



## Melinda S. Kollross

SHAREHOLDER

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### Biography

Melinda S. Kollross is an AV-rated Preeminent shareholder and Chair of Clausen's Appellate Practice Group, handling post-trial and appellate litigation for savvy clients nationwide. Licensed in Illinois and New York, she has litigated more than 200 appeals in state and federal reviewing courts, including those in Florida, Georgia, New York, New Jersey, Illinois, Ohio, Michigan, Minnesota, Missouri, Wisconsin, Arizona, California, Colorado, Idaho and Washington, as well as participation in three appeals before the United States Supreme Court. Melinda brings clients a winning record in appeals, has argued before the Illinois and Idaho Supreme Courts, and has been named an Illinois Super Lawyer in Appellate Practice numerous times. Her work spans all areas of firm practice, including commercial litigation, first-party property, liability insurance coverage and liability defense. Melinda is a proud member of the highly selective Federation of Defense & Corporate Counsel.

Melinda also regularly assists clients in trial preparation and trial monitoring of high profile/high exposure cases across the nation. Her work on such cases has saved clients more than \$100 million at the trial court level and helps ensure success on appeal by making a strong appellate record and preserving issues for review.

Melinda keeps clients informed of recent developments in the law through her work as editor-in-chief of Clausen Miller's quarterly CM Report of Recent Decisions and writing/lecturing on appellate practice and other litigation topics. Her notable works include a chapter on post-trial motions in DRI's A Defense Lawyer's Guide to Appellate Practice (2004), and feature articles published in DRI's For The Defense magazine: "Oral Argument: What It Really Takes To 'Please the Court'" (October 2015), "Evaluating, Negotiating and Effectuating Settlements on Appeal" (March 2016), "Winning Your Appeal With Your 'Statement of Facts'" (Feb. 2018), and "Preparing Effective Appeal Assessments" (Feb. 2019).

Melinda is a member of the Order of the Coif, the premier national legal honor society, and earned the Class Award in Law and Economics during law school.

Melinda enjoys spending free time with her two young daughters, working out, and

exploring the great outdoors.

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## Education

J.D. (with High Honors) Illinois  
Institute of Technology - Chicago/Kent  
College of Law, 1992

B.A. Communications (with Highest  
Honors) DePaul University, 1989

## Bar Admissions

Illinois  
New York

## Court Admissions

U.S. District Court, Northern District of  
Illinois

United States Supreme Court

U.S. District Court, Northern District of  
Indiana

U.S. Courts of Appeals, Seventh Circuit

U.S. Courts of Appeals, Sixth Circuit

U.S. Courts of Appeals, Tenth Circuit

U.S. Courts of Appeals, Eleventh  
Circuit

U.S. Courts of Appeals, Third Circuit

U.S. Courts of Appeals, Ninth Circuit

U.S. Courts of Appeals, Eighth Circuit

U.S. Courts of Appeals, Fourth Circuit

U.S. Courts of Appeals, Second Circuit

## Memberships

Chicago Bar Association

Illinois State Bar Association

New York State Bar Association

Appellate Lawyers Association

Defense Research Institute

Federation of Defense & Corporate  
Counsel

## Awards

Martindale Hubbell AV® rating

Super Lawyers® 2020

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## Matters of Note

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*CNH Industrial America v. Jones Lang LaSalle Americas, Inc.*,  
882 F.3d 692 (7th Cir. 2018)(breach of contract)

*Pantaleo v. Bellerose Senior Housing Dev. Fund. Co., Inc.* ,  
147 A.D.3d 777 (N.Y. App. Div. 2d Dep't 2017) (premises liability)

*Cadichon v. Facelle*,  
154 A.D.3d 461 (N.Y. App. Div. 1st Dep't 2017)(medical malpractice)

*Swift v. Schleicher*,  
2017 IL App (2d) 170218 (medical malpractice)

*Cronholm v. Board of Trustees of the Lockport Fire Prot. Dist.  
Firefighters' Pension Fund*,  
2016 IL App (3d) 150122 (pension benefits)

*Volling v. Kurtz Paramedic Services*,  
840 F.3d 378 (7th Cir. 2016)(civil rights – retaliation)

*Barba v. Village of Bensenville*,  
2015 IL App (2d) 140337 (breach of contract; pension benefits)

