



## Melissa Z. Kelly

### Counsel

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Melissa Kelly draws on her years of experience as a federal clerk to provide clients realistic and practical advice on a variety of legal issues, particularly in the areas of labor and employment, business litigation, and appellate matters.

Melissa regularly defends employers in a wide range of employment lawsuits. She has experience in FLSA collective actions and employment discrimination, wrongful discharge, and employee benefits cases. She has drafted briefs and motions addressing numerous issues, including collective action class certification, regulations implementing the FLSA, wage and hour claims, the fiduciary duty of ERISA trustees, personal jurisdiction over corporate defendants, the severance of existing bargaining units, the application of arbitration agreements, and court-imposed sanctions. Melissa also helps clients avoid litigation by advising them on numerous issues, including employment agreements, personnel policies, and severance agreements.

Melissa also has represented clients in various environmental matters, including a CERCLA contribution and cost recovery action and a case arising under the Natural Gas Act. In each case, she took substantial responsibility for briefing at all levels, including the federal trial court and the state trial and appellate courts.

Before joining Tucker Ellis, Melissa served as a judicial law clerk for Judge Peter W. Hall, Circuit Judge of the United States Court of Appeals for the Second Circuit and, later, for Magistrate Judge Nancy A. Vecchiarelli of the United States District Court for the Northern District of Ohio. She also served as a staff attorney and immigration staff attorney for the Second Circuit.

In her spare time – when she's not cheering on her beloved Cleveland Browns – Melissa enjoys music, all things Irish, and hiking with her husband, Michael, and two sons, Declan and Faustin.

### **Education**

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- The University of Akron School of Law (J.D., cum laude, 2003); Moot Court; Appellate Legal Clinic
- New York University (B.A., magna cum laude, 1999); Phi Beta Kappa; Alumnae Award; Dean's Undergraduate Research Fund Award

### **State Admissions**

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- Ohio, 2004

### **Federal Admissions**

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- United States Court of Appeals, Second Circuit
- United States Court of Appeals, Third Circuit
- United States Court of Appeals, Sixth Circuit
- United States Court of Appeals, Eighth Circuit
- United States District Court, Northern District of Ohio
- United States District Court, Southern District of Ohio

### **Service Areas**

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- Labor & Employment
- ERISA Litigation
- Business Litigation
- Appellate & Legal Issues
- White Collar Criminal Defense & Corporate Investigations

## Experience

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- Defended multiple private employers in FLSA wage and hour collective actions
- Drafted post-hearing briefing before the NLRB on behalf of an employer in a matter involving the severance of an existing bargaining unit
- Advised a large private employer regarding its WARN Act obligations and drafted the required WARN Act notices and related documents
- Drafted multiple employee handbook provisions related to hourly-worker attendance and leave requests
- Advised a large private employer regarding a clock-in/clock-out policy applicable to its hourly workers and assisted in employee training and otherwise implementing the policy
- Negotiated the terms of a severance agreement on behalf of a high-level corporate executive
- Advised a growing private employer about its telework policy
- Advised multiple private employers regarding the enforceability of non-compete and non-disclosure provisions in employment agreements
- Defended a corporate entity and related individuals in a complicated business dispute and obtained dismissal of all claims
- Obtained a state court stay of claims pending arbitration and successfully defended the stay on appeal
- Represented a contractor in an out-of-state case and obtained dismissal of claims on the basis of lack of personal jurisdiction
- Drafted multiple trial court and appellate court briefs in a federal case arising out of court-imposed sanctions
- Drafted multiple briefs in state and federal court white collar criminal matters
- Represented a small business owner in state appellate court in a case arising out of consumer fraud claims
- Drafted multiple briefs in a state court action involving the Natural Gas Act
- Drafted multiple briefs and motions in a federal CERCLA action
- Serves as trial counsel on behalf of the Cleveland Metropolitan Bar Association in prosecuting attorney disciplinary violations

## Publications & Events

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### SPEAKING ENGAGEMENTS

- “The Most Common Payroll Mistakes and How Legal Guidance Can Fix Them, American Payroll Association, Fort Worth, Texas Chapter (July 2021)
- “My Time or Yours? The Changing Landscape of Compensable Time,” 27th Annual Wage & Hour Seminar, American Payroll Association, Greater Cincinnati & Northern Kentucky Chapter (June 2021)
- “New Beginnings: Considerations for Post-COVID-19 Returns to Work,” Advanced Labor and Employment Law Seminar, Ohio State Bar Association (May 2021)
- “What to Do When Payroll Goes Wrong, and How Legal Guidance Can Help,” National Webinar, American Payroll Association (February 2021)
- “My Time or Yours – The Changing Landscape of Compensable Time,” Lake County Bar Association, Painesville, Ohio (October 2020)
- “What Every Employment Lawyer Should Know About ERISA in a COVID-19 World,” 57th Annual Midwest Labor and Employment Law Seminar (October 2020)
- “Supreme Court Year in Review,” Panelist, 2020 In-House Counsel Webinar, Tucker Ellis LLP (September 2020)
- “My Time or Yours? The Changing Landscape of What Constitutes Employees’ Compensable Time,” Labor and Employment Conference, Cleveland Metropolitan Bar Association (May 2020)
- “Employee Mobility: Here Today, There Tomorrow, Gone the Next Day,” Advanced Employment Law Seminar, Ohio State Bar Association (May 2020)
- “The Supreme Court Year in Review,” 2019 In-House Counsel Summit, Tucker Ellis LLP, Cleveland, Ohio (November 2019)
- “Successful Hiring and Recruitment Steps,” National Business Institute, Mini Law School for HR Professionals, Canfield, Ohio (October 2019)
- “The Evolution of Title VII’s Protected Classes,” 19th Annual Labor & Employment Law Conference, Cleveland Metropolitan Bar Association, Cleveland, Ohio (May 2019)
- “The Supreme Court Year in Review,” 2018 In-House Counsel Summit, Tucker Ellis LLP, Cleveland, Ohio (October 2018)
- “The Supreme Court Year in Review – 2016-2017 Term: Mapping the New Court’s Uncertain Course,” 2017 In-House Counsel Summit, Tucker Ellis LLP, Cleveland, Ohio (October 2017)
- “U.S. Supreme Court Round-Up,” 2016 In-House Counsel Summit, Tucker Ellis LLP, Cleveland, Ohio (October 2016)

### PUBLICATIONS

- [“Minimize Your Legal Risks to Maximize Your Workforce Management,”](#) PAYTECH, American Payroll Association (January 2021)
- [“Employer COVID-19 Precautions May Expand Compensable Time,”](#) The Newsletter of the Cleveland Society for Human Resource Management (Summer 2020)
- [“When Product Liability Claims Are Hidden From Bankruptcy,”](#) Law360 (December 2017)

**MEDIA**

- “6th Circ. Overturns Atty Sanctions in Medical Device Suit,” *Law360* (January 2020)

**In the Community**

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- Akron Bar Association
- Cleveland Metropolitan Bar Association
- Ancient Order of Hibernians
- The University of Akron School of Law Alumni Association, Board of Directors
- Red Oak Behavioral Health, Board Member and Secretary