



## Jeremy S. Rogers

Partner

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Jeremy co-chairs Dinsmore's national Appellate and Legal Issues practice, and chairs Kentucky's appellate group. His appellate and trial experience cover a broad range of matters, including automotive product liability, employment, commercial litigation, constitutional law, personal injury, insurance, criminal defense, and extensive representation of religious organizations. Jeremy also has a wealth of experience in news media cases involving defamation, privacy, and other First Amendment and information access issues.

In his diverse litigation practice, Jeremy has successfully tried numerous cases in state and federal court, and he has argued many appeals. He is admitted to practice in both Kentucky and Indiana, where he has represented clients at all levels of the state and federal judiciary and before administrative agencies. Jeremy has also handled cases at the trial court level in multiple other states, and he has argued before the Ohio Court of Appeals and Supreme Court, the Tennessee Court of Appeals, the United States Court of Appeals for the Sixth Circuit and Seventh Circuit, and the United States Supreme Court.

Jeremy clerked for the U.S. District Court for the District of Massachusetts, Judge George A. O'Toole.

### Services

- First Amendment & Media
- Litigation
- Appellate | Legal Issues
- Antitrust & Trade Regulation
- White Collar Defense
- Employment
- Employment Discrimination Litigation
- Wrongful Discharge
- ERISA Litigation & Administrative Proceedings
- Wage/Hour Law

- Government Investigations
- Audits, Counseling & Training
- Education Industry
- Product Liability

## Education

- Boston College Law School (J.D., *cum laude*, 2002)
- University of Kentucky (B.A., *magna cum laude*, 1999)
  - Journalism

## Bar Admissions

- Kentucky
- Indiana

## Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals for the Sixth Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. District Court for the Eastern District of Kentucky
- U.S. District Court for the Western District of Kentucky
- U.S. District Court for the Southern District of Indiana
- U.S. District Court for the Northern District of Indiana

## Affiliations/Memberships

- Kentucky State Archives and Records Commission (appointed by governor of Kentucky 2013-2017)
- American Inns of Court, Louis D. Brandeis chapter, barrister (2009)
- Actors Theatre Generation One, board (2003 - present)
- Kentucky Archives and Records Management, Advisory Committee, member (2010 - present)
- Leadership Louisville, class of 2022
- Kentucky Bar Association
- Indiana State Bar Association
- Louisville Bar Association

## Distinctions

- Kentucky *Super Lawyers*®
  - Media/ Advertising (2021)

- Kentucky *Rising Stars*®
- James Madison Award for service to the First Amendment, Scripps Howard First Amendment Center at the University of Kentucky, 2018
- "Top Lawyers" by *Louisville Magazine* (2016)

## Experience

### **Butler Fiscal Court v. Robert Cron, Butler Circuit Court (2010)**

The Butler Fiscal Court held a series of less-than-quorum meetings in order to discuss the sheriff's proposed budget. On appeal by local citizen activist Robert Cron, the Attorney General held that the Fiscal Court's action violated the Open Meetings Act. The Fiscal Court appealed the decision to Butler Circuit Court. We represented Mr. Cron in the appeal, and the court affirmed the Attorney General's decision.

### **Cape Publications, Inc. v. University of Louisville Foundation, Inc., 260 S.W.3d 818 (Ky. 2008)**

The Courier-Journal sought records of donations made to the Foundation under the Open Records Act. The Foundation claimed that the privacy exception should allow it to withhold donor information. The trial court and the Court of Appeals agreed. In August 2008, the Supreme Court overturned the Court of Appeals ruling and held that donor information must be made public.

### **Courier-Journal v. Cabinet for Health & Family Services, Franklin Circuit Court (2010)**

The Cabinet had a policy of denying all requests for information relating to the deaths of children in its custody. The Cabinet denied an open records request for records relating to the death of Kayden Branham, a 1-yr-old under the Cabinet's supervision who died after drinking drain cleaner in a meth lab when he had been placed with family elsewhere by the Cabinet. The Attorney General upheld the Cabinet's denial. The Courier-Journal sued the Cabinet in Franklin Circuit Court, and the court overturned the Attorney General's decision and awarded costs and attorneys' fees to the Courier-Journal. The court held that federal and state law require the Cabinet to make publicly available records relating to fatalities or near fatalities of children under its supervision.

