



## **IRENE C. KEYSE-WALKER**

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### **Service Areas**

Appellate & Legal Issues, Co-Chair; Business Litigation; Class Action Litigation; Insurance; Labor & Employment; Mass Tort & Product Liability; Medical Privacy

### **Bar Admissions**

United States Court of Appeals, Eighth Circuit

United States Court of Appeals, Federal Circuit

Ohio, 1982

Tennessee

Supreme Court of the United States

United States Court of Appeals, Second Circuit

United States Court of Appeals, Third Circuit

United States Court of Appeals, Fifth Circuit

United States Court of Appeals, Sixth Circuit

United States Court of Appeals, Seventh Circuit

United States Court of Appeals, Ninth Circuit

United States Court of Appeals, Tenth Circuit

United States District Court, Northern District of Ohio

United States District Court, Southern District of Ohio

### **Education**

Duke University School of Law (J.D., 1981)

*Journal of Law and Contemporary Problems*, Staff

Rice University (B.A., *cum laude*, 1977)

### **Bio**

Irene Keyse-Walker, a Partner in the Cleveland office of Tucker Ellis, has an appellate practice. Since 1982, she has argued hundreds of appeals in state and federal courts, on a wide variety of issues. The first Ohio lawyer to be elected to the American Academy of Appellate Lawyers, she has long been a proponent of the appellate specialty. Cases she has argued before the Ohio Supreme Court have established standards for punitive damages in products liability and insurance bad faith cases, determined that the birth of a healthy child as the result of medical malpractice is not a compensable damage, and formulated the prima facie requirements of male-on-male sexual harassment claims. Other state and federal appellate decisions include reversals of multi-million dollar jury verdicts in negligence, pharmaceutical, products liability, and Ohio workplace intentional tort cases.

### **Representative Decisions**

#### **Supreme Court of the United States**

*Pliva, Inc. v. Mensing*, 131 S. Ct. 2567 (2011). Failure to warn claims against generic drug manufacturers are preempted.

#### **Ohio Supreme Court**

*Kaminski v. Metal & Wire Prods. Co.* (2010), 125 Ohio St.3d 250 (upholding workplace intentional tort statute against constitutional challenges in case of first impression);

*Talik v. Fed. Marine Terminals, Inc.*(2008), 117 Ohio St.3d 192, 2008-Ohio-937 (reversing court of appeals and holding that longshore worker's Ohio "substantial certainty" intentional tort suit against employer was preempted by the LHWCA);

*Arbino v. Johnson & Johnson* (2007), 116 Ohio St.3d 468 (upholding tort reform damage caps against constitutional challenges in case of first impression certified by federal district court);

*Harris v. Mt. Sinai Ctr.* (2007), 116 Ohio St.3d 139 (reversing court of appeals and holding that trial court properly vacated \$30 million medical malpractice verdict based on attorney misconduct);

*Marrone v. Philip Morris, USA, Inc.* (2006), 110 Ohio St.2d 5 (reversing court of appeals' class action certification of "Light" smokers in case of first impression under Ohio Consumer Sales Practices Act);

*Myocare Nursing Home, Inc. v. Fifth Third Bank* (2003), 98 Ohio St.3d 545 (reversing court of appeals and entering judgment as a matter of law in favor of majority shareholder);

*Hampel v. Food Ingredients Specialties, Inc.* (2000), 89 Ohio St.3d 169 (reversing portion of judgment finding male-on-male sexual harassment in case of first impression);

*Hamilton Insurance Services, Inc. v. Nationwide Insurance Cos.*, 86 Ohio St.3d 270 (1999) (reversing judgment on jury verdict and entry of judgment as a matter of law in favor of insurer in dispute over termination of agency contract);

*Conley v. Brown Corp. of Waverly, Inc.* (1998), 82 Ohio St.3d 470 (reversing prior Ohio Supreme Court authority on right of manufacturer to seek contribution from employer based on intentional tort);

*Kucharski v. Nat. Eng. & Contracting Co.* (1994), 69 Ohio St.3d 430 (reversing judgment on jury verdict and entering judgment as a matter of law for independent contractor on construction site);

*Johnson v. University Hospitals of Cleveland* (1989), 44 Ohio St.3d 49 (holding that Ohio will not recognize child rearing expenses as a damage in medical malpractice action involving failed tubal ligation in case of first impression);

*Preston v. Murty* (1987), 32 Ohio St.3d 334 (reversing judgment on jury verdict and establishing Ohio rule for availability of punitive damages in products liability cases).

