



## G. Keith Phoenix

SENIOR COUNSEL IN ST. LOUIS, MO

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### SERVICES

Personal Injury & Tort Defense

Product, Asbestos & Toxic Tort  
Liability

### INDUSTRIES

Automotive

Consumer Products

Drugs & Pharmaceuticals

Heavy Machinery

Hunting & Sporting Goods

Manufacturing & Distribution

Medical Devices

Recreational Products

Transportation

Keith Phoenix is a founding member of Sandberg Phoenix & von Gontard P.C. He has been instrumental in management of the firm, assisting in its growth, and in client development. During 17 of the firm's 40 year history, Keith has been either the president or has served on the firm's Management Committee.

He has experience in well over 3,000 pieces of major litigation and has tried to completion scores of high exposure cases, generally representing large multi-national corporations. The cases defended by Keith were not only in Missouri and Illinois where the firm has offices, but also across the country to include Alaska, Arkansas, California, Colorado, Indiana, Iowa, Kansas, New Jersey, Oklahoma and Texas. These corporate clients for whom he has tried cases include Saint Louis University, SSM Health Care, Barnes Jewish Hospital, Saint Elizabeth Medical Center, Honda, Continental General Tire, Freightliner, General Motors, Hyundai, Jaguar, Isuzu, Nissan, Toyota, Paccar, Volvo, Winnebago, Yamaha, American Home Products, Baxter, Boston Scientific, Bell Sports and St. Jude. Major insurance carriers also look to Keith for advice and his trial skills, including AIG, Chubb, Hallmark, Liberty Mutual, Lexington, Allied World Assurance Company, United Educators and Network Adjusters.

### REPRESENTATIVE EXPERIENCE

*Cruz v. Wilsonart.* Rear end over-the-road trucking accident involving the death of one, and serious brain damage of a 5-year-old girl. Mr. Phoenix was hired three weeks before the commencement of trial in an effort to control damages in this almost admitted liability case. He was retained to serve as lead counsel and conducted the Voir Dire, Opening Statement, and examined several witnesses. Case settled in the second week of trial at an amount significantly lower than the pre-trial demand, and extremely close to the pre-trial offer.

*Burrows v. Nissan.* In this suit filed in the City of St. Louis, the plaintiff was severely injured as a result of a forklift accident. Rear visibility on forklift was alleged to be limited due to high profile counterweight and placement of propane tank. The case was tried and ended in a defendant's verdict.

*Stockbauer v. Intex Recreation Corp., et al.* In this product liability case, Keith Phoenix represented aboveground pool distributor Intex Recreation Corp. and retailer Target in a matter involving a dive into an Intex pool resulting in quadriplegia. Plaintiff alleged the warnings and design of the pool were defective. After 11 days of evidence, plaintiff asked the jury for \$45 million in compensatory damages and an unspecified amount in punitive damages. The jury returned a verdict in the amount of \$14 million and apportioned 96% fault to plaintiff, translating into an award of only \$560,000.

*Niedbalski v. Bell Sports, Inc.* Plaintiff sought damages suffered by her 35 year old husband as the result of a bicycle accident resulting in brain damage and confinement in a nursing home for the rest of his life. The plaintiff attributed her husband's injuries to a defect in his bicycle helmet, distributed by Defendant Bell Sports, claiming the polystyrene liner of the subject helmet was "too stiff", having an area of higher density foam which did not attenuate the energy of the impact. The Plaintiff asked the jury for a verdict of approximately \$18 million dollars. A City of St. Louis jury returned a verdict, 11 to 1, in favor of Bell Sports.

*Dowell v. SLU.* Represented vascular surgeon in medial malpractice case. Following carotid endarterectomy plaintiff developed Horner's Syndrome and alleged stroke. At conclusion of trial jury returned verdict for the defendant.

*Staten v. Nissan.* Represented Nissan in product liability case arising out of a tire blowout and vehicle rollover. Obtained summary judgment for Nissan in trial court, which was later affirmed by the 7th Circuit Court of Appeals.

