



Robert J. Finley

Partner

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Robert Finley's national civil defense and trial practice focuses on serving businesses and insurers in high-value and complex litigation involving specialized tort, employment, and healthcare practice areas. He primarily represents clients in the transportation, technology, and healthcare sectors, and advises businesses across a variety of industries, including construction, home services, insurance (life, health, property, and casualty), pharmaceuticals, real estate, retail, and waste management. Robert has substantial experience representing clients in jury trials, appeals, mediations, and arbitration hearings throughout the country. He is admitted *pro hac vice* in multiple jurisdictions, including Connecticut, Massachusetts, New Jersey, Oregon, Pennsylvania, Texas, and Washington, D.C.

Robert's clients value his meticulous approach to their legal problems, as well as his ingenuity and flexibility. These complimentary attributes yield practical solutions for risk and litigation management, enabling clients to achieve their desired, financially sound outcomes.

Robert has a wealth of experience in Medicaid third-party liability and Medicare secondary-payer regulatory and administrative matters. He provides high-value counsel on recovery and repayment claims to primary payers and other statutory third parties under auto, property and casualty, no-fault policies, and workers' compensation insurance plans, involving:

- Conditional payment resolution
- Medicare Part C and D recovery claims
- Future medical settlement considerations
- Section 111 reporting monetary penalties
- State-administered Medicaid statutory repayment claims
- Related compliance matters

He also handles commercial causes of action between insurers and medical providers based upon breach of contract, fraud, bad faith, and statutory payment laws or plans.

Further, he represents clients before the Illinois Workers' Compensation Insurance Compliance Division and advises on all aspects of workplace injury cases and regulatory matters, including:

Practices

Commercial Litigation
Workers' Compensation
Defense
Complex Tort & General
Casualty

Industries

Construction
Health Care
Health Care Defense
Health Care Regulations &
Compliance
Insurer Litigation — Bad Faith/
Extra-Contractual
Transportation

Education

J.D., DePaul University College
of Law, 2001
B.A., Marquette University,
1995

Admissions

Illinois
New York
U.S. District Court for the
Northern District of Illinois
U.S. District Court for the
Eastern and Southern Districts
of New York



- Workers' compensation defense
- Post-settlement petitions and judgment enforcement actions
- Subrogation recovery
- Employers' liability and excess coverage interests
- Interplay between workers' compensation laws and other non-occupational disability plans

Robert further represents professional and amateur sports organizations in litigation, business transactions, and organizational matters.

Robert joined Hinshaw in 2003 and became a partner in 2008. He chairs the firm's Social Media for Trial Committee and developed Social Media Intelligence for Trial at Hinshaw & Culbertson LLP (SMITHc) for the acquisition and use of social media evidence at trial.

While attending DePaul University College of Law, Robert was selected to participate in a study abroad program at the University College Dublin School of Law in Ireland. He concentrated on studying comparative and European Union law and also volunteered with a Dublin-based law firm, specifically in their litigation sector.

Prior to pursuing a career in law, Robert worked in the sports radio industry as a producer and reporter covering major spectator events: the Super Bowl, NBA Finals, Kentucky Derby, U.S. Open Golf Championship, NCAA men's and women's basketball tournaments, and the 1996 Summer Olympics in Atlanta.

Professional Affiliations

- Defense Association of New York (DANY)
- Illinois State Bar Association (ISBA)
 - [Health Care Law Section Council, Member 2023 – 2024](#)
 - Workers' Compensation Law Section Council, 2012 – 2023
 - Ex-Officio, 2018
 - Chair, 2017
 - Vice-Chair, 2016 – 2017
 - Secretary, 2015 – 2016
- National Medicare Secondary Payor Network
- Evaluation Committee of the Chicago Bar Association, Investigator & Hearing Officer, 2006 – 2011
- American Bar Association's National Appellate Advocacy Competition and Regional Negotiation Competition, Judge, 2003 – 2011

Honors & Awards

- Recognized by his peers as a "Leading Lawyer" in the areas of: Arts, Entertainment & Sports Law; Personal Injury Defense Law: General; and Workers' Compensation Defense Law, 2019
- Recognized on the Rising Star list by *Illinois Super Lawyers* magazine, 2008 – 2010

Representative Matters

Robert's significant decisions include:

General Liability

- A summary judgment was granted to dismiss a personal injury case filed by the plaintiff passenger in New York County. The incident occurred when a co-defendant tractor-trailer backed up into the client's motor vehicle. The client



had parked the vehicle to let the plaintiff exit and was approximately 10-feet behind the tractor-trailer for 10-15 seconds. The client had beeped the horn twice to alert the tractor-trailer driver before beeping it continuously. The court found that the tractor-trailer was the sole proximate cause of the accident, and the client was found free from liability. The opposing side's argument that the client had parked too close to the tractor-trailer and did not take reasonable care to avoid the collision was defeated.

