



BASSFORD REMELE

Kevin P. Hickey
SENIOR COUNSEL



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PRACTICE GROUPS

Commercial Litigation
Data Breach and Cybersecurity
Intellectual Property Litigation
Professional Liability/
Claim Prevention

INDUSTRY GROUPS

Health Care
Law Firms and Lawyers
Technology

OVERVIEW

Kevin Hickey represents and advises businesses and individuals in complex and high-stakes commercial disputes, including shareholder litigation, intellectual property litigation, unfair competition claims, cyber-security claims, and class action litigation. He also represents and advises lawyers and law firms in professional liability claims, lawyer departure/law firm dissolution matters, and ethical issues.

With more than 30 years of extensive courtroom experience in handling state and federal court matters and arbitration proceedings, Kevin effectively resolves claims and disputes for clients ranging from Fortune 500 companies to individuals. Law firms ranging in size from global firms to solo practitioners rely on Kevin for strong and experienced representation in legal malpractice claims. Kevin has handled a number of landmark and noteworthy legal malpractice cases before the Minnesota Supreme Court, Minnesota Court of Appeals, and Minnesota federal courts.

Kevin is consistently recognized by *The Best Lawyers in America* in the areas of commercial litigation, insurance law, intellectual property litigation, and legal ethics and professional responsibility law. He has been recognized by Super Lawyers every year since 2003 and has the highest rating of AV Preeminent from Martindale-Hubbell. He is Chair of the Bassford Remele Intellectual Property Litigation Practice Group and served as the firm's General Counsel for many years.

EDUCATION & ADMISSIONS

Education

University of Minnesota Law School, J.D., *cum laude*, 1989

-*Law and Inequality Journal*, Managing Editor

University of Minnesota, B.A., 1985

Bar Admissions

- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Federal Circuit
- U.S. District Court, District of Minnesota
- U.S. District Court, District of North Dakota
- U.S. District Court, Western District of Wisconsin
- Minnesota
- Wisconsin

EXPERIENCE

Representative Cases

- Decision involving successful jury trial establishing breach of a noncompete resulting in issues of appropriate equitable relief for the breach. *St. Jude Medical, Inc. v. Carter*, 913 N.W.2d 678, 685 (Minn. 2018).
- Decision addressing application of the law of the flag doctrine in patent litigation cases; *M-I Drilling Fluids UK Ltd. v. Dynamic Air Inc.*, 99 F. Supp. 3d 969 (D. Minn. 2015).
- Decision addressing issue of first impression as to whether an attorney was in privity with his client for purposes of application of res judicata; *Rucker v. Schmidt*, 794 N.W.2d 114 (Minn. 2011).

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- Decision enforcing health plan language permitting reimbursement for medical pay coverage; *Medica, Inc. v. Atlantic Mut. Ins. Co.*, 566 N.W.2d 74 (Minn. 1997).
- Decision upholding dismissal of defamation claim against an attorney under the First Amendment; *Richie v. Paramount Pictures*, 544 N.W.2d 21 (Minn. 1996).
- Decision upholding successful RICO jury verdict; *United HealthCare Corp. v. Am. Trade Ins. Co.*, 88 F.3d 563 (8th Cir. 1996).

Additional Representative Cases

- Obtained appellate decision reversing a large damage award against a client represented by other counsel at the trial of a trademark infringement case.
- Defended regional business in obtaining favorable resolution of copyright infringement and unfair competition action involving software code for online transactions.
- Decision upholding intra-firm attorney-client privilege.
- Decision confirming validity and enforceability of term-of-years employment agreement in breach of contract and tortious interference suit resulting in seven-figure jury verdict, including attorneys' fees award, for global medical-device company.
- Decision granting motion to dismiss and enforcing client's forum selection provision, for global medical-device company.
- Decision granting summary judgment on trade dress and other claims for client against a national restaurant franchise.
- Decision addressing the circumstances in which a personal representative of an estate can bring a legal malpractice action; *Profl Fiduciary, Inc. v. Silverman*, 713 N.W.2d 67 (Minn. Ct. App. 2006).
- Decision addressing medical insurer's right to assert subrogation rights under the Collateral Source statute; *Kahnke v. Green*, 695 N.W.2d 148 (Minn. Ct. App. 2005).
- Decision upholding insurance coverage for mold damage to home; *Parr v. Gonzalez*, 669 N.W.2d 401 (Minn. Ct. App. 2003).
- Decision holding that federal law does not preempt medical assistance lien asserted by state's agent; *Medica, Inc. v. Billingslea*, 618 N.W.2d 616 (Minn. Ct. App. 2000).
- Decision upholding health insurer's right to subrogate to underinsured motorist coverage; *Commercial Union Ins. Co. v. Minn. School Bd. Ass'n*, 600 N.W.2d 475 (Minn. Ct. App. 1999).
- Decision addressing insurer's right to equitable contribution under the Minnesota Insurance Guaranty Act; *Maxwell Commc'ns v. Webb Publ'g Co.*, 518 N.W.2d 830 (Minn. 1996).
- Decision addressing and upholding health plan's right to seek reimbursement under contract terms; *Hershey v. Physicians Health Plan*, 498 N.W.2d 519 (Minn. Ct. App. 1992).