*Baltzell v. Freightliner Corporation, et al.* This personal injury products liability case was defended in the U.S. District Court for the Southern District of Illinois (East St. Louis). One co-defendant admitted fault and blamed Freightliner. Although the jury returned a verdict of almost \$14 million, Keith limited Freightliner's exposure to 20%.

*Baskin v. Parkview Housing.* Plaintiff alleged wrongful eviction and conversion of personal property and sought compensatory and punitive damages of several hundred thousand dollars. Keith served as second chair supervising a young associate at SPvG, Jonathan Barton, who acted as lead trial counsel. The case was tried and ended in a defense verdict.

*Smith v. Burdge.* Plaintiff claimed he contracted an infection of the right knee during hospitalization at St. Louis University Hospital. The infection led to an above-the-knee amputation of his right leg. The plaintiffs were seeking \$4 million in damages. The case was tried for two and a half weeks in the U.S. District Court for the Eastern District of Missouri and resulted in a defendant's verdict. A motion for a new trial by the plaintiff was denied. Plaintiff appealed but the defense verdict was affirmed by the Eight Circuit Court of Appeals.

*Hazard v. Gierl.* Keith received a defense verdict on behalf of a medical diagnostic laboratory and a physician in a case tried in the United States District Court for the Eastern District of Missouri.

*Breslin v. Burdge.* Plaintiff alleged a failure to diagnose a loose prosthesis, resulting in an unnecessary operation and 18 months of pain. The case was tried in the City of St. Louis and ended in a defendant's verdict.

*Clodfelter v. Nissan.* Plaintiff in this product liability action contended the restraint system in a Nissan Maxima was defective. The case was tried in the City of St. Louis and ended in a defendant's verdict, which was affirmed on appeal.

*Datema v. Quest.* Alleged laboratory malpractice. Misdiagnosis of pap smear on three separate occasions over a three year period. Failed to diagnose cervical cancer, resulting in death of 35-year old mother of three. The case was tried in the City of St. Louis and settled during trial.

*Steele v. Evenflo.* The firm served as local counsel and Keith second chaired in this two-week plus product liability trial. The product was a car booster seat. During the accident, the child sustained injuries, which resulted in quadriplegia. The case ended with a verdict in the amount of \$8.5 million. The matter is now on appeal.

*Laury v. Berger's Marina.* Keith represented Charles Laury, the plaintiff, and obtained the largest reported plaintiff's verdict in Camden County.

*Grose v. Nissan.* In this paraplegic case, Keith served as co-counsel for Nissan. After a multi-week trial, the jury returned a verdict in favor of Nissan.

*McDowell v. Sears.* In this product liability death case, Keith was hired less than 60 days before trial. Nevertheless, he obtained a defense verdict for Sears.

*Klugesherz v. Honda.* In this St. Louis City case, Keith represented Honda in a two-month trial. The jury verdict was \$7.25 million for the plaintiff who was paralyzed and suffered brain damage. The verdict was later then taken away by the trial court through a JNOV, which was affirmed on appeal.

*Cooper v. Davol.* Plaintiff filed a medical product liability case against Davol. Keith obtained a defendant's verdict.

*Noe v. Honda.* This was a double amputee case in which Keith represented Honda in a product liability suit. The case resulted in a defendant's verdict with a St. Louis City jury.

*Edwards v. Ryobi.* In this case, Keith won a directed verdict, which was later upheld by the Eighth Circuit Court of Appeals.

*Green v. Caremark.* Keith won a directed verdict later upheld by the Missouri Court of Appeals.

*Vatterott v. Yamaha.* Suit was filed based on a portion of a country club that burned allegedly as a result of a Yamaha product. Keith's client received a defense verdict.

*Mediq v. GTE.* Plaintiff filed a product liability property damage case. The plaintiff alleged that one of GTE's products was responsible for causing a fire. At trial, Keith prevailed on behalf of GTE.

*Jackson v. Mitsubishi.* Keith represented Mitsubishi in this product liability case and obtained a defendant's verdict. The co-defendant, however, had a verdict entered against it in the amount of \$275,000.

*Beutler v. Navistar.* In this product liability case, filed in Madison County, Illinois, Keith represented Navistar and obtained a defendant's verdict.