*Erie Ins. v. Radtke*,  
126 A.D.3d 757 (N.Y. App. Div. 2d Dep't 2015) (insurance coverage)

*Mahoney v. McDonnell*,  
616 Fed. Appx. 500, (3d Cir. 2015)(legal malpractice)

*Jian- Guo Yu v. Greenway Mews Realty L.L.C.*,  
134 A.D.3d 446 (N.Y. App. Div. 1st Dep't 2015) (contractual indemnification)

*Stuckey v. Renaissance at Midway*,  
2015 IL App (1st) 143111 (disclosure of patient records)

*Lutkauskas v. Ricker*,  
2015 IL 117090 (2015) (Illinois school code)

*Chin v. The American Bd. Of Preventive Medicine*,  
2015 IL App (1st) 141625-U (medical board revocation of certification)

*Karen Manor Assoc. LLC v. Virginia Surety Co. Inc.*,  
116 A.D.3d 439 (N.Y. App. Div. 2014) (liability insurance coverage)

*Smith v. Cardella Trucking Co.*,  
113 A.D.3d 750 (N.Y. App. Div. 2014) (negligence)

*Ripani v. Kuhn Mitchell*,  
2014 IL App (2d) 130589-U (2014) (legal malpractice)

*Dougherty v. J. B. Sullivan*,  
2013 IL App (2d) 12-0375-U (2013) (forum non conveniens)

*Garcia v. All Metro Health Care*,  
108 A.D.3d 742 (N.Y. App. Div. 2013)

*Pister v. Matrix*,  
2013 IL App (4th) 120781 (2013) (respondeat superior/traveling employee)

*Bleznak Black, LLC v. Allied World Nat'l Assur. Co.*,  
2012 N.J. Super. Unpub. LEXIS 879 (N.J. App. Div. 2012) (first-party property insurance coverage)

*Hartnett v. Chanel, Inc.*,  
97 A.D.3d 416 (N.Y. App. Div. 2012) (negligence)

*Northport Land Corp. v. Zurich N. Am. Ins.*,  
99 A.D.3d 683 (N.Y. App. Div. 2012) (liability insurance coverage)

*Hickory Props. v. Am. Zurich Ins. Co.*,  
409 Ill. App. 3d 1148 (2011) (first-party property insurance coverage)

*City of Elmira v. Selective Ins. Co. of N.Y.*,  
83 A.D.3d 1262 (N.Y. App. Div. 2011) (first-party property insurance coverage)

*Council Tower Ass'n v. Axis Specialty Ins.*,  
630 F.3d 725 (8th Cir. 2011) (first-party property insurance coverage)

*Century Surety Co. v. Valet Chicago, Inc.*,  
399 Ill. App. 3d 1215 (2010) (liability insurance coverage)

*Transcontinental Ins. Co. v. Western Nat'l Mut. Ins.*,  
398 Ill. App. 3d 1107 (2010) (liability insurance coverage)

*ANC Rental Corp. v. Lexington Ins. Co.*,  
<http://www.4dca.org/opinions/Pcas/Nov2007/11-21-07/4D07-1256.pca.pdf> (Fla. App.  
2007) (first-party property)

*Aztar Corp. v. U.S. Fire Ins. Co.*,  
224 P.3d 960 (Az. App. 2010) (first-party property insurance coverage)

*BASF AG v. Great American Assur. Co.*,  
522 F.3d 813 (7th Cir. 2008) (liability insurance coverage/excess)

*General Motors Corp. v. Maritz*,  
266 Fed. Appx. 675, 2008 WL 410289 (9th Cir. 2008) (contractual indemnification)

*Pierre Condominium Ass'n v. Lincoln Park West Associates, LLC*,  
881 N.E.2d 588 (Ill. App. 2007)(contribution/property damage)

*Essex Ins. Co. v. Wright*,  
862 N.E.2d 1194 (Ill. App. 2007) (liability insurance coverage)

*Loiacono v. Stuyvesant Bagels, Inc.*,  
2006 N.Y. App. LEXIS 5975 (N.Y. App. Div. 2006) (premises liability)

*Schultz v. Atlantic Mut. Ins. Co.*,  
853 N.E.2d 94 (Ill. App. 2006) (liability insurance coverage)

