

Legal Malpractice, Professional Liability and Bar Defense

Kim has represented many attorneys in both civil claims brought by clients and non-clients in Georgia, Texas, California, and Ohio, and in licensing issues brought before the State Bar of Georgia. Among the many cases that Kim has handled include the following examples:

Kim obtained a defense verdict following a two-week jury trial of a legal malpractice claim involving an allegedly missed statute of limitation on a construction lawsuit. The jury found that the law firm had not breached the standard of care.

Kim obtained summary judgment for a commercial closing attorney who had notarized a forged guarantee. The loan later resulted in a \$1.8 million default. Summary judgment was granted based on an argument that the Plaintiff's claim relied solely on a violation of criminal notary law that did not support a civil remedy.

Kim authored a successful amicus curie brief to the Supreme Court of Georgia on behalf of an attorney client that was facing a legal malpractice action had the Supreme Court not reversed the Court of



Practice Areas:

- Insurance Coverage and Bad Faith
- Legal Malpractice
- Litigation
- Professional Liability
- Premises Liability
- Insurance Defense
- Medical Malpractice
- Long-Term Care
- Labor and Employment Law
- Transportation

Admitted to Practice:

- Kentucky, 1994

Appeals ruling and issue a decision of first impression in the client's favor.

Kim won summary judgment in a legal malpractice case on an issue of first impression involving the application of res judicata against a corporation with a complex corporate structure.

Kim obtained summary judgment, which was upheld on appeal, for business litigation attorneys accused of failing to sufficiently document their client's settlement agreement arising out of a real estate development.

Kim obtained a reversal of a Supreme Court issued suspension, then tried the bar complaint on the remand before a special master. The lawyer was eventually issued a private reprimand rather than the two year suspension issued prior to Kim's representation.

Kim obtained a judgment on the pleadings against a workers' compensation attorney accused of negligently advising a client to engage in conduct that resulted in a criminal conviction for fraud.

Kim successfully defended the constitutionality of Georgia's affidavit of merit statute which resulted in an opinion by the Georgia Supreme Court and the denial of cert by the U.S. Supreme Court.

Coverage

Kim has represented many insurers and their third-party administrators in coverage analysis, coverage opinions, the preparation of coverage denial and reservation of rights letters, serving as coverage counsel in cases where a reservation of rights was issued but declaratory judgment was not filed, and serving as counsel in cases where coverage was litigated in either a declaratory judgment or bad faith actions or where insurance companies sought contribution or indemnity.

His experience in coverage litigation includes the representation of insurers in dozens of declaratory judgment and bad faith cases. He was counsel of record in the following published opinions:

In late 2010, Kim obtained summary judgment in the USDC, Northern District of Georgia, and recovered attorney's fees for a liability insurer sued as garnishee following a judgment against its insured in Federal Court arising out of a professional liability action. The insurer had denied the claim on the basis that it came after the

- Georgia, 1995
- Texas, 2010

Education:

- J.D., University of Kentucky, 1994, Order of Coif
- B.A., Wabash College, B.A. Economics & Mathematics, Magna Cum Laude

policy period of the claims made policy. The claimant argued that its suit was within the grace period of the claims made policy and that an ambiguity existed in the policy summary. The Federal Court sides with the insurer and awarded defense costs under Georgia's garnishment statutes.

Kim has recently won summary judgment or judgment on the pleadings in multiple coverage matters relying upon a client's assault and battery exclusion in its commercial general liability policies.

Other examples of coverage appellate opinions obtained by Kim include the following:

Meadows Motors v. USAA, 230 Ga. App. 387, 496 S.E.2d 355 (1998) (summary judgment for insurer affirmed)

Ga. Farm Bur. Mut. Ins. Co. v. Russum, 250 Ga. App. 39, 550 S.E.2d 441 (2001) (lower court's opinion for claimant reversed, no coverage found)

Ga. Farm Bur. Mut. Ins. Co. v. Burch, 222 Ga. App. 749, 476 S.E.2d 62 (1996) (won - Court of Appeals found no coverage)

Kim's coverage work has included the analysis and litigation of the following types of policies: (1) automobile; (2) homeowners; (3) general commercial liability; (4) personal and business umbrella; (5) tractor-trailer insurance regulated by Ga. Dept. of Public Safety; (6) professional liability E&O coverage, including accountant policies, attorney policies, and broker policies; (7) construction company commercial liability policies; (8) Multi-media liability policies; (9) D&O policies; (10) governmental liability policies; and more.

Premises Liability:

Kim represents land owners, security guards, and property management companies in premises liability matters of all types, including claims arising out of falls, third-party criminal acts, and mold exposure.

Examples of some of these defenses include the following:

Kim obtained a dismissal, which was upheld on appeal, in favor of a security company alleged to have illegally used radar to enforce traffic regulations in a private, gated community. The claims included false imprisonment, fraud, and theft by taking.

Kim has obtained summary judgment for apartment owners and their property management company in claims involving mold exposure on the basis that the plaintiff has failed to sufficiently link the alleged personal injuries to the alleged mold exposure on multiple occasions in the last few years.

