



## Glennon P. Fogarty

**PARTNER**

ST. LOUIS, MO

PHONE: 314.480.1912

EMAIL: GLENNON.FOGARTY@HUSCHBLACKWELL.COM

### OVERVIEW

Glennon is an agile, experienced, and trusted advisor for many public and private companies in a variety of mission-critical subject areas.

Glennon routinely partners with clients to identify and implement timely solutions to pressing business and legal challenges. He frequently collaborates with leading financial services, manufacturing, and technology companies, where he brings deep business and operational knowledge to clients in these industries.

Where appropriate, Glennon provides clients with pivotal, behind-the-scenes advice to resolve problems without escalating the issue with the overt involvement of outside counsel. When those efforts do not achieve the client's goal or are not suitable, he delivers winning arguments in state and federal courts at the trial and appellate levels, as well as in administrative, arbitration and bankruptcy proceedings. Glennon generally represents commercial businesses, but has also represented officers, directors, in-house counsel, and senior executives.

While Glennon has a rare breadth of knowledge and subject-matter experience, he also partners with colleagues at Husch Blackwell to leverage the know-how of the 900-plus attorneys within the firm's national footprint. He regularly partners with client resources and from time to time other leading law firms to best achieve client goals. He is barred in Illinois and Missouri but is also admitted to a variety of trial and appellate courts across the country.

**Class Action Litigation** | Glennon focuses his practice on defeating class actions, from opening motions through class certification and at the appellate level,

### Industries

Financial Services & Capital Markets  
Manufacturing  
Technology  
Transportation

### Services

Advertising & Marketing  
Aviation  
Class Action Defense  
Commercial Contracting  
Commercial Litigation  
Construction & Design  
Construction Litigation  
Consumer Financial Services  
Consumer Fraud Litigation  
Government Solutions  
Intellectual Property Litigation  
Litigation & Alternative Dispute Resolution  
Product Liability  
Product Safety  
State Attorneys General Practice  
White Collar, Internal Investigations, & Compliance

if necessary. Glennon's class action experience includes state and federal proceedings involving advertising, bad faith, billing practices, contract interpretation, marketing, securities, unjust enrichment, and warranty claims, as well as defending numerous lawsuits filed under the Telephone Consumer Protection Act (TCPA), the Missouri Merchandising Practices Act (MMPA) and other state unfair and deceptive trade practice statutes.

Representative clients in this area include Brinks Home Security, Forest Pharmaceuticals, General Electric Company, GE Money Bank, GE Consumer Finance, Inc., General Electric Capital Corporation, Globe Life And Accident Insurance, Heritage Home Group, H&R Block, Hobby Lobby, Match (Tinder), Monsanto, Ralcorp, Synchrony Bank, 3 Day Blinds, and Van's International Foods (subsidiary of Tyson Foods).

Glennon frequently handles class actions and other complex litigation as lead counsel, but also collaborates as part of national trial teams in conjunction with other top U.S. law firms.

**Commercial Contracting & Distributor Termination** | Following his longstanding representation of various clients in commercial disputes, Glennon's practice has evolved to also include those clients' commercial agreements—all with the benefit of seeing many of those contract terms tested in litigation. As a result, he leads a client service team of transactional attorneys that handles commercial agreements for a global technology company and has negotiated a wide variety of agreements including master, distribution, reseller, technology, service, supply, and other agreements—including agreements involving highly sophisticated “adverse” transaction parties, such as Amazon, Apple, Arcelor, Avnet, BNSF, Cisco, John Deere, Nokia, Norfolk Southern, Samsung, Sikorsky, and Union Pacific, among others. His experience ranges from complex long-term master agreements to clients' day-to-day terms and conditions, all with the benefit of a knowledge of the gap-filling provisions of the Uniform Commercial Code (UCC). He also advises clients regarding the termination of distributors and distribution agreements, providing advice to clients on distribution, franchise, and sale representative statutes in all 50 states.

Representative clients in this area include Bayer, Emerson, Heritage Home Group, Laird Connectivity, Laird Technologies, Monsanto, and Nidec.