### **Sixth Circuit**

*Continental Cas. Co. v. May Dept. Stores Co., unpub.* (C.A.6, 2005), 138 Fed. Appx. 763 (reversing judgment and entering judgment as a matter of law for insurer in coverage dispute);

*In Re Sulzer Orthopedics Hip and Knee Prosthesis Prods. Liab. Lit.* (C.A.6, 2005), 398 F.3d 782 (affirming dismissal of class plaintiffs' merit appeals from decisions of Special Master appointed to oversee settlement trust in case alleging defective hip and knee prostheses);

*Cummins v. JGB Industries, Inc., unpub.* (C.A.6, 2001), 4 Fed. Appx. 270 (reversing judgment in employer intentional tort wrongful death claim and entering judgment as a matter of law in favor of employer);

*Jones v. Sumser Retirement Village* (C.A.6, 2000), 209 F.3d 851 (reversing judgment for employee under ADA

and entering judgment as a matter of law in favor of employer);

*Jandro v. Ohio Edison Co.* (C.A.6, 1999), 167 F.3d 309 (affirming summary judgment in employer intentional tort action).

### **State Appellate Courts**

*Turner v. Rosenfield*, 2008-Ohio-1932 (8<sup>th</sup> Dist.) (reversing \$2 million award for “lost chance of cure” in medical malpractice case and entering judgment for defendant);

*Blust v. Lamar Advertising Co.* (2<sup>nd</sup> Dist. 2004), 157 Ohio App.3d 787 (reversing \$2.5 million punitive damage award on federal constitutional grounds);

*Home Ins. Co. of Ill. v. OM Group, Inc.*, 2003-Ohio-3666 (1<sup>st</sup> Dist.) (affirming that insurer had no duty to indemnify insured’s liability for faulty wood preservative product that caused premature failure of telephone poles);

*Wyczalek v. Rowe Constr. Serv. Co.* (6<sup>th</sup> Dist. 2001), 148 Ohio App.3d (reversing \$12.5 million wrongful death judgment and entering judgment as a matter of law in favor of general contractor on construction site).

### **Other**

*Kootenai Elec. Co-op., Inc. v. Lamar Corp.*, (Idaho 2009), 219 P.3d 440 (utility’s \$10 million indemnity claim under state high voltage act held to be barred by doctrine of res judicata);

*Burns v. Nieman Marcus Group, Inc.* (2009), 173 Cal.App.4th 479 (declining to impose “duty to inquire” upon retailers accepting third-party checks for payment of merchandise);

*Burdette v. Carrier Corp.* (2008), 158 Cal.App.4th 883 (reversing judgment on \$3.5 million verdict in employment defamation case).

### **Elections**

Delegate (Ohio), 2005 National Conference on Appellate Justice;  
Fellow, American Academy of Appellate Lawyers (1998).

### **Federal Appointments**

Sixth Circuit Advisory Rules Committee (1992-1997);  
Merit Selection Panel on Magistrate Judgeships for the Northern District of Ohio (2007);  
Merit Selection Panel on Bankruptcy Judgeships for the Northern District of Ohio (1993-1994);  
Civil Justice Reform Act Advisory Group to the United States District Court for the Northern District of Ohio (1995-2001);  
Law Clerk, Hon. Gilbert S. Merritt (U.S. Court of Appeals for the Sixth Circuit), 1981-1982.

### **State Appointments**

Ohio Supreme Court Appellate District Study Committee (2000-2001);  
Ohio Supreme Court Board of Commissioners on Grievances and Discipline, 1988-93 – Chair (1992-1993);  
reappointed (2010)  
Ohio Supreme Court Task Force on Gender Fairness – Disciplinary Rules Committee (1989-1992);  
Life Member, Eighth Appellate Judicial Conference;  
Special Counsel for the Attorney General of Ohio (1991-1994).

## Faculty (Selected Examples)

Faculty, NITA Seminar on Appellate Advocacy (1991-1993);  
Adjunct Professor, Advanced Brief Writing, Cleveland Marshall College of Law (1994-1996);  
“Supreme Court Year in Review,” Ohio State Bar Association (2001-2009).

## Bar & Professional Organizations

Ohio Association of Civil Trial Attorneys – President (1998-99); Chair, Amicus Committee (1990-96);  
William Thomas Inns of Court – President (1996-1997);  
Cleveland Bar Association – Board of Trustees (1990-1993); Chair, Appellate Practice Committee (1991-1996);  
Cleveland Law Library – Board of Trustees (2004-present).

## Awards & Professional Recognition

Leading Lawyer, *Inside Business* (2002-2009);  
Best Lawyers in America®  
*Cleveland Best Lawyers Appellate Practice Lawyer of the Year for 2012*  
Ohio Super Lawyers®, Top 50 Ohio Female Super Lawyers (2004-2009);  
Ohio Super Lawyer® (2010-2011)  
Defense Research Institute Exceptional Performance Citation (2000);  
Ohio Association of Civil Trial Attorneys President’s Award (1999);  
Ohio Association of Civil Trial Attorneys Distinguished Service Award (1996);  
YWCA of Cleveland Woman of Professional Excellence (1987).

## Best Lawyers



## Industries Represented

Professional Organizations