Kim obtained judgment on the pleadings in favor of a security guard on civil rights claims brought by the parents of a hospital patient who were escorted off the property following a dispute over the medical treatment of the child.

Other litigation:

Kim drafted the briefs that obtained summary judgment for a portable plastic gasoline can manufacturer in the Southern District of Georgia arising out of a home fire that began in an indoor wood burning stove/fireplace. The claim alleged wrongful death of a child and burn injuries to an adult based on an alleged product defect in the portable plastic gasoline container.

Professional affiliations

- Defense Research Institute (DRI)
- Ethics and Professionalism; Commercial Litigation Committee
- Georgia Defense Lawyers Association, Professional Liability and Insurance Coverage Committees
- American Bar Association
- ABA Professional Liability Symposium
- Professional Liability Underwriting Society
- Atlanta Bar Association
- State Bar of Georgia
- Kentucky Bar Association
- State Bar of Texas
- Lawyer's Club of Atlanta
- Atlanta Apartment Association
- Federation of Defense and Corporate Counsel, an invitation only organization of civil defense attorneys, corporate counsel and claims professionals.

- Extra-Contractual Defense Network, an invitation only organization of counsel that practice in the area of bad faith insurance defense.

Community involvement

- Supporter of My House, Inc.
- Supporter of Norcross Cooperative Ministry

Honors

- AV Preeminent® Peer Review Rated by Martindale-Hubbell®
- Bleckley Inn of Court, Barrister (2002-2004)
- Super Lawyer "Rising Star," *Super Lawyers Magazine* (2005-2007)
- Super Lawyer, *Super Lawyers Magazine* (2009-2018)
- Top 100 Lawyers, Georgia Super Lawyer, *Super Lawyer Magazine* (2010, 2012, **2017, 2018**)

Presentations

Houston We Have a Problem ... Not Your Typical Legal Malpractice Seminar; Georgia ICLE, Professional Liability Section of State Bar of Georgia . Presented "Defending Yourself and Your Firm: Counterbalancing policy considerations for harm suffered by clients with whom you are or were in a fiduciary relationship," in May 2011, February 2012, February 2013; Presented "LPL Coverage Q&A," March 2016, March 2017, March 2018.

Facebook, Twitter, Your Practice -- *The Ethical Implications of Social Media*. 2011 Fiduciary Law Institute in St. Simons Island, Georgia. July 2011.

Abusive Litigation: *Defending Abusive Litigation Claims*, Georgia ICLE Seminar, including 40 page paper. Delivered paper and presentation Feb. 2003, Feb. 2004, Feb. 2005, Feb. 2006, Feb. 2007, Feb. 2008, Feb. 2009, Feb. 2010 (paper only), Feb. 2011, Feb 2012; Feb 2013; Feb 2014 (co-chair), Feb 2015 (co-chair), 2016 (co-chair), Feb 2017 (co-chair), Jan 2018 (co-chair).

Specialty Ethics in Georgia (Eliminating Bias and Building Credibility): *The Impact of Religious Orientation in Performance of One's Professional Duties and Ethical Obligations*, NBNR

Seminars, November 2004, including written materials.

Gaining the Competitive Edge: Litigating to Win Through Advanced Trial Advocacy in Georgia: Using Jury Selection To Increase Your Success At Trial, NBI Seminars, April 2006, including written materials.

Litigation Skills: A Short Course For Legal Assistants: Understanding Georgia Civil Courts and Procedure, Half Moon Seminars, April 2006, with written materials.

Litigation Skills: A Short Course For Legal Assistants: Practical Law Office Ethics and Client Relation Skills, Half Moon Seminars, April 2007, written materials but did not orally present material.

Depositions A-Z: Ethical Challenges in Depositions and Deposition Reflections, BNI Seminars, August 2007, with written materials.

Depositions A-Z: Ethical Challenges in Depositions, BNI Seminars, December 2007, internet/phone conference attended CLE, with written materials.

Professional and Ethical Dilemmas in Litigation:panelist, ICLE Seminar, October 2008, March 2016, March 2017, March 2018.

Wrongful Death Litigation:Start to Finish, NBI, Ethics, September 2017.

Insurance Bad Faith “Set-Up” In Georgia, NBI, Bad Faith Law and the Origin of the Set-Up and Ethics, December 2017.

The Rules of Evidence: A Practical Toolkit; presented Ethical Considerations, NBI, April 2017.

Atlanta Claims Association – Litigation Section – Annual Seminar CLE; co-chair, panel moderator on Ethics Hour, April 2017.

Atlanta Claims Association – Property Section – Annual Seminar CLE; co-chair, speaker on bad faith claims, April 2018.

Title Law in Georgia, BNI, Ethics, June 2017.

Civil Court Judicial Forum: The Judges Speak: Civil Court Litigation Do’s and Don’ts, Moderator of 6 judge panel, BNI, October 2017.

Georgia State University, Guest Speaker, Fundamentals class, on

issues of malpractice, risk management and discipline defense. April 2017, October 2017.

