

# **James D. Kay, Jr.**

## **Legal Employment**

Kay Griffin Evans, PLLC  
Suite 340M, Washington Square II  
222 Second Avenue North  
Nashville, Tennessee 37201

*Position:* Founder and Partner

*Practice areas:* Business, construction and real estate litigation; arbitration and mediation.

## **Rating and Legal Honors**

Best Lawyers in America 2020 Nashville Lawyer of the Year in Arbitration  
Best Lawyers in America – 2017-2023  
AV Rated - Martindale Hubbell  
Chosen by peers as one of top nine trial lawyers in Nashville –  
Nashville Business Journal – 2004  
American Arbitration Association Panel Member

## **Legal and Construction Experience**

Completed approximately 80 jury trials and over 100 bench trials and arbitrations  
Extensive experience in residential construction manner, means and methods  
Plaintiff counsel in two cases with verdicts in excess of \$1.0M  
Plaintiff counsel in wrongful death case with settlement of \$2.9M  
Plaintiff counsel in \$4.6M and \$1.4M construction case settlements  
Board of Professional Responsibility Hearing Disciplinary Committee Member  
(2005 – 2012)

Three-year president of Richland Country Club from 2015-2018. Presided over \$20,000,000.00 renovation and directed club operations as chairman of the executive committee. Extensive firsthand experience from owner's perspective of design, construction, operations and budgeting.

## **Alternative Dispute Resolution Experience**

Mediated over 3600 cases. Many complex and high profile in construction, business, medical malpractice, employment, product liability, personal injury, legal malpractice, real estate and nursing home matters.

Served as arbitrator in over 300 cases.

## **Education**

Washington & Lee University	J.D. 1985
Auburn University	B.A. 1982

## **Admissions**

Tennessee and U. S. District Court, Middle - 1985  
United States Court of Appeals for the Sixth Circuit - 1994

## **Certifications**

Board Certified as a Rule 31 Mediator

## **Memberships**

The Legends Club Auburn Athletics  
The 1856 Society Auburn University  
Kappa Alpha Order Crimson & Gold Society  
Nashville and Tennessee Bar Associations  
Tennessee Association of Construction Counsel  
Richland Country Club – member since 1990;  
    Director – 2000 to 2004, 2012 to 2019  
    Board Counsel – 2004 to 2009  
    Vice President – 2014 to 2015  
    President – 2015 to 2018  
Battle of Nashville Trust, Inc.;  
    Director – 2004 to present  
    Vice-President – 2005 to 2007  
    President 2007 – 2010; 2019-2021  
    Treasurer 2011 - 2018  
Tennessee Civil War Preservation Association, Inc.  
United States Golf Association  
Travellers Rest Board of Directors – 2007 to 2015  
Friends of Ft. Negley Board of Directors – 2014 to 2017

## **Civil War Historian**

Served as a contributor/researcher on the following films and books:

The Cavalries in the Nashville Campaign, Dennis W. Belcher  
(McFarland & Company, Inc., 2020) Foreword by James D. Kay, Jr.

The 11<sup>th</sup> Missouri Volunteer Infantry in the Civil War, Dennis W. Belcher  
(McFarland & Company, Inc., 2011)

Nashville – The Western Confederacy’s Final Gamble, James Lee McDonough (The University of Tennessee Press, 2004)

Mud, Blood & Cold Steel: The Retreat from Nashville, December 1864, Mark Zimmerman (Zimco Publications, LLC 2020) Foreword by James D. Kay, Jr.

Executive Producer: The Life and Times of Ed Bearss, Road Films (2015)

Frequent lecturer on early Nashville history and preservation of the Nashville battlefield

## **Expert Witness**

Served as expert witness in the following cases:

Kevin Orndorff and wife, Marguerite Orndorff v. Edward Ron Calahan and wife, Diane R. Calahan; Case No. 05-1862 I; Chancery Court for Davidson County, Tennessee

Richard Small and Rhonda Small v. Jeffrey A. Greene, Castleman & Greene, PLLC, and Greene & Hogan, P.C.; Case No. 99C-3138; Circuit Court for Davidson County, Tennessee

Nancy Jo Gregory v. Thomas A. Travaglini; Case No. 00C-590; Circuit Court for Davidson County, Tennessee

Shannon Balmer v. HCA, Inc. and Health Care Indemnity, Inc.; Case No. 3:01-1541; United States District Court for the Middle District of Tennessee

Kara Williams v. White Castle System, Inc.; Case No. 3:05-0496; United States District Court for the Middle District of Tennessee

