

Griffin Terry Sumner

Partner

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Industries

Manufacturing

Industrials

Technology

Practice Areas

Appellate

Business & Commercial Litigation

Insurance Coverage & Bad Faith

Product, Tort & Insurance Litigation

Bar Memberships

Kentucky

Griffin is a Kentucky appellate attorney focused on solving clients' legal challenges—effectively and efficiently—with discerning analysis, incisive legal writing, and experienced advocacy before the Kentucky Court of Appeals, the Kentucky Supreme Court, and federal appellate courts. Clients praise her common sense approach to disputes and her ability to translate sophisticated legal arguments and technical jargon in ways that can inform and persuade judges.

As Co-Chair of FBT Gibbons's Appellate Service Group, Griffin leads appellate teams across a wide variety of cases—briefing and arguing appeals ranging from insurance coverage disputes to products liability claims to commercial disputes and employment matters, and everything in between.

Appearing in many landmark cases, her successful advocacy not only helps insurers and product manufacturers achieve favorable outcomes in specific cases, but also shapes the precedent governing future disputes. Whether the need is to appeal an adverse jury verdict, challenge an unfavorable ruling before it becomes precedent, or preserve a hard-won judgment against attack on appeal, clients rely on Griffin's extensive experience. She regularly consults with clients and trial counsel to evaluate cases before, during, and after trial for potential appeal or settlement, and frequently works with trial teams to develop and preserve arguments for appellate review.

Widely recognized as a leading Kentucky appellate lawyer, Griffin is the co-author of the Appellate Practice treatise in West-Thomson's *Kentucky Practice* series, and a contributing author of Kentucky-based chapters to two American Bar Association treatises:

Superseding and Staying Judgments and the *Appellate Practice Compendium*. Active in the appellate legal community, she serves on the Executive Board of the ABA's Council of Appellate Lawyers, where Griffin co-chairs both the Programming Committee and the Communications Committee. She is also a member of the Kentucky Bar Association's Appellate Practice Committee and a frequent presenter on appellate procedure and legal writing.

Other Info About Griffin

Experience

Primal Vantage Company, Inc. v. O'Bryan, 677 S.W.3d 228 (Ky. 2023)(vacating $18.2 million jury verdict)

FBT Gibbons' appellate team, led by Griffin Terry Sumner, represented a manufacturer in the successful appeal of $18.2 million jury verdict. The case involved a plaintiff's catastrophic injuries sustained in a fall from a hunting tree stand. Reversing and remanding for new trial, the Kentucky Supreme Court not only vacated a multi-million-dollar verdict, but also clarified several products liability issues that will guide manufacturers through the litigation process to defend their products. First, the Supreme Court emphasized a trial judge's role as "evidentiary gatekeeper" to ensure that only admissible evidence is presented to a jury and rejected the trial court's admission of 78 other tree stand incidents. Second, the opinion confirmed that a design defect claim requires proof of "an alternative, safer design that is practical under the relevant circumstances." In so doing, the Supreme Court rejected various purportedly alternative designs proposed by the plaintiffs, finding that those options were either not safer or not feasible when this tree stand was manufactured.

Bell Helicopter Textron, Inc. v. Dobbs, 2019 WL 2484691 (Ky. Ct. App. 2019)(vacating $22 million jury verdict).

FBT Gibbons' appellate team, led by Griffin Terry Sumner, successfully appealed the $22 million jury verdict. The case involved a triple-fatality crash of a medical transport helicopter that had been manufactured by FBT's client. The Court of Appeals of

Kentucky vacated the jury verdict and remanded the case for a new trial with an opinion that emphasized appropriate evidentiary limitations at trial, especially in products liability cases. The Court of Appeals' opinion held that the trial court had improperly excluded certain deposition testimony from a Bell employee about the cause of the crash that contradicted other portions of the same deposition presented by the plaintiffs. The opinion also held that the trial court had erroneously allowed the plaintiffs to present a chart of past "service difficulty reports" for a variety of Bell's helicopters with no proof of the substantial similarity required for other incidents evidence.

Mosley v. Arch Specialty Insurance Company, 626 S.W.3d 579, 582 (Ky. 2021)(affirming dismissal of bad faith claims and confirming a plaintiff's "steep burden" of proof).

FBT Gibbons' appellate team, led by Griffin Terry Sumner, represented one of the insurers facing an appeal of the dismissal of bad faith claims after limited discovery. The Kentucky Supreme Court's opinion emphasized noted a plaintiff's "steep burden" of proof in third-party bad faith claims. The Supreme Court's opinion firmly established that Kentucky law requires a plaintiff to establish that the insured's liability is "'beyond dispute.'" Thus, "when an insured's liability is unclear, bad-faith claims fail as a matter of law because the insurer has a reasonable basis for challenging the claim." Indeed, an insurer has a contractual duty to its insured to provide a defense in such circumstances. The *Mosley* Court emphasized that even in prior cases where there was "evidence that the insured *might* be liable," if the plaintiff could not "'eliminate[] the reasonable possibility'" that the jury could find for the defendant insured, "no bad faith claim could stand as a matter of law against the insurance company." Honing in on this point, Kentucky's Supreme Court held that "[w]hen liability is clear or 'beyond dispute,' a claim must be paid . . . . But when liability is not clear or disputed, an insurer may pursue its defense and contested liability until its duty under KUCSPA is triggered."