Publications

- *ABA Formal Opinion No. 483, Data Breaches, and You*, co-author, Bench & Bar of Minnesota, Mar. 2019

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Seminars

- *Security Training Awareness*, co-presenter with Element Technologies, June 6, 2023 and May 10, 2022
- *Lessons Learned: Utilizing the Pandemic Experience to Avoid Legal Pitfalls and Cyber Security Risks as we Move to a Hybrid Workforce*, moderator, Bassford Remele Ethics Seminar, June 23, 2021
- *New Developments in Ethics and Professional Responsibility*, presenter, Minnesota Continuing Legal Education 2021 Civil Litigator Half-Day Seminars, January 26, 2021
- *Ethical Obligations the Attorney and Firm Have When a Lawyer Changes Firms*, presenter, Minnesota Continuing Legal Education, March 16, 2020
- *New Developments in Ethics and Professional Responsibility*, presenter, Minnesota Continuing Legal Education Civil Litigator's Annual Short Course, 2017-2020
- *Cybersecurity: What's Your Incident Response Plan?*, presenter, Minnesota Continuing Legal Education, July 31, 2019
- *Ethics, Technology, and You: Lawyer Ethical Obligations Relating to Technology and Cyber Security*, moderator, Bassford Remele Ethics Seminar, June 18, 2019
- *Legal Ethics and Malpractice 2018: Identifying Trends and Practical Tips for Meeting the Challenges*, panelist, Minnesota State Bar Association Annual Convention, 2018
- *Legal Ethics and Malpractice 2018 – Identifying Trends & Practical Tips for Meeting the Challenges*, panelist, Minnesota Continuing Legal Education Legal Ethics 2018 – 3 Compelling Topics for Minnesota Lawyers, February 28, 2018
- *Trademark Litigation Fundamentals: What To Do When Your Smaller Client Draws Unwanted Attention From the 800 Pound Gorilla*, presenter, Hennepin County Bar Association Trademark Law Seminar, 2013
- *ERISA Liens*, presenter, Minnesota State Bar Association Minnesota Motor Vehicle Accident Seminar, 2009
- *Health Plan Subrogation and Reimbursement under ERISA*, presenter, Minnesota State Bar Association How to Handle Motor Vehicle Accidents in Minnesota Seminar, 2006
- *ERISA Issues in Light of the Knudson Decision*, presenter, Hennepin County Bar Association Webcast on WestLegaledCenter.com, 2003
- *ERISA Subrogation*, presenter, Minnesota State Bar Association Motor Vehicle Accident Cases Seminar, 2002
- *Subrogation Issues in UM and UIM Claims*, presenter, Minnesota State Bar Association Handling Motor Vehicle Accident Cases Seminar, 1999
- *Health Care Subrogation Claims*, presenter, Minnesota Institute of Legal Education Insurance Subrogation Seminar, 1999

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PROFESSIONAL & CIVIC

Professional Achievements

- American Bar Association, Fellow
- Hennepin County Bar Association, Fellow

Bar Associations

- Federal Bar Association
- American Bar Association
 - Science and Technology Law Section
 - Tort Trial and Insurance Practice Section
- Minnesota State Bar Association
- State Bar of Wisconsin
- Hennepin County Bar Association

Civic Involvement

- Volunteer Lawyers Network
- Youth Football Coach

ACCOLADES

Honors & Awards

- Top Lawyers list, *Minnesota Monthly*, Professional Malpractice Law, 2022-2023; Legal Malpractice Law, 2024
- *The Best Lawyers in America*, Insurance Law, 2014-present; Commercial Litigation, 2022-present; Ethics and Professional Responsibility Law and Intellectual Property Litigation, 2024-present
- Rated AV Preeminent® by Martindale-Hubbell®
- Minnesota Super Lawyers list, *Super Lawyers*, 2001, 2003-present