



## Michael P. Kenny

Retired Partner

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### *Related Services*

Antitrust ■ Corporate Plaintiff's Litigation ■ Commercial ■ Class Action & Multidistrict Litigation ■ Financial Services Litigation ■ Technology & Telecommunications Litigation ■ Insurance Litigation & Regulation ■ High Exposure Claims, Coverage & Bad Faith Defense ■ Insurance Regulatory Guidance ■ Insurance-Related Antitrust Defense ■ Policy Drafting and Product Development ■ Policyholder Class Action Defense ■ Appellate

Michael Kenny represents clients when their core business practices are under attack. Mike principally works in complex commercial litigation, including antitrust, trade secrets, insurance, RICO, and multidistrict and class action litigation. Mike has prosecuted or defended 19 cases involving more than \$1 billion in claimed damages. Repeatedly, Mike has been retained by clients as trial counsel shortly before the start of a major trial. Mike has represented clients in virtually all major industries, including technology, manufacturing, pharmaceuticals, insurance, transportation, logistics, and health care.

Mike actively represents companies as corporate plaintiffs. He has secured jury verdicts and settlements of more than \$1 billion for his clients, including six nine-figure settlements and 17 eight-figure settlements.

Mike has extensive experience in multidistrict litigation and has defended more than 250 class actions on behalf of major corporations throughout the U.S. Additionally, he served as lead appellate counsel in 55 federal and state courts, including the U.S. Supreme Court and 11 federal circuit courts of appeal.

Mike's clients have included Dell Technologies, Louisiana-Pacific, General Electric, American Airlines, UPS, Verizon, Greenlight Capital, Caremark, and the Certified Automotive Parts Association.

Mike has represented political parties and public servants, including the city of Atlanta, Senator Paul Coverdell, Mayor Shirley Franklin, and the Georgia Republican Party.

Mike has served two terms on Alston & Bird's Management Committee. He is the author of the novel *Life's Illusions*.

### *Representative Experience*

- Lead trial counsel on behalf of a major technology company prosecuting four separate antitrust lawsuits in the Northern District of California, securing more than \$1 billion in pre-trial settlements.
- Lead trial counsel defending a major insurance company in a certified RICO class action in the Southern District of Illinois, where the claimed damages were approximately \$9 billion; the case settled for less than 3 percent of the damages after a jury was empaneled.

- Lead trial counsel on behalf of a Chinese manufacturer in a products liability class action in an MDL proceeding in the Eastern District of Louisiana, where the plaintiffs are seeking billions of dollars in damages—retained after the client was held in civil and criminal contempt and defaulted on class liability. After four more years of litigation, the case settled for less than 15 percent of claimed damages.
- Lead trial counsel on behalf of a high-tech company in a fraud and unfair and deceptive trade practices jury trial in the Middle District of North Carolina, winning a judgment of \$318 million.
- Lead trial counsel for a medical technology company in a jury trial for patent infringement in the Middle District of North Carolina, securing an eight-figure settlement from one defendant before trial and winning a verdict against others at trial.
- Lead trial counsel on behalf of a major pharmaceutical company defending antitrust claims by a competitor in a case in the District of Massachusetts that settled favorably shortly before trial.
- Lead trial counsel on behalf of a major pharmaceutical company defending antitrust claims by a putative class of indirect purchasers in the Middle District of Tennessee. After cross-examination of the plaintiffs' expert economist during the class certification evidentiary hearing, the court denied the plaintiffs' motion for class certification, with leave to amend.
- Lead trial counsel for a major pharmaceutical company bringing antitrust claims against a competitor in the District of New Jersey.
- Lead trial counsel on behalf of a major automobile insurance company defending 30 consolidated antitrust and RICO cases in a multidistrict litigation (MDL) proceeding in the Middle District of Florida; cases dismissed on motion. Lead appellate counsel in the Eleventh Circuit in several cases and presented oral argument before an en banc panel and won the appeal.
- Lead trial counsel on behalf of a major pharmaceutical company prosecuting monopolization claims in the District of Delaware; retained as lead trial counsel shortly before the close of discovery. Confidential settlements in eight figures.
- Lead trial counsel on behalf of a major automobile insurance company defending an antitrust action brought by the Louisiana attorney general in Baton Rouge state court; the complaint was dismissed on motion.
- Lead trial counsel on behalf of a major pharmaceutical company defending 13 consolidated putative antitrust class actions in an MDL proceeding in the District of Massachusetts; the plaintiffs voluntarily agreed to dismiss their claims.
- Lead defense trial counsel on behalf of a major computer company in a trade secrets and unfair competition jury trial in New Orleans; retained shortly before trial to defend the client in the \$5 billion case; after seven weeks of trial, the jury rejected the plaintiffs' misappropriation of trade secrets and punitive damages claims and awarded them less than 0.2 percent of the claimed damages on their unfair competition claim, an award reduced further after post-trial motions; the case settled on appeal for less than the judgment.
- Lead trial counsel for telecommunications service providers in a five-week patent and copyright infringement jury trial in the Northern District of Georgia; retained 30 days before trial to lead the defense against claims of more than \$300 million, where essential conduct was not in dispute; the plaintiff ultimately received less than \$1 million, less than the amount spent on its expert witness.
- Lead trial counsel for the city of Atlanta in a jury trial in the Northern District of Georgia in a Section 1983 case; the plaintiff's verdict was reversed on appeal, with the Eleventh Circuit holding there was no viable claim.

