

## MARY MASSARON ROSS



### Partner

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Mary Massaron Ross, a member of the Plunkett Cooney Board of Directors, serves as the firm's Appellate Practice Group Leader. A former law clerk to Associate Justice Patricia J. Boyle of the Michigan Supreme Court, she has handled or supervised the handling of over 350 appeals resulting in approximately 50 published opinions.

Ms. Massaron Ross's appellate advocacy is widely known. She has won numerous victories before the Michigan Supreme Court for clients in both the public and private sector, overturning multi-million dollar judgments and establishing new legal principles. She has also handled appellate matters before the Michigan Court of Appeals, the California Court of Appeals, the Indiana Court of Appeals, the Indiana Supreme Court, the Ohio Supreme Court and several federal circuit courts of appeal. She has handled over 100 appeals in the Sixth Circuit Court of Appeals where she is well-known to court staff and judges. Ms. Massaron Ross has been recognized by Best Lawyers in America® for Appellate Law and was acknowledged as one of the Top 100 lawyers, Top 50 female attorneys, and Top Appellate Law Practitioners by Michigan Super Lawyers.

Ms. Massaron Ross's leadership in the legal profession is one of the hallmarks of her career. Currently the president-elect of DRI - The Voice of the Defense Bar, Ms. Massaron Ross will become its president in 2013. She is a member of the American Law Institute. Ms. Massaron Ross has been inducted as a Fellow of the American Academy of Appellate Lawyers, chaired the Appellate Practice Section of the State Bar of Michigan and is a past chair of the DRI's Appellate Advocacy Committee. Ms. Massaron Ross co-chairs the Michigan Appellate Bench Bar Conference Foundation, an organization of Michigan appellate judges

### Areas of Practice

- Appellate Law
- Election Law

### Honors & Awards

- The Best Lawyers in America® for Appellate Law (Copyright 2010 by Woodward/White, Inc., of Aiken, S.C.), 2007 - 2011
- Martindale-Hubbell's highest rating-AV Preeminent™ Peer Review Rated. AV Preeminent is a certification mark of Reed Elsevier Properties Inc., used in accordance with the Martindale-Hubbell® certification procedures, standards and policies.
- Michigan Super Lawyer in Appellate, Michigan Super Lawyers, a Thomson Reuters publication, 2006 - 2011
- Michigan Super Lawyer, Appellate Law Practitioner, Top 100 Lawyers Statewide, Top 50 Female Attorneys in Michigan, 2006 - 2011
- Cooley Law Review Distinguished Brief Award for brief authored in *Gilbert v DaimlerChrysler*, 2005
- Marygrove College Distinguished Service Award, 2004
- Michigan Municipal League Distinguished Achievement Award, 2003
- Lawyer of the Year, Michigan Lawyers Weekly, 2002
- Order of the Coif
- American Jurisprudence Award for Highest Grade

and lawyers. She served as chair of the American Bar Association Standing Committee on Amicus Curiae Briefs, the five-member committee that oversees preparation of ABA briefs for filing in the United States Supreme Court and other courts, and she chaired the ABA Council of Appellate Lawyers, a division of the Appellate Judges Conference.

Ms. Massaron Ross was appointed by the Chief Judge of the Michigan Court of Appeals to serve on the Michigan Court of Appeals Internal Operating Procedures Task Force. A regular advocate before the Michigan Supreme Court, she has been invited by that court's education arm, the Michigan Judicial Institute, to be a presenter at the annual seminar for the state judiciary. She has also twice been appointed by the Michigan Supreme Court to serve on the Supreme Court's committee on Model Civil Jury Instructions.