**Commercial Litigation** | Glennon represents a variety of financial services, manufacturing, and technology companies in commercial disputes, including claims or lawsuits adverse to leading companies such as Alcatel-Lucent, Avnet, Boston Scientific, CalAmp, Carrier, Caterpillar, Cisco, Ericsson, Ford Motor Company, Huawei, Qualcomm, Sanmina, Siemens, Sierra Wireless, and Stryker. In such disputes Glennon works closely with in-house counsel and commercial leads, and sometimes does so “behind the scenes” so as not to unnecessarily escalate a dispute or to otherwise preserve the underlying supply chain or other commercial relationship. Most commonly, these disputes involve breach of contract, breach of warranty, indemnity, level of service or performance claims.

**Construction & Design** | Glennon's construction experience involves a variety of commercial, industrial, and municipal projects, including one of the country's largest mass transit systems, the nation's largest cement plant, power plants, and fiber-optic cable relocation. This work includes bond, breach of contract, default, defective workmanship, delay, engineering and design defect,

mechanics' liens, and supply/procurement claims. Even when the result is a favorable ruling, construction litigation can be particularly disruptive, expensive, and time consuming. As a result, where appropriate, Glennon often works with clients and the other project representatives to achieve a business or quasi-legal resolution short of litigation.

Representative clients in this area include Appleton, Combustion Kinetics, Emerson, Fisher Controls, Fisher Regulators, Guarantee Electrical Company, Liebert, Vilter, and Vision Electric.

**Financial and Consumer Fraud Litigation** | Before returning to private practice Glennon was Unit Chief of the Consumer Protection Division of the Missouri Attorney General's St. Louis office, where he directed the investigation and prosecution of advertising, antitrust, consumer, marketing, and unfair practice claims, including a variety of multistate investigations coordinated by the National Association of Attorneys General (NAAG) and in joint state/federal investigations with representatives of the Federal Trade Commission (FTC). Since returning to private practice, he has continued to review companies' advertising and marketing practices for compliance with state and/or federal consumer protection statutes. He has also assisted clients with FTC and Attorney General civil investigative demands and related investigations, as well as numerous civil lawsuits asserting unfair and deceptive trade practice claims, including the Missouri Merchandising Practices Act. He has addressed a broad array of issues, including advertising review, automobile leasing, counterfeit goods, electronic commerce, health & safety, lending, promotions, and truth-in-lending (TILA) claims. He has handled numerous TCPA and Fair Credit Reporting Act (FCRA) cases.

**Intellectual Property & Trade Secret Litigation** | Glennon works with client product development and technical leads to address intellectual property and trade secret disputes and litigation. His experience in this area includes a wide range of products and technologies, including patented biotechnology, connectivity and other IoT components, counterfeit and gray-market goods, remote control systems, seed, thermal interface materials, transmitters, and wireless modules. While he often assists clients in resolving such disputes prior to litigation, he is counsel of record in over fifteen reported patent infringement decisions.

Representative clients include Cattron, Laird Connectivity, Laird Technologies, and Monsanto.

**Product Liability** | Glennon's product experience includes a variety of products and technologies, including appliances, biotechnology, boilers, control valves, cryogenic products, electrical equipment, emission controls, fiber-optic cables, ladders, lighting equipment and fixtures, plastic injection molding equipment, manufactured housing, motors, power tools, process control systems, pump systems, remote control systems, scaffolds, signal integrity products, transmitters, valves, and water heaters. The applications of such products and technologies include agricultural, business, commercial, construction, consumer, and industrial sectors.

This work often involves industry and consensus standards promulgated by the American National Standards Institute (ANSI), American Society for Testing and Materials (ASTM), CSA, the National Fire Protection Association (NFPA), Underwriters Laboratories (UL), and many others. Through this work he has significant experience with investigations and lawsuits relating to fires, explosions, and fatalities.

Representative clients include Bayer, Emerson, Laird Connectivity, Laird Technologies, Monsanto, Nidec, Ridge Tool Company and Robertshaw.