- Lead defense trial counsel for a standards-setting organization in an antitrust case in the Northern District of California; after a Daubert evidentiary hearing in connection with class certification, the plaintiffs' expert witness testimony was excluded and the plaintiffs' motion for class certification was denied; the Ninth Circuit affirmed.
- Lead defense trial counsel for a standards-setting organization in a Lanham Act and unfair competition case in the Eastern District of Michigan; the plaintiff dismissed its case on the eve of executive depositions.
- Lead trial counsel for a major technology company, as plaintiff, in an antitrust case in the Northern District of California, winning a seminal ruling on a Foreign Trade Antitrust Improvements Act issue and thereby increasing the damages claim by billions of dollars.
- Lead trial counsel for a New York City investment company in False Claims Act litigation, securing an eight-figure settlement for the client.
- Lead trial counsel for a major telecommunications company in a \$500 million monopolization case brought by a competitor in Florida; secured a noncash settlement on the eve of trial.
- Lead trial counsel on behalf of the city of Atlanta and Hartsfield-Jackson Atlanta International Airport in a constitutional challenge to the airport's no-gun policy, defeating a preliminary injunction request after an evidentiary hearing, and subsequently securing dismissal of the case; the Eleventh Circuit affirmed the win.
- Lead trial counsel on behalf of a major building products producer in a multibillion-dollar national antitrust class action in the Eastern District of Pennsylvania; the case settled on favorable terms on the eve of trial.
- Lead trial counsel for a major computer company in a fraud and misappropriation of trade secrets case in New Jersey federal court; hired as trial counsel after summary judgment was denied; the case settled on favorable terms.
- Lead trial counsel on behalf of a major credit bureau in antitrust cases in the Central District of California and the Southern District of Ohio, winning dismissal of both cases. Won affirmance in both the Ninth and Sixth Circuits.
- Lead trial counsel on behalf of Atlanta's mayor and other city officials in an antitrust and Section 1983 case, securing dismissals on their behalf.
- Lead trial counsel on behalf of a major automobile insurance carrier in a putative nationwide class action alleging violations of the Federal Credit Reporting Act in the Eastern District of Pennsylvania, winning dismissal of the case, which was affirmed by the Third Circuit.
- Lead trial counsel for an international chemical company in an unfair and deceptive trade practices case in the Middle District of North Carolina, securing a favorable settlement before voir dire.

## **Publications & Presentations**

### **Publications**

- "Nation Should Heed Hand's Words on 'I Am an American Day'" *The Daily Report*, May 20, 2022.
- *Life's Illusions*, Wheatmark, 2022.
- "Lawyers—Lincoln, Hand and Kennedy—Taught Lessons for Tumultuous Times," *Daily Report*, November 25, 2020.
- "U.S. Supreme Court Should Avoid Another 'Bush v. Gore'," *Daily Report*, October 8, 2020.
- "Letter: Justice Ginsburg Deserves a Better Requiem," *Daily Report*, September 22, 2020
- "Kemp Should Drop Mask Lawsuit, Writes Reader," *Daily Report*, July 20, 2020.
- "A Trial Lawyer Tries to Understand," *Daily Report*, June 16, 2020.

- “Georgia Senators Should Back State Leaders in Election Suit: Letter,” *Daily Report*, December 9, 2020.
- “A Senate Trial and Vote on the Evidence Are Warranted,” *Daily Report*, February 2, 2021
- “What's So Bad About Free Google Searches?” *Daily Report*, January 22, 2021
- “Listen to the Bells,” *Daily Report*, January 07, 2021.

## ***Education***

- Oakland University (Honorary Doctor of Arts, 2021)
- Emory University (J.D., 1984)
- Northwestern University (M.A., 1980)
- Oakland University (B.A., 1978)

## ***Admitted to Practice***

- Georgia