Jenkins v. Estate of Garmon by Garmon, 2023 WL 5312169 (Ky. App. 2023)(mot. dis. rev. pending)(affirming of dismissal of claims against

a road construction company where jury verdict against co-defendant exceeded $32 million).

FBT Gibbons' appellate team, led by Griffin Terry Sumner, successfully represented a road construction company in the appeal of a summary judgment in favor of the client, where a jury later awarded $32 million in damages against co-defendants. The Court of Appeals of Kentucky affirmed judgment in favor of the client, while also affirming the $32 million jury verdict against co-defendants. [A motion for discretionary review is pending with the Kentucky Supreme Court.]

Eastern Kentucky University v. Ohio Valley Conference, 2023 WL 129286 (Ky. App. 2023) (rev. denied)(affirming denial of sovereign immunity).

FBT's appellate team, led by Griffin Terry Sumner, successfully represented a large collegiate athletic conference in a former member institution's appeal of the denial of sovereign immunity. The case involved the conference's contractual claims arising from the institution's exit from the conference. state university's sovereign immunity to contractual claims by a collegiate athletic conference). The Court of Appeals affirmed the denial of sovereign immunity, and the Kentucky Supreme Court denied discretionary review.

Shepherd v. Perry, Case No. 2023- CA-0388 (Ky. App. 2023)(writ of mandamus challenging replacement of estate administrator denied).

FBT Gibbons' appellate team, led by Griffin Terry Sumner, represented three sons challenging their father's purported last will and the role of the father's sibling as executor of the estate and in creating the purported will. After the trial court removed the father's sibling as executor and appointed a neutral, third-party public administrator, FBT successfully opposed the former executor's petition for writ of mandamus in the Court of Appeals of Kentucky. [Further appeal pending Kentucky Supreme Court.]

Isaacs v. Fireman's Fund Insurance Company, 2022 WL 495980 (Ky. App. 2022)

FBT Gibbons' appellate team, led by Griffin Terry Sumner, successfully represented a target insurer in a high profile plaintiff's appeal from the dismissal of bad faith claims against multiple insurers. The Court of Appeals of Kentucky affirmed the dismissal of the bad faith claims, expanding precedent to the first party contest and rejecting arguments that a lack of discovery should have precluded dismissal. The Kentucky Supreme Court denied a request for discretionary review.

Blakeley v. Consolidated Insurance Company, 2021 WL 1327172 (Ky. App. 2021)(affirming declaration of no coverage under liability policy).

FBT Gibbons' appellate team, led by Griffin Terry Sumner, successfully represented an insurer in a coverage dispute involving a farm liability policy. The case involved allegations of fraud and intentional misconduct against the insureds and, thus, the question of whether the insureds were entitled to a defense and/or indemnification under the policy because of a covered "occurrence." The Court of Appeals clarified the application of both prongs of the fortuity test described in earlier precedent.

Education

University of Cincinnati College of Law, J.D., 1995
Order of the Coif
Editorial board of the *University of Cincinnati Law Review*
Book awards for Constitutional Law, Criminal Law, Contracts I & II, Legal Research & Writing, Appellate Practice & Procedure

Centre College, B.A., 1989

LPM Institute, *Fundamental Skills of Legal Project Management*, Certificate, June 2021

Courts

Supreme Court of Kentucky

U.S. Supreme Court

U.S. Court of Appeals for the Sixth Circuit

U.S. District Court, Eastern District of Kentucky

U.S. District Court, Western District of Kentucky

Recognition

Chambers USA, Litigation: General Commercial, 2023-2026

The Best Lawyers in America®, Insurance, 2021-2027; Appellate Practice, 2024-2027

Selected to Kentucky Super Lawyers, 2017-2019, 2023-2026

Louisville Magazine's Top Lawyers (Appellate Practice)

Professional Affiliations

Council of Appellate Lawyers, Member-at-Large, Executive Board, 2025-2027

Council of Appellate Lawyers, Kentucky State Chair, 2020-2025

American Bar Association, Appellate Practice Committee

Appellate Practice Journal, Co-Editor, 2005-2009

Kentucky Bar Association, Appellate Practice Committee, Chair, 2011-2012

Louisville Bar Association, Appellate Practice Committee, Chair 2010-2011

Civic Activities

University of Kentucky, Parent Advisory Council, Chair, 2021-2024

Volunteer and fundraiser for various charitable organizations, including DanceBlue Pediatric Hematology & Oncology Clinic, St. Bernadette Catholic Church, Lakeside Swim Team, and Sacred Heart Academy.

Firm Committees

Recruiting Committee, former Member

Major Publications

"Why Use Appellate Counsel Before Trial," Co-Author, *New York Law Journal*, September 14, 2026

"How Video Evidence Is Reshaping Appellate Review," ABA Council of Appellate Lawyers' Appellate Issues, March 2026.

"Is a Higher Court Appealing," Co-Author, Louisville Bar Association, March 2026.

"Tips for Persuasive Briefs Beyond the Argument Section," Co-Author, *Law360*, November 20, 2024.

Featured Articles

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FBT Secures Reversal of $18.2 million Jury Verdict as Kentucky Supreme Court Strengthens Product Liability Law for Manufacturers

Kentucky Supreme Court Clarifies Products Liability Law in Reversal of $18.2 Million Jury Verdict

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