



## Mary Massaron

PARTNER

38505 Woodward Ave., Suite 100

Bloomfield Hills, MI 48304

T: (313) 983-4801 | F: (248) 901-4040

[mmassaron@plunkettcooney.com](mailto:mmassaron@plunkettcooney.com)

### Practice Areas

Appellate Law

Class Action, Mass Tort & Multi-District Litigation

Election Law

Election Law & Political Organization Compliance

### Clerkships

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

### Education

- Wayne State University Law School, summa cum laude, J.D., 1990
- Marygrove College, summa cum laude, B.A., 1982

### Admissions

Michigan, 1990

New York, 2002

U.S. Supreme Court, 1995

U.S. Court of Appeals - Second, Third, Fourth, Sixth, Seventh, Eighth, Ninth Circuits

U.S. District Court, Eastern District of Michigan, 1990

Mary Massaron, a past president of the DRI, has concentrated her practice in appellate law for over 30 years. A former law clerk to Justice Patricia J. Boyle of the Michigan Supreme Court, she has handled or supervised the handling of over 400 appeals resulting in approximately 150 published opinions, including over 100 appeals in the Sixth Circuit Court of Appeals.

Ms. Massaron's appellate advocacy is widely known. She has won numerous victories before the Michigan Supreme Court for public and private sector clients, overturning multi-million dollar judgments and establishing new legal principles. She has appeared for clients before the Alabama, California, Indiana, New Jersey, New York, Connecticut, and Ohio courts, the Tribal Court of Appeals, and all Michigan appellate courts. She is admitted to almost every federal circuit court of appeals and has handled matters before the Second, Third, Sixth, Seventh, and Ninth.

Ms. Massaron has been recognized by Best Lawyers in America for Appellate Law and has been repeatedly acknowledged as one of the top 100 lawyers, top 50 business lawyers, top 25 women business lawyers, top 50 female lawyers, and top appellate law practitioners by Michigan Super Lawyers. She was recognized as the Best Lawyers 2017 and 2021 Appellate Practice "Lawyer of the Year" in Bloomfield Hills. DBusiness Magazine named her top appellate lawyer for the past five years.

Ms. Massaron's leadership in the legal profession is one of the hallmarks of her career. She served as only the second female president of DRI, and the first woman president of Lawyers for Civil Justice (LCJ). Ms. Massaron is a past chair of LCJ's Class Action,

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U.S. District Court, Western  
District of Michigan, 1995  
Sault Ste. Marie Chippewa  
Tribal Court, 2017

Mass Torts, and MDLs Committee, which focuses on reform of the rules governing class actions and multi-district litigation. She currently co-chairs LCJ's Amicus Committee. In recognition of her professional accomplishments, Ms. Massaron was invited to join the International Association of Defense Counsel (IADC) and the Association of Defense Trial Attorneys (ADTA), both peer-review membership.

Ms. Massaron was inducted into the American Academy of Appellate Lawyers, one of only a handful of Michigan lawyers to be invited to join. She also is a member of the American Law Institute, one of only a small group of Michigan lawyers. She is a past chair of the ABA Standing Committee on Amicus Curiae Briefs, a five-member committee that oversees preparation of ABA briefs for filing in the United States Supreme Court. She is a past chair of the ABA Council of Appellate Lawyers, a division of the Appellate Judges Conference.

Ms. Massaron has worked to improve the civil appellate justice system for decades through her work as co-chair of the Michigan Appellate Bench Bar Conference Foundation, an organization that co-sponsors a triennial appellate bench bar conference with the Michigan Supreme Court and the Michigan Court of Appeals. She serves as a member of the board of directors of the National Foundation for Judicial Excellence (NFJE), a non-profit dedicated to putting on an annual seminar for state court appellate judges, and she has twice chaired its program planning committee. She serves as a member of the Michigan Supreme Court Historical Society and the First Chair of its Advocates Guild, the group of lawyers who appear before the Michigan Supreme Court.

She has won the Cooley Law Review Distinguished Brief Award for the brief she wrote in *Nexteer Automotive Group v. Mando America Corp* in 2018 and in *Gilbert v. DaimlerChrysler* in 2005. In addition, she received distinguished service awards from the Michigan Municipal League and Marygrove College, and Lawyer of the Year from Michigan Lawyers Weekly in 2002 and again in 2009. She was awarded the Al Cortese Award for outstanding contributions to the cause of civil justice by LCJ in 2020.

