



## Kevin M. McGuire

Of Counsel

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**Kevin M. McGuire is Counsel in the Banking, Coal and Energy industry groups, focusing primarily on litigation. He practices out of the Firm's office in Lexington, Kentucky.**

As someone who spends his free time reading spy novels, Kevin's interest in solving problems and puzzling out complicated facts makes him a natural fit for the world of environmental law. Untangling the legal morass that is environmental regulation takes patience and experience, which Kevin has in spades. Kevin has spent his entire legal career at Jackson Kelly, representing businesses and individuals in litigation and regulatory proceedings involving environmental compliance, permit applications and challenges, manufacturing and supply contracts, insurance and reinsurance insolvencies, risk management, and director and officer liability. His clients include leading coal, oil and gas, manufacturing, reinsurance, banking, and agricultural firms – all of which he assists in understanding and navigating federal and state agency rules and regulations in connection with innovative energy, technology, and agricultural projects. He has written numerous papers and lectured frequently on environmental, energy, and reinsurance topics.

Kevin frequently represents the coal industry in multiple regulatory challenges and enforcement actions brought by the U.S. Environmental Protection Agency, the Sierra Club, Appalachian Voices, and other citizen activist groups under the Clean Water Act and other regulatory programs. He represents publicly-traded and foreign companies in ongoing coal asset acquisitions and divestures, focusing on permitting, bonding, legacy liability, and environmental due diligence. He also represents start-up companies with projects under the 2014 U.S. Farm Bill.

As lead counsel for the liquidator of a professional reinsurer headquartered in New York City and involved in the international long-tail casualty business, Kevin has experience in the various aspects of court-supervised insurance insolvency proceedings and has led or supervised litigation in numerous other states and foreign jurisdictions, including Bermuda, the Grand Caymans, the United Kingdom, New York, Illinois, California, North Carolina, and Florida. He's had the privilege of representing clients before the United States Supreme Court and the House of Lords, Privy Council, in London.

Kevin assisted with the founding of the Kentucky Equine Education Project, the trade association for all horse breeds and activities in Kentucky. When he's not reading, you can find him golfing or trying to learn to sail.

### Awards

- Martindale-Hubbell: AV Preeminent Rating
- Named the *Best Lawyers* Lexington Environmental Law "Lawyer of the Year" (2014)
- Selected by his peers for inclusion in *The Best Lawyers in America*® for Environmental Law (2013-2021)

## Notable Legal Experience

- Argued for application of the Clean Water Act's permit shield defense in the context of a general permit and Sierra Club claims that client was discharging selenium without a permit and in excess of water quality standards. *Sierra Club v. ICG Hazard, LLC*, 781 F.3d 281 (6th Cir. 2015)
- Defended U.S. Army Corps of Engineers' issuance of a CWA § 404 fill permit to an Eastern Kentucky coal operator against claims of the Sierra Club and others that mountaintop mining causes adverse human health effects. *Kentuckians for the Commonwealth v. U.S. Army Corps of Engineers*, 746 F.3d 698 (6th Cir. 2014)
- Negotiated significant settlement with U.S. EPA and U.S. Army Corps of Engineers resolving federal court enforcement action and resulting in the issuance of an "after-the-fact" CWA § 404 fill permit to coal company client.

## Work History

- Jackson Kelly PLLC (1984-Present)

## Practices

- Environmental

## Industries

- Banking
- Coal
- Energy

## Education

- University of Kentucky College of Law (J.D.)
  - High Distinction
  - Order of the Coif
- Washington and Lee University (B.S. in Physics and Engineering, *magna cum laude*, 1981)
  - Phi Beta Kappa

## Admissions

- Kentucky (1986)
- West Virginia (1984)
- Supreme Court of the United States of America (1990)
- U.S. District Court, Western District of Kentucky (1986)
- U.S. Court of Appeals, Sixth Circuit (1986)
- Kentucky Supreme Court (1986)
- U.S. District Court, Eastern District of Kentucky (1986)
- U.S. District Court, Southern District of West Virginia (1984)
- West Virginia Supreme Court of Appeals (1984)

## Professional Organizations

- Kentucky Bar Association
- West Virginia State Bar
- Fayette County Bar Association
- Kentucky Coal Association, Environmental Committee

## Speaking Engagements & Publications

### Speaking Engagements

- Frequent Speaker on environment and energy law issues
- Presenter at the 33rd Governor's Conference on the Environment on the topic of Carbon Management and Policy

### Writings and Publications

- *Sierra Club v. ICG Hazard, LLC*, \_\_\_ F.3d \_\_\_, 2015 WL 643382 (6th Cir. 2015)
- *Kentuckians for the Commonwealth v. U.S. Army Corps of Engineers*, 746 F.3d 698 (6th Cir. 2014)
- *Stephens v. American International Ins. Co.*, 66 F.3d 41 (2d Cir. 1995)
- *Albany Insurance Co. v. Stephens*, 926 S.W.2d 460 (Ky.App. 1995)
- *Ward v. Harding*, 860 S.W.2d 280 (KY 1993), cert. denied, 510 U.S. 1177 (1994)
- *Kirklevington Associates, Ltd. v. Kirklevington North Associates, Ltd.*, 848 S.W.2d 453 (Ky.App. 1993)
- *Bank One, Lexington, N.A. v. Woolum*, 979 F.2d 71 (6th Cir. 1992), cert. denied, 507 U.S. 1005 (1993)
- *Stephens v. American Home Assurance Co.*, 811 F. Supp. 937 (S.D.N.Y. 1993)
- *Wright v. Sullivan Payne Co.*, 839 S.W. 2d 250 (KY 1992)
- *Hunters Ridge Homeowners Assoc. v. Hicks*, 818 S.W.2d 623 (Ky. App. 1991)
- "Impact of Hazardous Waste Regulation on the Coal Mining Industry," Kentucky Mineral Law Center, Annual Seminar, 1990
- *Morgan v. National Distillers & Chemical Corp.*, 900 F.2d 890 (6th Cir. 1990), cert. denied, 498 U.S. 890 (1990)
- "Kentucky Regulation of Subsidence," American Mining Congress, Subsidence Seminar, 1990
- "Environmental Law Update," Kentucky Mineral Law Center, Annual Seminar, 1989
- "Avoidance of Disputes between Mineral and Surface Owners," Eastern Mineral Law Foundation, Annual Proceedings, 1988
- "West Virginia Regulation of Subsidence," Eastern Mineral Law Foundation, Coal Mine Subsidence Special Institute, 1985
- "The Legal Aspects of Subsidence," West Virginia Coal Mining Institute and the American Institute of Mining Engineers, Annual Fall Meeting, 1985

### Community

- Washington and Lee University Alumni Association
- First United Methodist Church
- Greenbrier Golf & Country Club
- Danville Country Club