- Secured summary judgment in Bronx County, New York, in favor of a motor vehicle operator who was planning to make a U-turn yet came to a complete stop with a turn signal engaged prior to suddenly being struck in the rear by the co-defendant's vehicle.
- Successfully obtained summary judgment while defending a motor vehicle operator in Queens County, New York. The plaintiff was a rear-seat passenger in a vehicle that was hit from behind by the co-defendant. Both parties failed to provide a non-negligent explanation for the collision.
- Obtained summary judgment in Cook County, Illinois, for a driver who was sued by a bicyclist. The passenger opened the car door on the side where the bicyclist was riding. The court ruled that the driver was not at fault, as being a driver does not create a duty to prevent passengers from opening car doors under state vehicle laws.
- Obtained summary judgment in Cook County, Illinois, for a driver against two rear-seat passenger plaintiffs. The co-defendant driver, experiencing bipolar disorder hallucinations, ignored red traffic control signals at an excessive rate of speed. Though the co-defendant's actions were unforeseeable, the driver acted reasonably under the unexpected circumstances. No evidence could ever support finding the driver as the proximate cause of the plaintiff's injuries.
- The plaintiff demanded \$750,000, but due to contributory negligence, the plaintiff recovered nothing. A company car accident occurred in Baltimore, Maryland, when the driver, a company manager, was speeding and unsuccessfully changed lanes. An unrestrained backseat passenger was giving directions, resulting in the car flipping over several times, causing the passenger to suffer severe injuries.
- Successfully defended a national pest control company against a civil trespass case in Santa Fe, New Mexico. The jury rejected the plaintiff's \$890,000 case based on lack of proximate cause. A service technician applied pesticide to a non-customer's property while the owner was totally disabled due to pre-existing workplace chemical exposure to the same pesticides.
- Successfully defended a case involving a motor vehicle and motorcycle collision in rural Pennsylvania. The defendant driver was found not guilty of negligence by the jury. The state appellate court upheld the jury's decision and overturned the trial court's judgment notwithstanding the verdict. The company truck driver pulled out from a stop sign in front of the plaintiff motorcyclist ascending the crest of the roadway, resulting in knee and hip injuries.
- A client premises owner granted summary judgment in an injury from a camogie competition. The court found our client not at fault for a fall on the playing field. The plaintiff could only speculate about the cause, and our client had no prior notice of any defects.

Medicare, Medicaid, and Healthcare Regulations

- Successfully disputed a federal statutory medical subrogation claim arising from a COVID-19 workplace exposure case. Due to the unforeseeable global pandemic, substantive issues on billing practices, and apparent lien waiver, negotiated a compromise agreement with the United States Office of General Counsel, resulting in substantial savings for the client.
- Successfully disputed Medicare conditional payment claim by Centers for Medicare and Medicaid Services (CMS), resulting in CMS withdrawing its claim in full at the administrative level with the help of a subject matter expert for the applicable plan.
- Resolved post-settlement bad faith petition and obtained a favorable advisory opinion from the Centers for Medicare & Medicaid Services (CMS) permitting the use of allocated Medicare settlement funds to pay for treatment incurred by the beneficiary during the period after the final State Commission settlement order but before the federal agency completed its review proceedings.
- Obtained a favorable post-trial relief in federal district court after the jury's itemized verdict, finding the defendant trucking company liable to Medicare-eligible plaintiff for past and future medical expenses totaling \$219,375. The chief judge granted the defendant's post-trial motion on Medicare Secondary Payer issues, ordering judgment for past and future medical expenses payable to the court clerk and conditioning release of funds on adequate documentation from



the Centers for Medicare & Medicaid Services (CMS).

