



# MICHAEL T. DAVIS

**PARTNER**

**Lexington, KY**

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## Practice Areas

- Appellate Work
- Arbitration
- Automobile Accident Defense
- Bad Faith
- Class Action Litigation
- Commercial Lines (Premises Liability)
- Construction Defect Litigation
- Contract Disputes
- Coverage Litigation
- Dram Shop Litigation
- Elevator Liability
- Employment Practices Liability
- Excess Liability Claims
- Fraud Defense/EUO
- Mediation
- Medical Malpractice
- Municipal Liability Defense
- Municipal Representation and Counsel
- Personal Lines (Premises Liability)
- PIP
- Products Liability
- Professional Liability
- Retail and Restaurant (Premises Liability)
- Sexual Abuse Defense
- Transportation Defense
- UM/UIM
- Wrongful Death Defense

Michael T. Davis has more than fifteen years of experience in civil litigation, including five years in administrative law and regulatory policymaking. He has handled a variety of matters including product liability, transportation, construction, employment law, coverage disputes, premises liability, as well as general commercial litigation.

A skilled litigator with significant trial experience, Michael has practiced before state and federal courts throughout the State of Kentucky. He has represented state and local governments, product manufacturers, general contractors and subcontractors, architects and engineers, heavy equipment companies, transportation companies, and retail businesses. Michael also served as assigned counsel and insurance coverage counsel for commercial and personal lines carriers, as well as personal counsel for self-insured businesses.

From 2010 to 2016, Michael performed public service on behalf of the Kentucky Public Protection Cabinet, where he represented the Department of Financial Institutions before serving in appointed positions as Deputy General Counsel to the Kentucky Horse Racing Commission and General Counsel/Legislative Liaison to the Kentucky Department of Housing, Buildings & Construction.

## Memberships

- Claims and Litigation Management Alliance (CLM)
- Fayette County Bar Association
- KBA Unauthorized Practice of Law Committee (2008 – 2015)
- Kentucky Association of Administrative Adjudicators (KAAA)
- Kentucky Bar Association
- Kentucky Colonel – (Commissioned 2016)
- Kentucky Defense Council (KDC)
- Lexington Young Professionals Association (LYPA)
- The Federalist Society

## Trial and Case Highlights

- *Motorists Mutual Ins. Co. v. Hartley*, 2011 WL 474944 (Ky. App., not to be publ.): As lead coverage counsel, Michael represented the insurer in a declaratory judgment action seeking to enforce an “owned but not scheduled for coverage” exclusion to an underinsured motorist policy against an insured who was injured in a motorcycle accident after choosing not to insure his motorcycles because of the higher cost of premiums. After the trial court relied upon inconsistent Supreme Court precedent to invalidate the exclusion as against public policy, the Court of Appeals reversed and upheld the provision, confirming the lack of coverage for the accident at issue.
- *Westfield Ins. Co. v. Radcliff Auto., LLC*, 2009 WL 859843 (U.S. Dist. Ct, W.D. Ky.): As lead coverage counsel, Michael obtained a summary judgment against an insured automobile dealership claiming more than \$1.2 million in damages from an ongoing fraudulent scheme executed by a third party. The coverage litigation focused upon the legal nature of the loss and the applicability of various policy coverage exclusions. The court ultimately denied summary judgment to the dealer and entered judgment in favor of the insurer on coverage, which led to the dismissal of the dealer’s bad faith claim shortly thereafter.
- *Nelson v. Turner*, 256 S.W.3d 37 (Ky. App. 2008): As co-counsel, Michael represented a minor plaintiff in appealing the summary dismissal of an action against her elementary school teacher and liability insurer for negligent failure to prevent repeated sexual assaults against the child by a classmate. The appeal centered upon qualified official immunity, discretionary and ministerial acts, and private rights of action under Kentucky’s sexual abuse reporting statute, KRS 620.030. The

Kentucky Court of Appeals vacated the dismissals and remanded the case back to the trial court.

- *Robinson v. Walls, Walls and Howell*, Pike Circuit, Civil Action No. 04-CI-01107: Michael defended Cecil Howell against a motorist seeking \$740,000 in personal injury damages arising out of a three-vehicle collision on Highway 23 in Pikeville, KY, on August 7, 2003. Defending on both liability and damages during a three-day trial in June 2006, obtained a unanimous defense verdict. The jury went on to apportion all fault to the other defendant and award \$94,462.10 in total damages.
- *Estate of Clem v. Western Heritage Ins. Co.*, 195 Fed. App. 328, 2006 WL 2329370 (U.S. Ct. App, 6th Cir.), cert. denied 2007: As lead counsel, Michael represented and obtained summary judgment in favor of defendant insurer that denied coverage to its insured parade organizer, based upon a policy exclusion for participants, for the wrongful death claims of the estate of a teenager killed in a parade accident. The estate reached a \$6 million settlement with the parade organizer and filed suit, which was removed to the U.S. District Court for the Eastern District of Kentucky. The Sixth Circuit affirmed summary judgment.
- *Campbell v. Childers Building, Inc.*, Lincoln Circuit, Civil Action No. 03-CI-00201: As lead counsel, Michael defended Childers Building against homeowners claiming more than \$273,000 in damages and nearly \$100,000 in legal fees and costs. The plaintiffs claimed that Childers built their home in an unworkmanlike manner, resulting in mold infestation that rendered their home uninhabitable. The case involved complex issues such as mold intrusion, testing, and remediation standards, construction industry standards in areas such as framing, excavation, insulation, drywall and masonry, breach of warranty and contract, the Consumer Protection Act, and the Kentucky Building Code. After a five-day trial, the jury unanimously rejected the plaintiffs' mold infestation and negligent construction claims. The jury also rejected the plaintiffs' breach of warranty and contract claims. Based upon unrelated technical defects admitted by the defense prior to and during the trial, the jury awarded only \$15,000 to the plaintiffs.

## Admissions

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

## Education

- University of Kentucky College of Law, J.D.
- Murray State University, B.S.