*Mann v. Producer's Chemical Co.*,  
827 N.E.2d 883 (Ill. App. 2005) (negligence/wrongful death)

*Sokol & Co. v. Atlantic Mut. Ins. Coverage*,  
430 F.3d 417 (7th Cir. 2005) (liability insurance coverage)

*Essex Ins. Co. v. Young*,  
796 N.Y.S.2d 204 (N.Y. App. Div. 2005) (liability insurance coverage)

*Whitehead v. Continental Cas. Co.*,  
2004 WL 1397628 (Ohio App. 2004) (insurance coverage)

*Taco Bell Corp. v. Continental Cas. Co.*,  
388 F.3d 1069 (7th Cir. 2004) (liability insurance coverage)

*RBC Mortgage Co. v. National Union Fire Ins. Co.*,  
812 N.E.2d 728 (Ill. App. 2004) (indemnity/ fidelity bond)

*In re Silicone Implant Ins. Coverage Litigation*,  
667 N.W.2d 405 (Minn. 2003) (liability insurance coverage)

*Legros v. Atlantic Mut. Cos.*,  
2002 WL 31867719 (Minn. App. 2002) (liability insurance coverage/excess)

*Royal Ins. Co. v. National Union Ins. Co. of Pittsburgh, PA.*,  
2002 U.S. Dist. LEXIS 3612 (N.D. Ill. 2002) (equitable contribution liability insurance coverage)

*Atlantic Mut. Ins. Co. v. American Academy of Orthopedic Surgeons*,  
734 N.E.2d 50, (Ill. App. 2000) (liability insurance coverage)

*Doherty v. Songer*,  
1999 U.S. App. LEXIS 31873 (7th Cir. 1999) (breach of contract)

*Meng v. Maywood Proviso State Bank*,  
702 N.E.2d 258 (Ill. App. 1998) (UCC/bank liability)

*Maness v. Santa Fe Park Enterprises*,  
700 N.E.2d 194 (Ill. App. 1998) (racetrack liability exculpatory clause)

*Owen Mumford, Ltd. v. Ulster Scientific, Inc.*,  
652 N.Y.S.2d 652 (App. Div. 1997) (breach of contract)

*Decker v. Atlantic Mut. Ins. Co.*,  
1997 Ohio App. LEXIS 1829 (1997) (insurance coverage)

*Pritzker v. Drake Tower Apts., Inc.*,  
670 N.E.2d 328 (Ill. App. 1996) (Rule 137 sanctions)

*Zahran v. Frankenmouth Mut. Ins. Co.*,  
1995 U.S. App. LEXIS 9553 (7th Cir. 1995) (first-party property/bad faith)

*Millar-Mintz v. Abbott Laboratories*,  
645 N.E.2d 278 (Ill. App. 1994) (products liability)

*Hansen v. Demarakis*,  
639 N.E.2d 1202 (Ill. App. 1994) (Structural Work Act)

*Cruz v. Columbus-Cuneo-Cabrini Medical Center*,  
636 N.E.2d 908 (Ill. App. 1994) (medical malpractice)

*Wartenberg v. Dubin, Dubin & Moutoussamy*,  
630 N.E.2d 1171 (Ill. App. 1994) (Structural Work Act)

#### PRESENTATIONS

Positioning a Case for Appeal (Moderator) (DRI Appellate Advocacy Seminar, Las Vegas, NV March 15, 2018)

Perspectives on the Appellate Practitioner's Role at Trial and on Appeal: A View From the Plaintiff, the Defense, and the Court (Moderator) (DRI Annual Meeting, Chicago, IL Oct. 4, 2017)

Clausen Miller Hosts Illinois Supreme Court Justice Mary Jane Theis (Chicago, IL Oct. 14, 2011)

Advertising Injury and Personal Injury Coverage: How Broadly Do Courts Construe The Enumerated Offense and "Arising Out Of" Requirements? A Nuts and Bolts Overview of Insurance Coverage, Chicago Bar Ass'n (Chicago, IL Nov. 5, 2004)

Update: Challenging "Good Faith" Settlements in Illinois, Trial Lawyers Hot Topics Seminar, Clausen Miller Appellate Practice Group (Chicago, IL Oct. 19, 2004)