## Representative Client Work

- Lead attorney in over 100 appeals before the Sixth Circuit Court of Appeals
- Lead appellate attorney representing the property owners in precedent-setting case of *County of Wayne v Hathcock*, which overturned *Poletown v Detroit* to hold that the public use doctrine serves as a limit to government condemnation powers
- Lead attorney representing a corporate defendant to successfully argue that a litigant challenging an environmental permitting decision must satisfy the standing doctrine as a matter of constitutional law
- Handled over 500 appeals in state and federal appellate courts throughout the country, including all Michigan appellate courts, the Ohio Supreme Court, the Indiana Supreme Court, the Indiana Court of Appeals and the California Court of Appeals
- Lead attorney in complex coverage cases involving corporate successorship issues in several state courts
- Succeeded in trademark appeal defending injunctive relief issued against defendant corporation
- Handled numerous precedent-setting appeals expanding governmental immunity for public law defendants, including *Robinson v Detroit* and *Pohutski v City of Allen Park*

(Corporations, Contracts, Constitutional Law I, Constitutional Law II, Local Government Law, Criminal Law, Criminal Procedure I, Professional Responsibility, 1986 through 1990)

- Gold Scholarship Key Award for Academic Achievement (1988, 1989, 1990)
- Corpus Juris Secundum Award for Significant Contribution to Scholarship (1988)
- West Publishing Company Book Award for Outstanding Scholastic Record (1989)
- Ida and Benjamin Alpert Foundation Scholarship (1988)
- Silver Scholarship Key Award for Academic Achievement (1986, 1987)
- Law Alumni Scholar Award (1986)
- Thomas M. Cooley Law Review 2005 Distinguished Brief Award
- Richard B. Gushee Writing Award for best student work published in Wayne Law Review, 1989
- State Bar of Michigan Negligence Law Section Prize for best paper on subject of tort law, 1988-1989

### Clerkship(s)

- Law Clerk to Associate Justice Patricia J. Boyle, Michigan Supreme Court (March 1991-October 1992)

### Education

- Wayne State University Law School, summa cum laude, J.D., 1990

- Successfully obtained reversal in Michigan Supreme Court of Tax Tribunal and Court of Appeals decisions regarding applicability of tax exemption for municipalities for property used for economic development purposes
- Handled numerous complex civil rights and land use appeals in state and federal appellate courts
- Served as amicus counsel on cutting edge appeals for numerous organizations, including the Defense Research Institute, the Michigan Defense Trial Counsel, the Michigan Municipal League, the Michigan Municipal League Liability and Property Pool, the Michigan Townships Association, the Insurance Institute of Michigan, and the Michigan Association of Certified Accountants
- Served as chair of the American Bar Association Standing Committee on Amicus Curiae Briefs, which supervises the briefs filed by the ABA in the United States Supreme Court

## Notable Cases

- *Herald Co., Inc. d/b/a Booth Newspapers, Inc. & Ann Arbor News v Eastern Michigan University Board of Regents*, \_\_ Mich. \_\_, \_\_ N.W.2d \_\_ (2006) represented university in Freedom of Information Act litigation establishing availability of exception to disclosure for frank communications
- *County of Wayne v Hathcock*, 471 Mich. 445, 684 N.W.2d 765 (2004) represented property owners in Michigan Supreme Court, successfully reversed *Poletown v Detroit*, and obtained rule of law limiting use of eminent domain for taking of non-blighted property to transfer to private developer
- *National Wildlife Federation v Cleveland Cliffs Iron Co.*, 471 Mich. 608, 684 N.W.2d 800 (2004) represented mining companies which challenged standing of plaintiffs on basis that Michigan environmental statute's universal standing provision nevertheless required showing of actual injury to sue and obtained decision vindicating constitutional standing principles but finding showing was sufficient
- *Pohutski v City of Allen Park*, 465 Mich. 675, 641 N.W.2d 219 (2002) represented city in overturning series of past Michigan Supreme Court decisions to obtain ruling that governmental immunity statute bars claims for trespass-nuisance

