



Richard H.C. Clay

Of Counsel
richard.clay@dinsmore.com

Louisville, KY
Tel: (502) 540-2300

Dick served for six years from 2019 through 2024 as president and CEO of the Filson Historical Society. Before that he practiced for forty-two years with Dinsmore and its Kentucky predecessor firm. He is of counsel at Dinsmore and has practiced in the areas of business and fiduciary litigation, appellate practice, and administrative law. He has represented corporate clients and individuals in distributorship purchases and disputes, negligent investment/sub-par appreciation claims, trust interpretation issues and disputes, breach of fiduciary duty claims, will contests, board governance issues, regulatory issues and appeals at the state and federal level, federal and state constitutional issues, class actions, defamation actions, business and contract disputes, trademark infringements, business interruption and interference, enforcement of non-competition agreements, lender liability actions, Equal Credit Opportunity Act actions, Fair Credit Reporting Act actions, and civil rights actions.

He has represented a major national church foundation with its own trust company, having served previously on its board and as its interim CEO. He has tried more than 80 jury trials in state and federal court and has argued more than 35 appeals in the United States Court of Appeals for the Sixth Circuit, the Kentucky Supreme Court, and the Kentucky Court of Appeals.

He has also served as Kentucky counsel for major pharmaceutical companies, manufacturers and retailers confronting nation wide claims.

Additionally, Dick has served as the firm's Kentucky ethics partner, and as a member of Dinsmore's board of directors. In 2023 he received Dinsmore's Retired Partner of the Year Award.

Services

- Litigation
- Antitrust & Trade Regulation
- Class Action
- Government Relations
- Nonprofit Organizations

- ESOPs
- Mass Tort
- Product Liability
- Corporate Taxation
- Tort
- Life Sciences Industry
- Insurance Industry
- Transportation Industry
- Education Industry
- Municipal & Government
- Beer, Wine & Spirits Industry

Education

- University of Kentucky College of Law (J.D., 1977)
 - Kentucky Law Journal, managing editor
- Middlebury College (M.A., 2022)
 - English
- Yale University Divinity School (Rockefeller Brothers Foundation Fellowship, 1974)
- Davidson College (B.A., 1973)
 - Economics

Bar Admissions

- Kentucky

Court Admissions

- Kentucky Supreme Court
- U.S. Court of Appeals for the Sixth Circuit

Affiliations/Memberships

- Kentucky Bar Association
 - President (1999)
 - Board of Governors (1992 - 2000)
 - Annual Convention, chair (1991)
- Sixth Circuit Judicial Conference, life member
- International Society of Barristers, fellow

- Litigation Counsel of America, fellow emeritus
- Kentucky Bar Foundation, fellow
- American Bar Foundation, fellow
- The Speed Art Museum,
 - Board of Trustees (2003 - 2009, 2011 - 2019), chair (2007 - 2009)
 - Trustee emeritus
 - Co-chair of \$60 million capital campaign for the museum's expansion
- The Norton Foundation, Inc., trustee emeritus
- Kentucky Country Day School
 - Trustee (2003 - 2009, 2016 - 2019)
 - Co-chair of \$10.5 million capital campaign for new performing arts center
- Louisville Second Presbyterian Church
 - Elder
 - Chair of \$4 million capital campaign for church expansion and renovation
- Presbyterian Church (U.S.A) Foundation
 - Interim president and CEO (2009)
 - Trustee (1998 - 2004)
 - The Jarvie Program, NYC, Board of Directors
- Museum of Early Southern Decorative Arts, Winston-Salem, N.C., Past Advisory Board Chair
- American Shakespeare Center/Blackfriars Playhouse, Staunton, Virginia, Board of Directors

Distinctions

- Peer Review Rated AV in *Martindale-Hubbell*
- *Best Lawyers*®
 - "Lawyer of the Year" in Louisville for Litigation - Trusts and Estates (2018)
 - Commercial Litigation, Litigation - Trusts and Estates, Personal Injury and Product Liability Litigation - Defendants
- Kentucky *Super Lawyers*®
 - For Business Litigation (2021)
 - Top 50 lawyers for Kentucky
- *Chambers USA*®: *America's Leading Lawyers for Business*, Litigation: General Commercial
- Davidson College Alumni Service Award

- Kentucky Country Day Distinguished Service Award
- "Top Lawyers" by *Louisville Magazine* (2016)

Experience

Breach of Fiduciary Duties Relating to Large Revocable Trust

We defended a national financial services firm against allegations of breach of fiduciary duty relating to a large revocable trust that became irrevocable at the grantor's death. Our client served as the corporate trustee for the trust. The co-defendant was an individual co-trustee who had power of attorney for the disabled grantor during her lifetime and was her nephew. The suit was brought by the deceased grantor's daughter and granddaughter, alleging breach of fiduciary duty relating to the grantor's disability and competency to make testamentary dispositions – which were in favor of the nephew and other members of his family. We have taken or attended more than 20 depositions, filed motions to disqualify the plaintiff's experts, and worked with our experts on the grantor's disability and the fiduciary duties of the corporate co-trustee.

Metoclopramide Litigation

Lead Kentucky counsel in metoclopramide litigation from 2006 through present.

Oral Bisphosphonates (Fosamax) Litigation

We are currently serving as lead Kentucky counsel in oral bisphosphonates (Fosamax) litigation, which has arisen from allegations that the product causes osteonecrosis.

Product Liability Litigation

The Kentucky Supreme Court in a unanimous opinion held that the doctrine of equitable estoppel did not bar a product manufacturer's statute of limitations defense because of the manufacturer's alleged concealment of product defects from governmental regulatory agencies. The Court also held that the discovery rule would not be extended to cases not involving latent injuries or illnesses, or professional malpractice.

Tax Litigation

Amicus representation in United States Court of Appeals for the Sixth Circuit concerning whether the IRS appropriately charged heavy truck excise taxes on heavy-truck chassis, when the vehicles were specially designed for off-highway use, even though they could be operated on highways.