*Moran v. Rush Prudential*: A Critical Examination, Annual Meeting of Illinois Association of Health Plans (Chicago, IL Oct. 2003))

Identifying Internet and E-Commerce Related Risks, E-Liability and Cyber Losses: The New Insurance Frontier, CPCU Suburban Chicago Chapter (Oak Brook, IL Nov. 8, 2000)

Avoiding eLiability And Other Legal Fallout, Data Warehouse and E-business Solutions: Using Business Intelligence to Create a Competitive Market Advantage, University of Chicago Graham School of Business (Chicago, IL June 2000)

#### PUBLICATIONS

"Preparing Effective Appeal Assessments" Defense Research Institute (DRI) For the Defense Magazine (Feb. 2019)

Winning Your Appeal With Your "Statement of Facts" (DRI For the Defense Magazine Feb. 2018)

Evaluating, Negotiating and Effectuating Settlements on Appeal (DRI For the Defense Magazine March 2016)

Oral Argument: What It Really Takes To "Please the Court" (DRI For the Defense

Magazine Oct. 2015)

Post-Trial Motions, DRI's A Defense Lawyer's Guide to Appellate Practice (2004)

The Art of the Post-Trial Motion, Certworthy (Defense Research Institute, Appellate Advocacy Committee)(Winter 2002)

#### PUBLICATIONS - CM REPORT OF RECENT DECISIONS

E-Filing : Avoiding Another Litigation Minefield

If At First You Don't Succeed: Wisconsin Supreme Court Approves Caps in Med Mal Cases

No Coverage for Counterfeit Wine Under "Valuable Possessions" Policy

2017 DRI Annual Meeting: Appellate Advocacy Committee CLE Panel Presentation Highlights

Medical Malpractice Claim Brought Under the Wrongful Death Act Can Relate Back to Existing Claim and is Not Barred By Statute of Repose

Hospital Not Vicariously Liable for Acts of Employees of Unrelated, Independent Clinic Under Apparent Agency Theory

United States Supreme Court Decision Proves That Appellate Practice is a Minefield Best Navigated by Savvy Appellate Practitioners

The Minefield Of Summary Judgment Practice—Building A Record Means Strict Compliance With The Rules

United States Supreme Court Decides *Warger v. Shauers* And Tightens The Circumstances Under Which Juror Testimony Will Be Allowed To Invalidate A Verdict

SIDEBAR: *Bruns v. The City of Centralia*

Protect Your Records: The United States Supreme Court Will Decide Whether Federal Rule Of Evidence 606(b) Permits A Party Moving For A New Trial Based On Juror Dishonesty During Voir Dire

Illinois "Empty Chair" Defense Revisited—Illinois Defendants Have The Right To Show That The Empty Chair's Conduct Was Negligent In Employing The Sole Proximate Cause Defense

Insurers Fight Back-Combating Sharp Practices Between Claimants And Policyholders

Seventh And Eighth Circuits Issue Significant Opinions Regarding The Conduct Of Civil Litigation In Federal Court



The Minefield Of Appellate Practice Revisited: Perfection Issues And the Revestment Doctrine

U.S. Supreme Court Delivers One-Two Punch To The Plaintiffs' Class Action Bar

Illinois Supreme Court Rules Against The Plaintiffs' Bar And Finds That Asbestos Lawsuit Should Not Be Heard In Illinois

The Minefield Of Appellate Practice Continued: Appellate Lawyers Must Draft Appellate Briefs That Completely Conform To Applicable Rules

U.S. Supreme Court Upholds The Patient Protection And Affordable Care Act: Now What?

Minnesota Supreme Court Holds That A State May, Consistent With The Due Process Clause Of The Fourteenth Amendment, Retroactively Revive Liabilities That Had Been Long Extinguished Under A Statute Of Repose

Be Aggressive In Attacking Class Actions—Look For Misconduct Of Class Counsel

Failure To Present Proper Statement Of Facts In Appellate Brief Fatal To Appeal

Legal Potpourri

*Bell v. Hutsell*—Don't Be A Good Samaritan If You Find Underage Kids Drinking In Your Home

General Contractor Not An Additional Insured Under Sub-Subcontractor's Policy Absent Direct Contract Between General Contractor And Sub-Subcontractor

The National Debate Continues: When Can An Excess Carrier Sue The Insured's Defense Counsel For Malpractice?