- Marygrove College, summa cum laude, B.A., 1982

## Bar & Court Admissions

- Michigan, 1990
- New York, 2002
- U.S. Supreme Court
- U.S. Court of Appeals, Third, Sixth, Seventh and Federal Circuits
- U.S. District Court, Eastern District of Michigan
- U.S. District Court, Western District of Michigan

- *Robinson v City of Detroit*, 462 Mich. 439, 613 N.W.2d 307 (2000) represented city and individual police officers in successful challenge to past precedent to obtain ruling that city was protected with governmental immunity because a proper interpretation of the exception to immunity for negligent operation of a motor vehicle resulting in injury did not encompass injuries from police pursuits and that individual officers were protected from liability because their conduct did not amount to “the” proximate cause of injury
- *R.L. Polk & Co. v InfoUSA, Inc.*, 94 Fed. Appx. 305 (6th Cir. 2004) represented R.L. Polk & Co. in upholding district court's preliminary injunction on the basis of the likelihood of success on R.L. Polk & Co.'s trademark infringement claim
- *Meadows v Ford Motor Co., et al*, 21 Fed. Appx. 302 (6th Cir. 2001) represented corporation defending an age discrimination claim on basis that the plaintiff failed to set forth a prima facie case for either discrimination or retaliation
- *Clark v West Shore Hospital*, 16 Fed. Appx. 421 (6th Cir. 2001) represented hospital in obtaining ruling that district court properly dismissed breach of contract claim where the employer complied with the termination provisions of the contract
- *Postek, Inc. v St. Paul Fire & Marine Ins. Co.*, 105 Fed. Appx. 740 (6th Cir. 2004) successfully represented insurer in Sixth Circuit and obtained ruling that insurer did not have to defend insured as to claims “first made or brought” before the policy's coverage date, where, under the policy, those claims arose when the insured's customer refused to pay the insured's monthly invoices before coverage began
- *Klein v Long*, 275 F.3d 544 (6th Cir. 2001) represented police officers on appeal and obtained ruling affirming summary judgment because after the officers obtained sufficient probable cause, based on the testimony of the wife that she was battered, they were under no obligation to search for exculpatory evidence and the failure to do so did not negate probable cause
- *Paccar, Inc. v Telescan Techs.*, 319 F.3d 243 (6th Cir. 2003) represented a technology and internet company which sought to overturn district court preliminary injunction in favor of truck manufacturer and enjoining company from using the manufacturer's trademarks in any of its internet domain names because of the likelihood of confusion but narrowing scope of injunction to exclude metatags

## Professional Affiliations

- American Academy of Appellate Lawyers (Fellow, 2006 to present)
- Michigan Supreme Court Historical Society, (Member, Board of Directors; Co-Chair, Hon. Patricia J. Boyle Portrait Fund, 2000-2001)
- Michigan Supreme Court Advocates Guild (First Chair, 2007-2011)
- Michigan Appellate Bench Bar Foundation (Co-Chair, 1996 to present)
- State Bar of Michigan (Appellate Practice Section, Chair, 1996-1997; Chair-Elect, 1995-1996; Council Member, 1997 to 2009)
- Michigan Court of Appeals Internal Operating Procedures Task Force, 1996-1998
- Michigan Supreme Court Committee on Model Civil Jury Instructions, 2002-2010