### **Dispute Relating to the Release of Records in Case Involving the Death Of A Toddler**

When a newspaper was denied access to records from the Cabinet for Health and Family Services relating to a case involving the death of a toddler, they turned to Dinsmore. The paper requested records from the Cabinet following the death of a 20-month old toddler, whose mother had been under investigation by the Cabinet. The Cabinet denied the requests, citing confidentiality provisions of HIPAA and personal privacy exemptions in the Kentucky Revised Statutes (KRS) Open Records Act. The Attorney General had previously upheld the Cabinet's decision to withhold the records from another newspaper, and that case was headed to the Franklin Circuit Court on appeal. We moved to intervene in the circuit court action, and the motion was granted. The circuit court found

that the Cabinet was obligated to provide the records, and had violated the Open Records Act because the state laws cited by the Cabinet did not forbid disclosure of the records. The Court also ruled that attorney's fees and costs were to be awarded to the newspaper, citing another part of Kentucky's open records law that says, "Any person who prevails against any agency in any action in the courts regarding a willful violation of [the Kentucky Open Records Law]...may be awarded costs, including reasonable attorney's fees incurred in connection with the legal action." The circuit court's ruling was affirmed by the Kentucky Court of Appeals. This ruling results in not only financial savings for the client, but also establishes clear precedent for asserting that governmental agencies may be responsible for a private litigant's attorney's fees when successful in seeking to open government records for public review.

#### **Genesis Plastics and Engineering, LLC v. Lear Corporation**

We represented Plaintiff Genesis Plastics and Engineering, LLC in a lawsuit seeking \$500,000 to \$1.5 million for breach of contract, tortious interference with contract, and fraud. We were able to achieve an excellent outcome for the client by aggressively pursuing all available claims. Thoroughness in the discovery process uncovered crucial evidence leading to the favorable outcome. We also used a creative multi-media presentation during settlement negotiation to demonstrate our preparedness for trial and ability to convey the relevant facts of a complex commercial case so that a jury could readily understand and empathize with our client's position. After completion of discovery and substantial motion practice the matter was resolved with a favorable settlement for our client.

#### **Jefferson County Public Schools v. Courier-Journal, Jefferson Circuit Court (2009)**

The school board conducted its annual evaluation of the superintendent in closed session. The Courier-Journal complained to the Attorney General, who held that the closed meeting violated the Open Meetings Act. JCPS appealed to Jefferson Circuit Court, and the court affirmed the Attorney General's decision that the school board violated the Open Meetings Act. The court also awarded costs and attorneys' fees, holding that the school board's violation was willful.

#### **Kentucky Community & Technical College System v. Messenger-Inquirer, Woodford Circuit Court (2010)**

The Messenger-Inquirer sought records from the KCTCS concerning former Owensboro Community College President Paula Gastenveld, whom KCTCS had terminated from that position without stating any reason. The Attorney General, in two separate opinions, ruled that KCTCS violated the Open Records Act by withholding the requested records. KCTCS sued the Messenger-Inquirer in Woodford Circuit Court in two separate actions. We represented the newspaper on both actions, and the court affirmed the Attorney General decision and held that KCTCS willfully violated the Open Records Act and must pay attorneys' fees and costs.

#### **Kentucky Press Association v. Commonwealth of Kentucky**

Our firm represented the Plaintiff Kentucky Press Association in a federal suit involving First Amendment issues dealing with closure of juvenile court proceedings. The case was dismissed without prejudice.

**Kentucky State Police v. Courier-Journal, Franklin Circuit Court (2009)**

The Courier-Journal sought access to the KSP's sex offender registry database. The KSP denied the request, and the Attorney General held that KSP violated the Open Records Act. KSP appealed to Franklin Circuit Court, arguing that its software was proprietary and confidential. The court affirmed the Attorney General's decision and awarded attorneys' fees and costs to the newspaper because the KSP's denial was a willful violation of the Open Records Act.

**United States v. Dairy Farmers of America, Inc.**

The firm represented the Intervening Plaintiff newspaper in an effort to obtain documents which were sealed in a court file. We were primarily successful in that numerous documents were made public.

**University of Louisville Foundation, Inc. v. Cape Publications, Inc. d/b/a The Courier-Journal**

Our firm represented The Courier-Journal in an action to determine whether the University of Louisville Foundation, Inc., is a public agency under the Open Records Law. The Court of Appeals of Kentucky ruled that the Foundation, created by and for the benefit of the University of Louisville, which controlled the endowment of the University, is a public agency under the Open Records Law.