The End To The Saga Of *Ready v. United/Goedecke Services*

Illinois Appellate Court Allows Expert Testimony To Create Fact Questions Defeating Summary Judgment In "Open And Obvious" Premises Liability Case

The Wisdom And Efficiency Of Having Separate Appellate Counsel Prosecute And Defend Your Appeals

The Gulf Oil Spill: Assessing Exposures

U.S. Supreme Court Holds Order Requiring Disclosure Of Privileged Information Not Immediately Appealable Under Collateral Order Doctrine

Illinois Supreme Court Strikes Another Blow Against Tort Reform—Medical Malpractice Caps On Non-Economic Damages Are Held Unconstitutional

Insured Bound By Declaration Of Non-Coverage Obtained By Insurer Against Putative Additional Interest

Illinois Appellate Courts Confirm Causation Cannot Be Based On Mere Speculation Or Conjecture

*Wyeth v. Levine*: FDA Approval of Drug Label Does Not Preempt State Law Failure to Warn Claims

Seventh Circuit Adopts New Standard For Reviewing Non-Economic Damage Awards

Clausen Miller Helps Excess Insurers Reverse \$155 Million Judgment-No Advertising Or Personal Injury Coverage For Alleged Defamation Or Disparagement Of Third Parties Not Plaintiffs In Underlying Lawsuits

CM Appellate Practice Group Persuades Kansas Supreme Court To Reverse A Plaintiffs' Jury Verdict And Enter Judgment For Defendants In \$80 Million Dollar Stigma Damage Class Action

Protect Your Appellate Records: Ask For Jury Instructions Explaining The Operation And Effect Of Joint And Several Liability

Fifth Circuit Rejects Finding Of Coverage For Hurricane Katrina Losses Where Flooding Was Allegedly Caused By Negligence

U.S. Supreme Court Holds Juries Cannot Award Punitive Damages For Harm To Non-Parties

Illinois Appellate Court Adopts Restrictive Definition Of Control Under Restatement Section 414 For Actions Brought By Employees Of Independent Contractor And Outlines Blueprint For Establishing A Lack Of Control

Illinois Appellate Court First District Issues Opinion Protecting The Assets Of Deep-Pocket Defendants In Litigation By Putting Teeth Into Tort Reform Legislation

Illinois Supreme Court Holds Lost Punitive Damages Not Recoverable In Legal Malpractice Action

Creative Lawyering Can Avoid Pitfalls In Bonding Judgments To Stay Execution Pending Appeal

The Technicalities Of Appellate Practice: Use Of An Appellate Specialist During Every Stage Of The Appellate Process Is Crucial To The Successful Prosecution Of Any Appeal

“Dramshop” Liability Extended Beyond Liquor Providers

The Latest Chapter In *Thompson v. Gordon*

*Clifford v. Wharton*, 817 N.E.2D 1207 (Ill. App. 2004): A Restatement §414 Claim  
Against A General Contractor By Any Other Name Is Still A Restatement § 414 Claim

South Carolina Adopts Tort Reform

Illinois Appellate Court Upholds Exculpatory Agreement In Raceway Accident

New York Appellate Court Deems Pollution Exclusion Ambiguous --Finds Fact Question  
Presented As To Whether Asbestos Qualifies As A "Pollutant" Under Exclusion

U.S. Supreme Court Rejects \$145 Million Punitive Damages Award In *State Farm v.  
Campbell*

Texas Medical Association Concludes Alleged Adverse Health Effects Of Black Mold Are  
Unproven

Third Department Holds "Constructive Notice" Of Lead Paint Hazards In Common Areas  
Of Building Sufficient To Defeat Landlord's Motion For Summary Judgment

Insured's Knowledge Of Contamination Prior To Purchasing CGL Policy Bars Coverage  
For Subsequent Lawsuit

New York Holds Insured Bears Burden Of Proving "Accident" Or "Occurrence" Caused  
Damage And Adopts Pro Rata Allocation Method For Continuous Harm

Illinois And Wisconsin Expand Damages Recoverable In Bad Faith Actions

New Jersey Supreme Court Holds Intent Presumed For "Particularly Reprehensible"  
Conduct Such As Stabbing In Fight