- DRI - The Voice of the Defense Bar (President-Elect, 2011-2012; First Vice President, 2010-2011; Second Vice President, 2009-2010; National Director, 2006-2007; Nominating Committee, 2005; Amicus Committee, 2002-2006; Appellate Advocacy Committee; Corporate Involvement Subcommittee, Co-Chair, 2004-2005; Immediate Past Chair, 2001-2003; Chair, 1999-2001; Vice-Chair and Program Chair, 1997-1999)
- Michigan Court of Appeals Differentiated Case Management Work Group, 2003-2004
- Michigan Lawyers Weekly (Board of Editors, 2001-2007)
- Federal Bar Association ( Detroit Chapter)
- Detroit Metropolitan Bar Association (Member, Barristers Board of Directors, 1994-1996)
- Women Lawyers Association of Michigan
- Inforum (Women's Economic Club)
- Scribes, American Society of Writers on Legal Subjects (Outreach Committee, 2006-2010)
- Fellow of the American Bar Foundation
- Fellow of the Michigan State Bar Foundation
- American Bar Association (Judicial Division Council of Appellate Lawyers, Chair, 2005-2006; Chair-Elect, 2004-2005; Secretary, 2003-2004; Member of Executive Board, 2001-2002; Chair, Program Committee, 2002-2003), (Standing Committee on Amicus Curiae Briefs, Chair, 2003-2006; Member, 2001-2002), State and Local Government Law Section, Immediate Past Chair, 2003-2004; Chair, 2002-2003; Chair-Elect, 2001-2002; Vice-Chair, 2000-2001; Secretary, 1999-2000; Member of Council, 1996-1998; Assistant Director CLE, 1997-1998; Chair, Government Operations Committee, 1994-1996; Co-Chair, Zoning Process Subcommittee of the Land Use, Planning and Zoning Law Committee, 1994-1998; Media Board Member, 2000-2003; Urban Lawyer Advisory Board Member, 2001-2005), (Tort and Insurance Practice Section, Past Chair, Appellate Advocacy Committee; Past Chair, Governmental Liability Committee; Vice-Chair of Appellate Advocacy Committee and Past Co-Chair, Subcommittee on Rules and Procedures), (Section Officers Conference, Nominating Committee, 2001), (SOC Committee on Amicus Curiae Briefs, 2001-2002), (Associate Editor, Tort & Insurance Law Journal, 1996-1999)

## Books

- Eminent Domain Use and Abuse: *Kelo* In Context, (Dwight H. Merriam & Mary Massaron Ross co-editors, 2006)
- Sword and Shield, (Mary Massaron Ross & Edwin P. Voss, Jr., co-editors, 3d ed. 2006)
- Persuasive Writing for Young Lawyers, Chapter 10 in *A Young Lawyer's Guide to Defense Practice*, (DRI 2006)
- *A Defense Lawyer's Guide to Appellate Practice*, (Mary Massaron Ross, co-editor 2004)
- *Sword and Shield Revisited: A Practical Approach to Section 1983* (Mary Massaron Ross ed. 1998)

## Articles and Lectures

- "The Development of the Common Law on Appeal," 1 *For the Defense* 4 (2010)