Auto Injury Litigation From Start to Finish; presented on Ethics and Bad Faith Litigation; NBI, December 2016.

Civil Court Judicial Forum: Advanced Discovery and Trial Practice: Panel moderator; NBI, October 2016.

The Judicial Forum, Panel moderator; NBI, November 2018.

Clients From Hell – Handling Failed Attorney-Client Relationships: When to Terminate; National Constitution Center; presented full 90 minute webinar, July 2016, May 2017

Uninsured and Underinsured Motorist Litigation from A to Z: Difficult Scenarios of Insurance Coverage Interpretation and UM/UIM Ethical Considerations, NBI, June 2015; *UM Bad Faith* and *Ethics* topics, May 2018. .

Handling Complex Auto Insurance Coverage Disputes: *Legislative and Case Law Update*; NBI, October 2013.

Damages In Personal Injury Cases: *Legal Ethics*; NBI, December 2013; September 2015.

Successful Trial Practice; Ethics and Professionalism Open Panel, Georgia ICLE, Feb 2013.

Civil Court Judicial Forum: Advanced Discovery and Trial Practice: Panel moderator; NBI, September 2012.

The Medicare “Super Lien” and Other Liens Simplified: Ethics presentation, NBI, Aug 15, 2012 by substitute due to trial conflict, oversaw preparation of written materials.

Applying the Rules of Evidence-What Every Attorney Needs to Know: Ethics presentation, NBI, March 2012, including related papers; December 2015, Ethic and Demonstrative Evidence, including related papers.

Evidence – A Practical Handbook, Ethics and Presentation of Evidence to Jury, NBI, May 2013, including related papers.

Insurance Coverage Litigation: Bad Faith Litigation, NBI, Ocotober 2011, including related papers

Ending the Attorney-Client Relationship: Ethical and Fiduciary Duties, panelist and presenter, Strafford Publications, August 2011, 90 minute CLE webinar, August 2018.

Hawkins Parnell Thackston & Young, LLP Trial Tactics Seminar; Motions for Summary Judgment; January 2011; in-firm CLE approved presentations.

Ending the Attorney-Client Relationship: Ethical and Fiduciary Duties, panelist and presenter, Strafford Publications, August 2010, 90 minute CLE webinar.

Winning Your First Civil Trial: Select The Right Jury For Your Case and Avoid Common Ethical Pitfalls, NBI Seminars, March 2010, including related papers.

Settling Uninsured and Underinsured Motorist Claims: Avoiding Ethical Potholes With Regard to Uninsured and Underinsured Motorist Claims, NBI Seminars, October 2008, including related papers.

Depositions A-Z: Ethical Challenges in Depositions and Deposition Reflections, BNI Seminars, August 2007, with written materials.

Depositions A-Z: Ethical Challenges in Depositions, BNI Seminars, December 2007, webinar CLE, with written materials.

Litigation Skills: A Short Course For Legal Assistants: Practical Law Office Ethics and Client Relation Skills, Half Moon Seminars, April 2007, written materials but did not orally present material.

Gaining the Competitive Edge: Litigating to Win Through Advanced Trial Advocacy in Georgia: Using Jury Selection To Increase Your Success At Trial, NBI Seminars, April 2006, including written materials.

Litigation Skills: A Short Course For Legal Assistants: Understanding Georgia Civil Courts and Procedure, Half Moon Seminars, April 2006, with written materials.

Specialty Ethics in Georgia (Eliminating Bias and Building Credibility): The Impact of Religious Orientation in Performance of One's Professional Duties and Ethical Obligations, NBNR Seminars, November 2004, including written materials.

Auto Injury Litigation: The Ultimate Guide, *In Depth Insurance Coverage Analysis* and *Ethics in Auto Injury Litigation*, NBI, December 2018.

Title Law in Georgia, *Legal Ethics*, NBI, June 2017, December 2018, with written materials.

Private CLE instruction for law firms and insurance companies, various topics, as requested on multiple occasions.

Winning Your First Civil Trial: *Select The Right Jury For Your Case and Avoid Common Ethical Pitfalls*, NBI Seminars, March 2010, including related papers.

Ending the Attorney-Client Relationship: *Ethical and Fiduciary Duties*, panelist and presenter, Strafford Publications, August 2010, 90 minute CLE webinar.

Ethical Considerations: *Attorneys' Fees, Avoiding Conflicts of Interest, and Confidentiality*, NBI Seminars, December 2010.

Hawkins Parnell Thackston & Young Trial Tactics Seminar; *Motions for Summary Judgment*; January 2011; in-firm CLE approved presentations.

Articles and publications

1. Defending Non-Client Charges, *For The Defense*, Vol. 47, No. 4, April 2005, p. 63.
2. When Unprofessionalism Becomes Sanctionable, *For The Defense*; Vol 48, No. 7, July 2006, p. 61.
3. LexisNexis Practice Guide: Georgia Trial Procedure: "Verdicts, Judgments and Post-Trial Motions." LEXIS-NEXIS Publishing (2010)

Jury Trials

Over 25 jury trials began.

Over 20 jury trials to verdict.