Commercial Litigation and Workers' Compensation Defense

- Following extensive litigation, including three evidentiary hearings and two appeals, the Illinois Workers' Compensation Commission unanimously denied an estimated \$1 million claim by a union carpenter who underwent neck fusion surgery. The Commission ruled that the surgery was not related to a work-related injury and that there was no significant change in the employee's condition that led to permanent disability and early retirement. The examining expert was found to be more credible than the treating surgeon.
- Successfully defended a workers' compensation insurance pool against a former employee home builder's claims for lifetime disability benefits and medical expenses. The appellate court affirmed the Commission's decision.
- Achieved dismissal with prejudice in favor of a third-party insurance administrator client. A non-party patient irrevocably assigned to a medical provider the right to collect treatment charges and statutory interest. The court agreed with the client that the State's workers' compensation laws expressly prohibit such assignment, and the medical provider's claims failed to satisfy any narrow anti-assignment exceptions.
- Successfully defended a workers' compensation insurer and its insured in a case of first impression against a medical provider's quasi-contractual claim. The claim was based on a pre-certification letter for a surgical procedure. The appellate court decided that the trial court erred in finding an unambiguous promise to pay an amount greater than the final award given by the Illinois Workers' Compensation Commission. The plaintiff's medical provider's writ was denied by the Illinois Supreme Court.
- Reported decision from the Illinois appellate court on an employer's liability for total disability benefits where there is evidence the employee/beneficiary is working in a reasonably stable labor market.
- Reported decision from the Illinois appellate court affirming the trial court's 2-619 dismissal of the plaintiff's motion to enforce the judgment as premature due to pending corollary proceeding on administrative review at Illinois Workers Compensation Commission.
- A case of first impression developing an analytical framework for applying American Medical Association impairment guides under the Illinois Workers' Compensation Act following 2011 reforms.
- A case of first impression regarding the application of the state's new workers' compensation medical billing fee schedule and limits on construction worker's overtime pay as a basis for benefit rate calculations.
- Successfully reversed a workers' compensation administrative decision finding permanent, total disability and subsequently dismissed the opponent's appeal on jurisdictional grounds.

Presentations

Robert is frequently invited to speak on defense litigation, Medicaid and Medicare reimbursement, and workers' compensation topics. He has taught at Hinshaw University, the firm's nationwide attorney training and education program, on depositions, negotiations, and settlement releases.

His recent presentations include:

- Co-Presenter, "Don't Be the Villain – False Claims Act," 2023 National Medicare Secondary Payer Network (MSPN) Annual Educational Conference, Baltimore, Maryland November 9, 2023
- Co-Presenter, "Personal Injury Settlement Strategies: Reckoning With Medicaid Reimbursement From Payments for Future Medical Care," Strafford, Webinar, November 8, 2023
- Co-Presenter, "A New Threat: Beware of Medicaid Liens in Your Premises Liability Claims," 2023 CLM Annual Conference, Tampa, Florida, March 30, 2023
- "Assess Variations Between Different State Medicaid Lien Laws," RISE Medicare Secondary Payer (MSP) World 2023, Tampa, Florida, March 2, 2023
- "What's Up Their Sleeve? The Future of LMSAs," 2022 National Medicare Secondary Payer Network (MSPN) Annual Educational Conference, Hanover, Maryland, September 21, 2022



