



David T. M. Powell

Counsel

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After spending two years clerking for the Chief Judge of the United States District Court for the Western District of Missouri, David Powell has practiced business litigation with the firm since 1995. He is an experienced lawyer and is committed to advancing his clients' interests, whether in the courtroom, by negotiation, or through strategic guidance on a day-to-day legal issues.

David focuses on complex commercial cases ranging from contract, lease and business tort disputes to multi-million dollar class actions. He has served as nationwide trial counsel for class action disputes for a Fortune 500 company. He has successfully defeated class certifications and participated in defeating the consolidation of cases by the Federal Panel for Multi-District Litigation. He also has extensive experience in fiber optic right of way class action litigation. David has also litigated creditors' rights cases.

David is extremely knowledgeable about and has a successful track record of working with Class I railroads. He has litigated disputes arising from joint line agreements, inter-railroad marketing agreements, haulage agreements, trackage agreements, reciprocal switch agreements, and car hire agreements. His experience includes disputes involving the Interline Settlement System (ISS), Car Hire Data Exchange System (CHDX), Switching Settlement Data Exchange (SSDX), and the Rate EDI Network (REN). He has litigated claims governed by the Code of Car Hire Rules (CCHR), the AAR Interchange Rules, and the Railway Accounting Rules (RAR) including ISS Rules and Railroad Clearing House (RCH) Rules. He has experience with rate adjustment disputes involving the Uniform Railroad Cost System (URCS), the Rail Cost Adjustment Factor (RCAF), and the All Inclusive Index Less Fuel (AILF).

Nationwide and with a particular emphasis on Missouri and Kansas, David has handled property cases involving railroad rights of way. He has prosecuted condemnation proceedings and defended railroads in condemnation cases.

Areas of Focus

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Sectors

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He also has extensive experience in property disputes involving right of way ownership and easement interests including crossing and longitudinal uses of railroad rights of way.

A Class I railroad has also used David to prosecute derailments claims. He has participated in derailment investigations and cases involving improper car loading, as well as failed wheel rims, side frames and bolsters. He is familiar with industry standards including AAR Interchange Rules, AAR Maintenance Advisories, FRA Safety Advisories, and AAR Open Top Loading Rules. He has experience using data from Train Event Recorders, Wheel Impact Load Detectors (WILD) and Truck Performance Detectors (TPD) in the prosecution of derailment claims.

David has litigated a variety of cases, including misappropriation of trade secrets, dealership/distribution terminations, non-competition agreements, breach of fiduciary duty, shareholder disputes, accounting malpractice, and breach of contract disputes.

David has litigated in the United States Courts of Appeal for the 10th and 8th Circuits, the Federal Panel for Multi-District Litigation and in United States District Courts in Missouri, Kansas, California, Idaho, Iowa, Montana, Nebraska, North Dakota and New York. In addition, he has litigated in the state courts of Missouri, Kansas, California, New York and the Supreme Court of Iowa.

Credentials

Education

- University of Kansas School of Law, J.D., 1993
- London School of Economics and Political Science, M.A., Later Modern British History, 1990
- Yale University, B.A., History, 1988

Bar Admissions

- Kansas
- Missouri

Court Admissions

- U.S. Court of Appeals for the Eighth Circuit
- U.S. Court of Appeals for the Tenth Circuit
- U.S. District Court for the District of Kansas
- U.S. District Court for the Western District of Missouri

Recognition

- "Client Service All-Star," BTI Consulting Group, 2020

Professional Activities

- American Bar Association
- Kansas City Metropolitan Bar Association
- The Missouri Bar
- Federal Law Clerks' CLE Committee, Founder and Director, 1993-1995

Community Involvement

- Saint Luke's Health System, Finance and Real Estate Committee, 1999 – Present; Research Committee, 1999 - Present
- The Episcopal Diocese of West Missouri, Diocesan Chancellor, 2016 - Present; Church Attorney, 2011-2016
- Saint Luke's Hospital of Kansas City, Board of Directors, 1999 – 2016; Medical Education Committee, Professional Affairs Committee, Joint Board Staff Committee