- “In-House Litigation Strategies In A Difficult Forum,” 2 In-House Defense Quarterly 3, co-authored with Robert W. Powell (Summer 2007)
- “Cicero, Quintilian, Aristotle and Other Voices From the Past,” For the Defense (July 2007)
- “An Important Choice: Words, Words, Words,” For the Defense (July 2007)
- “Establishing A Strategy: Managing High Stakes & Cutting Edge Litigation,” 1 In-House Defense Quarterly 1 (Fall 2006)
- “Reflections on Appellate Courts: An Appellate Advocate’s Thoughts For Judges,” 8 The Journal of Appellate Practice & Process (Fall 2006)
- “A Basis for Legal Reasoning: Logic on Appeal,” first published at 46 DRI For the Defense 46 (2004) reprinted as Best Practices Classic in 3 Journal of the Association of Legal Writing 179 (2006).
- “Legislative Responses to *Kelo v. City of New London* and Subsequent Court Decisions—One Year Later,” Mary Massaron Ross, Co-Author Kristen Tolan, Current Issues Notice, Nichols On Eminent Domain, 2006.
- “Writing the Statement of Facts: Credibility In Telling Your Story,” 47 For the Defense 60 (April 2005)
- “Public Use: Does *County of Wayne v. Hathcock* Signal A Revival of the Public Use Limit to the Taking of Private Property?” 37 The Urban Lawyer 243 (2005)
- “Word Choice for Legal Writers,” 45 For the Defense 60 (August 2003)
- “An Advocate’s Tool Box: Techniques to Help Appellate Lawyers Evaluate Precedent and Craft Analytically Precise Arguments,” Michigan Bar Journal (August 2002)
- “Metaphors, Similes, and Legal Writing,” 43 For the Defense (December 2001)
- “Lessons From a Chinese Poet,” 42 For the Defense 79 (December 2000)
- “Want to be an Appellate Lawyer? Mastery of the Field,” 42 For the Defense 24 (November 2000)
- “A Framework for Handling the Statutory Interpretation Appeal,” 42 For the Defense 32 (November 2000)
- “Clearing the Fog: Clarity in Legal Writing,” 41 For the Defense 34 (1999)
- “Reflections on the Craft of Judging and the Art of Advocacy,” 40 For the Defense 8 (1998)
- “Better Advocacy Through Jurisprudential Analysis,” Michigan Bar Journal (January 1998)
- “Recent Developments in Governmental Liability,” 33 Tort and Insurance Law Journal 399 (1998) co-authored with Edward M. Turfe
- “Gated Communities: Private Solution or Public Dilemma?” 29 The Urban Lawyer 413 (1997) co-authored with Larry Smith, Robert D. Pritt, Brian Woram, John Witt and Terrance Scott Welch
- “The Zoning Process: Private Land-Use Controls and Gated Communities, the Impact of Property Rights Legislation, and Other Recent Developments in the Law,” 28 The Urban Lawyer 801 (1996) co-authored with Larry Smith and Robert D. Pritt
- “The Zoning Process: Exclusionary Zoning, Initiatives, Referenda Design Review, and Other Recent Developments in the Law,” 27 The Urban Lawyer 811 (1995) co-authored with Larry Smith
- “Preserving the Record on Appeal: Some Thoughts for Young Lawyers” 37 For The Defense 21 (1995)
- “The Voting Rights Act: Interpretation of The Statutory Text, The Political Subtexts and the Constitutional Overlay,” 26 The Urban Lawyer 23 (1994)
- “1994 Report on Recent Developments in the Law: Zoning Process Subcommittee,” 26 The Urban Lawyer 817 (1994) co-authored with Larry Smith
- “Government Law,” 40 Wayne Law Review 831 (1994)

- “Government Law,” 39 Wayne Law Review 799 (1993)
- “Report of the Government Operations Committee Subcommittee on Public Election Law: The Voting Rights Act,” 25 The Urban Lawyer 925 (1993)
- “*Owens v. Allis Chalmers*: The Standard of Proof in a Design Defect Case,” co-authored with E. Bazzana and C. B. Wetherington, Michigan Bar Journal, 1989
- “Entrapment Reconsidered,” Wayne Law Review, Volume 35, No. 1, 1988

## Publications

- DRI Lawyers: Clutch Players with the Right Stuff (with Apologies to Paul Sullivan and Tom Wolfe)
- Some of Our Business: Supreme Court Hearing Arguments on Significant Business Cases This Fall
- Can We Expect Changes At The Supreme Court?

## News

- Appellate Lawyers to Examine Interlocutory Appeals at Seminar
- Massaron Ross, Ballentine contribute to eminent domain book
- Massaron Ross Named President-Elect of DRI—The Voice of the Defense Bar
- Plunkett Cooney attorneys among Michigan ‘Super Lawyers’ 2011
- Massaron Ross authors chapter for appellate law practice guide
- Massaron Ross named among Michigan’s ‘influential attorneys’
- Plunkett Cooney attorneys among Michigan ‘Super Lawyers’ 2010
- Plunkett Cooney attorneys named Among ‘Best’ in America’ 2011
- Massaron Ross leads bench bar conference
- Plunkett Cooney elects three to firm’s board of directors
- Plunkett Cooney attorneys among Michigan ‘Super Lawyers’ 2009
- Plunkett Cooney attorneys named among ‘Best’ in America 2010