



## Irene C. Keyse-Walker

### Partner

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**Irene Keyse-Walker 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.

### Education

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- Duke University School of Law (J.D., 1981); Journal of Law and Contemporary Problems, Staff
- Rice University (B.A., cum laude, 1977)

### State Admissions

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- Ohio, 1982

## Federal Admissions

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- 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, Eighth Circuit
- United States Court of Appeals, Ninth Circuit
- United States Court of Appeals, Tenth Circuit
- United States Court of Appeals, Federal Circuit
- United States District Court, Northern District of Ohio
- United States District Court, Southern District of Ohio

## Service Areas

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- Appellate & Legal Issues
- Business Litigation
- Class Action Litigation
- Insurance
- Labor & Employment
- Life Sciences Litigation
- Mass Tort & Product Liability
- Medical Malpractice Litigation
- Medical Privacy
- Health & Life Sciences

## Industries Represented

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- Professional Organizations

## Experience

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### REPRESENTATIVE DECISIONS

#### SUPREME COURT OF THE UNITED STATES

- *Pliva, Inc. v. Mensing*, 564 U.S. 604 (2011) (failure to warn claims against generic drug manufacturers are preempted).

#### OHIO SUPREME COURT

- *World Harvest Church v. Grange Mut. Cas. Co.*, 2016-Ohio-2913 (reversing court of appeals and holding that abuse or molestation exclusion in insurance policy applied to insured school's vicarious liability in case of first impression);
- *Kaminski v. Metal & Wire Prods. Co.*, 125 Ohio St.3d 250 (2010) (upholding workplace intentional tort statute against constitutional challenges in case of first impression);
- *Talik v. Fed. Marine Terminals, Inc.*, 117 Ohio St.3d 192 (2008) (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*, 116 Ohio St.3d 468 (2007) (upholding tort reform damage caps against constitutional challenges in case of first impression certified by federal district court);
- *Harris v. Mt. Sinai Ctr.*, 116 Ohio St.3d 139 (2007) (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.*, 110 Ohio St.3d 5 (2006) (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*, 98 Ohio St.3d 545 (2003) (reversing court of appeals and entering judgment as a matter of law in favor of majority shareholder);
- *Hampel v. Food Ingredients Specialties, Inc.*, 89 Ohio St.3d 169 (2000) (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 entering judgment as a matter of law in favor of insurer in dispute over termination of agency contract);
- *Conley v. Brown Corp. of Waverly, Inc.*, 82 Ohio St.3d 470 (1998) (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.*, 69 Ohio St.3d 430 (1994) (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*, 44 Ohio St.3d 49 (1989) (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);
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*Preston v. Murty*, 32 Ohio St.3d 334 (1987) (reversing judgment on jury verdict and establishing Ohio rule for availability of punitive damages in products liability cases).

## **SIXTH CIRCUIT**

- *Yates v. Ortho-McNeil-Janssen Pharmaceuticals, Inc.*, 808 F.3d 281 (C.A.6, 2015) (both pre-FDA approval and post-FDA approval design defect claims asserted against manufacturer of brand-name birth control pill were preempted);
- *Continental Cas. Co. v. May Dept. Stores Co.*, unpub., 138 Fed. Appx. 763 (C.A.6, 2005) (reversing and entering judgment as a matter of law for insurer in coverage dispute);
- *In Re Sulzer Orthopedics Hip and Knee Prosthesis Prods. Liab. Lit.*, 398 F.3d 782 (C.A.6, 2005) (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., 4 Fed. Appx. 270 (C.A.6, 2001) (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*, 209 F.3d 851 (C.A.6, 2000) (reversing judgment for employee under ADA and entering judgment as a matter of law in favor of employer);
- *Jandro v. Ohio Edison Co.*, 167 F.3d 309 (C.A.6, 1999) (affirming summary judgment in employer intentional tort action).

## **STATE APPELLATE COURTS**

- *Turner v. Rosenfield*, 2008-Ohio-1932 (8th Dist.) (reversing \$2 million award for "lost chance of cure" in medical malpractice case and entering judgment for defendant);
- *Blust v. Lamar Advertising Co.*, 157 Ohio App.3d 787 (2nd Dist. 2004) (reversing \$2.5 million punitive damage award on federal constitutional grounds);
- *Home Ins. Co. of Ill. v. OM Group, Inc.*, 2003-Ohio-3666 (1st 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.*, 148 Ohio App.3d 328 (6th Dist. 2001) (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.*, 219 P.3d 440 (Idaho 2009) (utility's \$10 million indemnity claim under state high voltage act barred by res judicata);
- *Burns v. Neiman Marcus Group, Inc.*, 173 Cal.App.4th 479 (2009) (declining to impose "duty to inquire" upon retailers accepting third-party checks for payment of merchandise);
- *Burdette v. Carrier Corp.*, 158 Cal.App.4th 883 (2008) (reversing judgment on \$3.5 million verdict in employment defamation case).

## **Publications & Events**

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### **FACULTY AND SPEAKING ENGAGEMENTS (SELECTED EXAMPLES)**

- NITA Seminar on Appellate Advocacy, Faculty (1991-1993)
- Advanced Brief Writing, Adjunct Professor, Cleveland Marshall College of Law (1994-1996)
- “Supreme Court Year in Review,” Ohio State Bar Association (2001-2013)
- “Subject Matter Exclusions and Ohio Jurisprudence,” Ohio Association of Civil Trial Attorneys (OACTA) (2015)
- “How to Influence Judges and Win Appeals,” Federal Bar Association 2016 Annual Meeting and Convention, Cleveland, Ohio (September 2016)

### **PUBLICATIONS (SELECTED EXAMPLES)**

- “[Debunking Myths About the Appellate Practice](#),” *DRI In-House Defense Quarterly* (2013 IDQ Spring)
- “[Trends: Embedded Appellate Counsel](#),” Vol. 10, Issue No. 3, *OACTA Quarterly Review* (Summer 2016)

## **Honors**

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- Ohio Association of Civil Trial Attorneys (OACTA)
  - » Excellence in Advocacy Award (2013)
  - » President’s Award (1999)
  - » Distinguished Service Award (1996)
- Benchmark Litigation
  - » Top 250 Women in Litigation
  - » Top 250 Women – Midwest
  - » Local Litigation Star (Appellate)
- Benchmark Appellate
  - » Sixth Circuit Litigation Star – Ohio (2013)
- ALM, Women Leaders in the Law (2015)
- The Best Lawyers in America® (1995-2022)
  - » 2017 Cleveland Lawyer of the Year – Appellate Practice
  - » 2012 Cleveland Lawyer of the Year – Appellate Practice
- Ohio Super Lawyers® (2004-2021)
  - » Top 50 Ohio Female Super Lawyers (2004-2009)
- *Inside Business*, Leading Lawyer (2002-2009)
- Defense Research Institute Exceptional Performance Citation (2000)
- YWCA of Cleveland Woman of Professional Excellence (1987)

## **In the Community**

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### **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 (1988-1993)
  - » 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)

### **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 (2004-2013)