**Product Safety** | Glennon frequently works with in-house counsel, product safety officers, in-house engineers, and outside consultants when clients are addressing product defect, epidemic failure, and field failure claims, including business-to-business recalls and other corrective actions (i.e., industrial, commercial and non-consumer products), consumer product recalls and other corrective actions (i.e., Consumer Product Safety Commission (CSPC)), and safety investigations. This work includes reviews of ANSI, ASTM, CSA, CSPC, Occupational Safety and Health Administration (OSHA), NFPA, Department of Defense (DoD), UL, and other requirements.

**Telephone Consumer Protection Act (TCPA)** | Because of the uncapped liability associated with TCPA claims, as well as the provisions regarding “statutory” damages which require no proof of actual damages, class actions alleging violations of the TCPA routinely expose companies to judgments into seven, eight, or nine figures. These lawsuits can arise in a number of contexts, including artificial voice, facsimile, fax, recorded call, MMS, SMS, and text communications. Glennon and a team of colleagues at Husch Blackwell regularly review SMS and other text communications for compliance with the TCPA. Glennon has advised over two dozen clients regarding TCPA claims and/or compliance.

**Advertising & Marketing** | Glennon’s experience includes numerous advertising reviews and false advertising claims during his tenure as Unit Chief with the Missouri Attorney General’s Consumer Protection Division, as well as reviewing client advertising and marketing documents following his return to private practice. These advertising reviews distinguish puffery from advertising claims, document claim substantiation, and address comparative advertising concerns. Since returning to private practice, in addition to advertising reviews, he has handled numerous false advertising and unlawful merchandising practices claims, including private class actions as well as matters involving the FTC, FTC guides or regulations, or the Missouri Attorney General.

## Experience

- Many of Glennon's cases involve well known class counsel, plaintiff's counsel or other opposing counsel. [Click here](#) for a list of other prominent firms involved.
- Obtained summary judgments and/or dismissals for a variety of clients, including manufacturing and technology companies and service providers, in more than two dozen cases with no settlement payment.
- Secured the dismissal of eight class action cases without any settlement payment.
- Recovered more than \$3.1 million for creditor/client, notwithstanding the filing of three separate bankruptcies, two by judgment debtors and a third by a partner in one of the debtors.

## Experience

- Obtained an order compelling the imaging and inspection of a plaintiff's computers and electronic storage devices, requiring plaintiff to answer expedited discovery and providing other relief, all before the Rule 16 Scheduling Conference or the issuance of a case management order. The order also dismissed 20 counts filed against the client and all claims against the client's president. Subsequently, all remaining claims were dismissed and the defendant/client was awarded over \$350,000 in fees and costs.
- Compelled arbitration and enforced plaintiffs' contractual class waivers for timeshare client when consumers sought class action alleging fraud and violation of Missouri Merchandising Practices Act (MMPA).
- Successfully defended putative \$11,000,000 class action against retail client under Missouri Merchandising Practices Act (MMPA) with removal to federal court and Class Action Fairness Act (CAFA). Case was voluntarily dismissed by plaintiff with no payment by our client.

## Experience

- Glennon has more than 35 reported decisions, including the following:
  - *Thomas Klutho, et al. v. Jim Butler Imports, LLC*, --- F.Supp.3d ----, 2021 WL 2222688 (E.D.Mo. June 02, 2021) (dismissing putative class action alleging violations of the Telephone Consumer Protection Act)
  - *W. Silver Recycling v. Nidec Motor Corporation*, 509 F. Supp.3d 1106 (E.D.Mo. 2020) (granting motion to dismiss breach of contract claims where manufacturer quit using recycler when contract did not contain exclusivity provision)
  - *Parker-Hannifin Corp. v. Laird Technologies, Inc.*, 2020 WL 2405432 (May 12, 2020 (N.D. Ohio May 12, 2020) (rejecting challenges to clients' experts in patent infringement litigation)
  - *Vinny Troia, et al v. Tinder, Inc., Match Group*, 2020 WL 619855 (E.D. Mo. February 10, 2020) (dismissing putative class action alleging violations of the Missouri Merchandising Practices Act, unfair practices, and unconscionability)
  - *Dale Craggs, et al. v. Fast Lane Car Wash & Lube, LLC*, 402 F.Supp.3d 605 (W.D. Mo. 2019) (dismissing breach of contract claim and proposed impermissible fail safe putative class definition)
  - *McLelland v. Ridge Tool Company and Emerson Electric Co.*, 350 F.Supp.3d 773 (W.D. Ark. 2018) (awarding costs to client after prevailing on the merits in tort action)
  - *McLelland v. Ridge Tool Company and Emerson Electric Co.*, 342 F.Supp.3d 851 (W.D. Ark. 2018) (granting summary judgment on plaintiff's failure to warn, manufacturing defect, and design defect claims)
  - *McLelland v. Ridge Tool Company and Emerson Electric Co.*, 340 F.Supp.3d 802 (W.D. Ark. 2018) (excluding plaintiff's mechanical engineering expert witness)