*22nd Judicial Circuit v. City of St. Louis.* Keith represented the Judicial Circuit against the City of St. Louis over a budgetary dispute. The case was lost in the appellate court 3-0 and then later reversed in the Supreme Court, resulting in a settlement for the court in the amount of \$35 Million for courthouse improvements.

*Kratz v. St. Elizabeth Medical Center.* The firm represented St. Elizabeth Medical Center in this medical malpractice case. Keith obtained a directed verdict on behalf of the defendant.

*J.B. Hunt v. Lomax.* In this case, Keith represented the plaintiff and obtained a verdict for the client.

*Franklin v. Hill Rom.* This was a death case in which Keith represented the plaintiff against Hill Rom Manufacturing Company. The case resulted in a \$1.2 million verdict. This case still remains the top verdict in an unmarried adult wrongful death case in the United States District Court for the Eastern District of Missouri.

*Galster v. CNS.* Keith represented the defendant in this medical malpractice suit. After five days of trial, Keith obtained a verdict for the defendant.

*Coale v. American Hospital Supply.* Plaintiff filed a combination product liability and medical malpractice case. Keith represented American Hospital Supply and obtained a defendant's verdict. The plaintiff obtained a verdict against the co-defendant.

*Devers and Saxbery v. Honda.* This was a death case for two children in which Keith represented Honda in Quincy, Illinois. The case resulted in the plaintiff's verdict, albeit a very low one.

*Patton v. Memorial Hospital of Carbondale.* This was a medical malpractice case tried in Jackson County, Illinois. Keith represented Memorial Hospital of Carbondale, and his client was dismissed at the conclusion of the plaintiff's case.

*Pak Ghee v. Mallinckrodt.* The plaintiff sued Mallinckrodt Company in a suit filed in the Eastern District of Missouri. Keith tried the case, which resulted in a defense verdict for our client.

*Anderson v. Honda.* This was a case in Los Angeles in which Keith represented Honda. The plaintiff lost his leg allegedly as a result of a defective Honda vehicle. The case resulted in a defendant's verdict after three weeks of trial.

*Hagan v. Conservation Chemical.* In this chemical exposure product liability case, Keith represented the defendant. The case resulted in a verdict for the defendant.

*Keller v. BFC.* Keith defended BFC in a case involving a chemical exposure product liability action. The case resulted in a directed verdict for the defendant.

*Ensley v. City of St. Louis and Dr. Naam.* In this malpractice case, Keith represented the City of St. Louis. The case resulted in a defendant's verdict.

*Evans v. Honda.* This was a case in which Keith represented Honda in federal court in Beaumont, Texas. The plaintiff lost his leg and accused Honda of manufacturing a defective motorcycle. The case resulted in a defendant's verdict.

*Eldringhoff v. Haywood.* The firm filed suit on behalf of the plaintiff in St. Louis County. Keith tried the case, which resulted in a verdict for the plaintiff.

*McCoy v. Honda.* In this product liability case filed in the Southern District of Illinois, Keith represented Honda. The plaintiff lost his leg and accused Honda of manufacturing a defective motorcycle. The case resulted in a defendant's verdict.

*Jones v. Honda.* Keith represented Honda in a product liability case filed in Madison County, Illinois. The plaintiff lost his leg and accused Honda of manufacturing a defective motorcycle. The case resulted in a defendant's verdict.

*Grey v. St. Mary's Hospital.* This St. Clair County medical malpractice case resulted in a defendant's verdict.

*Smith v. KAS Potato Chip Company.* Keith tried this employment law case on behalf of KAS Potato Chip Company. The case resulted in a defendant's verdict.

*Racer v. American Hospital Supply.* This was a case tried in out-state Missouri and was widely reported as changing or clarifying the law of products liability in the State of Missouri. Our client was given a directed verdict at the conclusion of plaintiff's case.

*Berger v. Ford Motor Company.* This was a personal injury product liability case arising from a fuel tank fire in a Ford vehicle. The case resulted in a defense verdict for Keith's client, Ford Motor Company.