The Travelers Indemnity Company of Connecticut and F.F.E. Transportation Services, Inc. v. Robert A. Cox, Warren McWhirter and Glassman and Edwards, Wade & Wyatt, P.C., a Tennessee professional corporation; Case No. C-04-104; Circuit Court for Madison County, Tennessee

Managed Care Solutions, Inc. v. Essent Healthcare, Inc.; Case No. 09-60351-CIV-SEITZ/O’SULLIVAN; United States District Court Southern District of Florida

C.M. Armor Holdings, LLC and C.M. Armor, LLC v. Lancashire Partners, LLC, Alphagen Materials Technology, Inc., Matthew Merchant and John J. Kostic; Case No. 2018-488; Circuit Court for Williamson County, Tennessee

## **Published Decisions**

Funk v. Scripps Media, Inc., No. M2017-00256-COA-R3-CV, 2017 Tenn. App. LEXIS 779 (Nov 30, 2017)

Chase v. Funk, 2016 U.S. Dist. LEXIS 170795 (M.D. Tenn. Dec 9, 2016)

Pressman v. Franklin Nat'l Bank, 384 F.3d 182 (6<sup>th</sup> Cir. 2004)

Waggoner Motors, Inc. v. Waverly Church of Christ, 159 S.W.3d 42 (Tenn. Ct. App. 2004)

Am. Child Care, Inc. v. State, 83 S.W.3d 148 (Tenn. Ct. App. 2001)

Tomlin by Cockerham v. Warren, 958 S.W.2d 354 (Tenn. Ct. App. 1997)

First Inv. Co. v. Allstate Ins. Co., 917 S.W.2d 229 (Tenn. Ct. App. 1994)

Miller v. Doe, 873 S.W.2d 346 (Tenn. Ct. App. 1993)

McClain v. Kimbrough Const. Co., Inc., 806 S.W.2d 194 (Tenn. Ct. App. 1990)

### **Unpublished Decisions**

David Chase v. Chris Stewart, et al. 2017 Tenn. App. LEXIS 581 (Aug. 29, 2017)

Bank of N.Y. Mellon v. Goodman, 2014 Tenn. App. LEXIS 217 (Tenn. App. Jan. 21, 2014)

Tucker Corp. v. City of Clarksville, 2003 Tenn. App. LEXIS 401 (May 30, 2003)

Am. Nat'l Prop. & Cas. Cos. v. Roberts, 2002 Tenn. App. LEXIS 899 (Dec. 19, 2002)

Green v. Moore, 2001 Tenn. App. LEXIS 932 (Dec. 28, 2001)

Shearron v. Tucker Corp., 2001 Tenn. App. LEXIS 733 (Oct. 2, 2001)

Rezba v. Randolph, 2001 Tenn. App. LEXIS 302 (Apr. 30, 2001)

Second Chance Farms, Inc. v. Perry County, 2001 Tenn. App. LEXIS 145 (Mar. 7, 2001)

Davis v. Computer Maint. Serv., Inc., 1999 Tenn. App. LEXIS 661 (Sep. 29, 1999)

Tucker v. Turner, 1999 Tenn. App. LEXIS 395 (Jun. 18, 1999)

Forklift Sys., Inc. v. Werner Enters., 1999 Tenn. App. LEXIS 324 (May 25, 1999)

Knoble v. Taylor, 1999 Tenn. App. LEXIS 162 (Mar. 12, 1999)

Tyler v. Morgan, 1998 Tenn. App. LEXIS 783 (Nov. 24, 1998)

Irvin v. Johnson, 1998 Tenn. App. LEXIS 463 (Jul. 10, 1998)

Little v. Hogan, 1998 Tenn. App. LEXIS 112 (Feb. 13, 1998)

Thomas v. Crockett, 1997 Tenn. App. LEXIS 136 (Feb. 28, 1997)

Auto-Owners (Mut.) Ins. Co. v. Estate of Harris, 1993 Tenn. App. LEXIS 792 (Dec. 29, 1993)

McClain v. Kimbrough Const. Co., Inc., 1992 Tenn. App. LEXIS 894 (Nov. 6, 1992)

Summers v. Command Sys., Inc., 1991 Tenn. App. LEXIS 803 (Oct. 10, 1991)

Graystone Props. v. Fuller, 1989 Tenn. App. LEXIS 815 (Dec. 13, 1989)

Sewell v. Par Cable, Inc., 1988 Tenn. App. LEXIS 657 (Oct. 26, 1988)

### **Arbitration Review**

Smith v. Hukowicz, 2003 Tenn. App. LEXIS 33 (Jan. 16, 2003)