## Experience

- *Marilyn Margulis, et al. v. Generation Life Ins. Co.*, 91 F.Supp.3d 1165 (E.D.Mo. 2015) (Plaintiff's vague allegations failed to state a claim under the Telephone Consumer Protection Act)
- *St. Louis Heart Center, Inc. v. Forest Pharmaceuticals*, 2013 WL 3988671, 2013 U.S. Dist. 109807 (E.D.Mo.) (July 17, 2013)
- *Harvey v. General Electric Company*, 2012 WL 3733582 (clarified in favor of defendants by Dkt. No. 92) (E.D.Mo. 2012)
- *Heller v. HRB Tax Group, Inc.*, 287 F.R.D. 483 (E.D.Mo. 2012)
- *Heller v. HRB Tax Group Inc.*, 2011 WL 4834260 (E.D.Mo.) (October 11, 2011)
- *Trotter v. Mitchell, Maax Spas and Emerson Electric Co.*, 446 F. Supp. 2d 967 (W.D.Ar. 2006)
- *Arnold v. Louisville Ladder Group LLC*, 2004 WL 5572033 (C.D.Ill.) (February 9, 2004)
- *Haynes v. Louisville Ladder Group LLC*, 341 F. Supp. 2d 1064 (E.D.Ar. 2004)
- *Monsanto Co. v. Scruggs*, 342 F. Supp. 2d 568 (N.D.Ms. 2004)
- *Monsanto Co. v. Scruggs*, 342 F. Supp. 2d 584 (N.D.Ms. 2004)
- *Monsanto Co. v. Scruggs*, 342 F. Supp. 2d 602 (N.D.Ms. 2004)
- *Monsanto Co. v. S.B.D. Inc.*, 2004 WL 4965468, 2004 Bankr. LEXIS 2468 (Bkrcty.E.D.Mo.) (July 6, 2004)
- *Monsanto Co. v. Swann*, 308 F. Supp. 2d 937 (E.D.Mo. 2003)
- *Monsanto Co. v. Scruggs*, 249 F. Supp. 2d 746 (N.D.Ms. 2001)
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## Recognition

- *Missouri Lawyers Media*, POWER List for Construction, 2023
- Martindale-Hubbell AV Preeminent
- *St. Louis Small Business Monthly*, Best Attorneys, 2021

## Education

- J.D., Saint Louis University School of Law
  - *magna cum laude*
  - Order of the Woolsack
  - American Jurisprudence Award, Torts
  - Dean Vincent C. Immel Scholarship
  - Judge V. James Ruddy Scholarship
  - *Saint Louis University Law Journal*, Managing Editor, Volume 36; Staff Editor, Volume 35
- B.S.B.A., Saint Louis University
  - Economics
  - *summa cum laude*



## Admissions

- Missouri
- Illinois
- U.S. Court of Appeals, Sixth Circuit
- U.S. Court of Appeals, Seventh Circuit
- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Eleventh Circuit
- U.S. Court of Appeals, Federal Circuit
- U.S. District Court, Central District of Illinois
- U.S. District Court, Northern District of Illinois
- U.S. District Court, Southern District of Illinois
- U.S. District Court, Southern District of Indiana
- U.S. District Court, Eastern District of Missouri
- U.S. District Court, Western District of Missouri
- U.S. District Court, Eastern District of Tennessee
- U.S. District Court, Western District of Tennessee

## Community Leadership

- Saint Patrick's Day Parade Committee



POWER List 2023