*Edwards v. St. Joseph's Hospital.* This was a Madison County malpractice case in which Keith represented St. Joseph's Hospital. The doctor "accidentally" extracted 18 feet of small intestine. The case resulted in a large verdict for the plaintiff.

*Spanberger v. St. Elizabeth's.* This was a medical malpractice case in which Keith represented St. Elizabeth's Hospital, and which resulted in a defendant's verdict.

*Smith v. Sioux City & New Orleans Barge Lines.* Keith received a defense verdict in this Jones Act case tried in St. Clair County, Illinois.

*Rudman v. Continental Bank.* The firm represented Continental Bank. Keith tried the case, which resulted in a defendant's verdict.

*McAnally v. Barnes.* This suit involved a medical malpractice cause of action in which Keith represented Barnes Hospital. The case resulted in a defendant's verdict.

## PROFESSIONAL AFFILIATIONS

American Board of Trial Advocates (President, Missouri-Southern Illinois Chapter 1993-1994)

Bar Association of Metropolitan St. Louis

Illinois State Bar Association

Lawyer's Association of Metropolitan St. Louis (President 1986-1987)

Legal Consultant for the American Academy of Pediatrics (1985-1991)

Missouri Bar Association

Network of Trial Law Firms (Executive Committee Member 1995-2000)

Product Liability Advisory Council.

St. Clair County Bar Association

## **EDUCATION**

J.D., Saint Louis University School of Law

## **LICENSURE(S) AND ADMISSION(S)**

Illinois

Missouri

## **CIVIC ACTIVITIES**

Jefferson Memorial Expansion Commission

Missouri Athletic Club, Board of Governors and President

Saint Louis University, Board of Trustees

Saint Louis University, Instructor of Law

St. Louis Board of Health and Hospitals

Webster College, Thomas Dunn Memorial Instructor

## **PRESENTATIONS**

American Medical Association Convention

Missouri and Illinois State Bar Association Meetings

Missouri Hospital Association Convention

National Collegiate Athletic Association

Network of Trial Law Firms

Numerous Continuing Legal Education Programs

Multiple Hospital Nursing and Medical Seminars

## **PUBLICATIONS**

Saving the Golden Egg: Returning Sanity to the Discovery Process," *St. Louis Bar Journal* (1992)

"Hospital Liability for the Acts of Independent Contractors: The Ostensible Agency Doctrine," Vol. 30, No. 3, *Saint Louis University Law Journal Health Law Symposium* (1986)

"The Dilemma for the Legal and Medical Professions: Euthanasia and the Defective Newborn," *Saint Louis University Law Journal* (1978)

## **MILITARY SERVICE**

January 1969 - Drafted from Law School into the United States Army. After completing basic training, assigned to Provo Marshal Investigation Bureau and Criminal Investigation Division.

Fall 1969 - Awarded Direct Commission to Second Lieutenant in Military Police Corp.

1969 to 1970 - Executive Training Officer at the United States Military Police Academy, Fort Gordon, Georgia

1970 to 1971 - Promoted to First Lieutenant with a year plus tour of duty in the Republic of Vietnam. Platoon Leader/Executive Officer of a Military Police Company. While in Vietnam, was awarded two Bronze Stars, Air Medal with Oakleaf Cluster, the Vietnam Campaign Medal, the Vietnam Service Medal, and the Good Conduct Medal. In Vietnam, 169 hours of flight time were logged in combat or combat support missions.

## **RECOGNITION**

BEST LAWYERS IN AMERICA

Best Lawyer



Commercial Litigation, Medical Malpractice, Personal Injury Litigation and Product Liability Litigation

2005-2021

MISSOURI & KANSAS SUPER LAWYERS

Super Lawyer

Civil Litigation, Medical Malpractice and Products Liability

2008-2018

BEST LAWYERS IN AMERICA

St. Louis' Product Liability Lawyer of the Year

2010

SUPER LAWYERS CORPORATE COUNSEL EDITION

Super Lawyer

Products Liability

2007

STRATHMORE'S WHO'S WHO

Leadership and Achievement

2007

MISSOURI LAWYERS WEEKLY

Top Verdicts