- "Intro to SCOTUS Cases on Medicaid Liens," RISE 6th Annual Medicare Secondary Payer Conditional Payment Forum, Virtual Event, July 11, 2022
- Co-Presenter, "Employers and Carriers Beware: Claims with Medicaid Recipients Need Special Attention," 2022 CLM Workers Compensation and Retail, Restaurant & Hospitality Conference, Chicago, Illinois, May 20, 2022
- "Reporting and Reimbursement: Handling Conditional Payments in the Defense of Liability Plans under MSP," 7th Annual RISE Medicare Secondary Payer Master Class, Washington, D.C., February 25, 2022
- Co-Presenter, "Analyze the Pre-Settlement Conditional Payment Resolution Process," 6th Annual RISE Medicare Secondary Payer Conditional Payment Forum, Virtual Event, July 27, 2021
- Co-Presenter, "Established Strategies for Working with US DOT and US DOJ," 6th Annual RISE Medicare Secondary Payer Master Class, Virtual Event, February 10, 2021
- Co-Presenter, "Conditional Payment from Conception to Completion: Requesting Redetermination of Medicare's Demand for Reimbursement of Conditional Payments," 5th Annual RISE Medicare Secondary Payer Conditional Payment Forum, Virtual Event, July 28, 2020
- Co-Presenter, "CMS Notice of Proposed Rules Part 2: An Analysis of the Mandatory Reporting Proposed Civil Money Penalty Regulations," 4th Annual RISE Medicare Secondary Payer Conditional Payment Forum, Virtual Event, July 27, 2020
- Panelist, "Saving \$1,000/Day — Avoiding Mandatory Reporting Civil Money Penalties," 2020 CLM Workers Compensation and Retail, Restaurant & Hospitality Conference, June 18, 2020
- Co-Presenter, "Medicare Set-Asides: An Update on Liability Medicare Set-Asides," 5th Annual RISE Medicare Secondary Payer Master Class, Jacksonville, Florida, February 4, 2020
- Co-Presenter, "Conditional Payments: Best Practices for Resolving Conditional Payments Post-Settlement with the Benefits Coordination and Recovery Center (BCRC)," 5th Annual RISE Medicare Secondary Payer Master Class, Jacksonville, Florida, February 4, 2020
- "Mandatory Reporting: Efficient Reporting of Total Payment Obligation to Claimant (TPOC) in Liability, No Fault, and Workers Compensation," 5th Annual RISE Medicare Secondary Payer Master Class, Jacksonville, Florida, February 3, 2020
- Panelist, "Leveraging Settlement with MSAs in Mediation," National Alliance of Medicare Set-Aside Professionals (NAMSAP) 2019 Educational Conference, Baltimore, Maryland, September 18, 2019
- "Medicaid Third Party Liability: Resolving State Agency and MCO Claims," RISE! 3rd Annual Medicare Secondary Payer Conditional Payment Forum, Washington D.C., August 27, 2019
- "Medicare Set-Asides in Personal Injury - New Developments," National Business Institute, Teleconference, June 5, 2019
- "Technology & Transportation: Legal Issues in App-Based Ride Sharing," Hinshaw University, Chicago, Illinois, May 29, 2019
- "Mitigation of Medicare Settlement Risk and Costs Through Clinical and Pharmacological Controls," 2019 CLM Workers Compensation Conference, Chicago, Illinois, May 22, 2019
- Co-Presenter, "Medicare Advantage Plan Update – Trends and Case Law," 4th Annual RISE! Medicare Secondary Payer Master Class, *The Essential Guide to the Latest Developments in Mandatory Insurer Reporting, Conditional Payments, Medicare Set-Asides and Medicaid Secondary Payer*, Miami, Florida, February 27, 2019
- Co-Presenter, "Advantages and Disadvantages of Professional Administration," 4th Annual RISE! Medicare Secondary Payer Master Class, *The Essential Guide to the Latest Developments in Mandatory Insurer Reporting, Conditional Payments, Medicare Set-Asides and Medicaid Secondary Payer*, Miami, Florida, February 27, 2019

Publications

Robert created Hinshaw's *Mr. Medicare: Rx for Compliance* publication, which provides resources, analysis, and perspective on Medicare Secondary Payer laws.



Relying on his extensive knowledge and experience with Medicare and Medicaid compliance, Robert also contributed posts for the *Flagship Services Group* blog, including:

- "Early Observations on Michigan's New Auto No Fault Laws," January 4, 2021
- "Florida Medicaid Third Party Liability Act Survives 11th Circuit Challenge," November 17, 2020
- "Early Takeaways from CRC NGHP Applicable Plan Appeals Webinar," September 29, 2020
- "Dog Days of Summer," August 24, 2020
- "Decision Point: Z Code Conundrums," July 20, 2020
- "Tea Leaves and Time Bombs," July 2, 2020
- "Summer School: Briefing Key Cases in 2020," June 23, 2020
- "Chicken Soup for Section 111: Boiling Down the Public Comments on Proposed Civil Money Penalties," June 1, 2020
- "Opportunity for Improvement," May 5, 2020

Robert's other publications include:

- "[To Be or Not to Be an Employee?](#)," *Workers Compensation Law*, Illinois State Bar Association, Vol. 60, No. 2, November 2022
- "50 State Primer on Medicaid Recovery Laws," Hinshaw's *On The Law Series*, Third Edition, September 2022; Second Edition, August 2019; First Edition, December 2016
- "Mind the Gap: *Maroney's* Rule 23 Caution on Causal Connection," *Workers Compensation Law*, Illinois State Bar Association, Vol. 58., No. 5, May 2021
- "Seeing Double: The Inextricably Intertwined Case(s) of Mr. Centeno a/k/a Mr. Morales," *Workers Compensation Law*, Illinois State Bar Association, Vol. 57., No. 6, May 2020

Community/Civic Activities

Robert devotes his personal time to a number of vital organizations, including:

- Chicago Mission Hockey Club
- DePaul College Prep
- Galway, Ireland Committee (Chicago Sister Cities International)
- Hockey Players In Business
- Irish American Heritage Center
- Old St. Patrick's Church of Chicago

Robert was also a member of Hinshaw's Host Committee for the 2018 Reception and Luncheon honoring Ireland's 13th Prime Minister, Mr. Enda Kenny.