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Ms. Massaron's appellate victories have included numerous precedent-setting decisions. She was the lead attorney in the Michigan Supreme Court representing the property owners in *County of Wayne v. Hathcock*, which overturned *Poletown v. Detroit* to hold that the public use doctrine serves as a limit to government's condemnation powers. She represented government defendants in *Robinson v. Detroit* and *Pohutski v. City of Allen Park*, resulting in decisions overturning past precedents to expand governmental immunity defenses. She has won major victories for clients in the areas of contract law, trademark infringement, environmental law, insurance coverage, civil rights, and employment law.

### Representative Client Work

- Lead attorney in over 100 appeals before the Sixth Circuit Court of Appeals
- Lead attorney representing high-level employers of an entity that owned 50 fast food franchises and persuading the Seventh Circuit Court of Appeals to reverse the dismissal of their breach of contract claims in a leveraged buyout dispute
- 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
- Author of amicus brief filed on behalf of DRI in *In Re Accutane* litigation, which successfully persuaded New Jersey Supreme Court to overturn lower courts and adopt *Daubert* standard
- Author of amicus brief in *Spokeo v Robbins*, the U.S. Supreme Court decision requiring scrutiny of standing as part of class certification
- Lead attorney representing a mining company to successfully challenge an environmental permitting decision on the basis of the standing doctrine
- Handled over 400 appeals in state and federal appellate courts throughout the country, including all Michigan appellate courts, the Alabama Supreme Court, the Connecticut Supreme Court, the New Jersey Supreme Court, the New York Court of Appeals, the Ohio Supreme Court, the Indiana Supreme Court, the Indiana Court of Appeals, the California Court of Appeals, and the Second, Third, Sixth, and Seventh Circuit Courts of Appeal
- Lead attorney in complex coverage cases involving corporate successorship issues in several state courts of last resort
- 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*
- Successfully persuaded the Michigan Supreme Court to reverse the Tax Tribunal and Court of Appeals decisions regarding applicability of tax exemption for municipalities for property used for economic development purposes

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- 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, Lawyers for Civil Justice, 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 (ABA) Standing Committee on Amicus Curiae Briefs, which supervises the briefs filed by the ABA in the U.S. 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
- *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

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- *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

### Amicus Curiae Briefs

- *E.I. Du Pont de Nemours & Co. v. Travis Abbott* (U.S. Supreme Court, No. 23-13), filed jointly on behalf of DRI Center for Law and Public Policy and Lawyers for Civil Justice (2023)

### Professional Affiliations

- Lawyers for Civil Justice (Immediate Past President, 2017-2018; President, 2016-2017; President Elect, 2014-2015; Member of the Board of Directors, 2013-2014; Chair, Class Action, Mass Torts and MDL Committee, 2013-2018)
- American Academy of Appellate Lawyers (Fellow, 2006 to present)
- Michigan Supreme Court Historical Society, (Member, Board of Directors, 2006 to present; Co-Chair, Hon. Patricia J. Boyle Portrait Fund, 2000-2001)
- Michigan Supreme Court Advocates Guild (First Chair, 2007 to present)
- Michigan Appellate Bench Bar Foundation (Co-Chair, 1996-2019)
- 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

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- Michigan Supreme Court Committee on Model Civil Jury Instructions, 2002-2010
- DRI (Immediate Past President, 2013-2014; President, 2012-2013; 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)
- Association of Defense Trial Attorneys
- Detroit Metropolitan Bar Association (Member, Barristers Board of Directors, 1994-1996)
- Scribes, American Society of Writers on Legal Subjects (Outreach Committee, 2006-2012)
- American Bar Foundation (Fellow)
- Michigan State Bar Foundation (Fellow)
- 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

- "*Sword and Shield: A Practical Approach to Section 1983*," Mary Massaron & Josephine DeLorenzo, co-editors, ABA 5th ed., 2021
- "*Sword and Shield: A Practical Approach to Section 1983*," Mary Massaron & Edwin P. Voss, Jr., co-editors, ABA 4th ed., 2015
- "Eminent Domain - A Handbook of Condemnation Law," Chapter 1, Co-authored by Mary Massaron and Hilary Ballentine, ABA Section of State and Local Government Law 2011

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- "Interlocutory Appellate Review in Appellate Practice in Federal and State Courts," Chapter 6, David M. Axelrad, Law Journal Press, 2011
- "Eminent Domain Use and Abuse: *Kelo* In Context," co-editors, Dwight H. Merriam & Mary Massaron co-editors, 2006
- "Sword and Shield: A Practical Approach to Section 1983," Mary Massaron & Edwin P. Voss, Jr., co-editors, ABA 3d ed., 2006
- "Persuasive Writing for Young Lawyers," A Young Lawyer's Guide to Defense Practice Chapter, DRI 2006
- "A Defense Lawyer's Guide to Appellate Practice," Mary Massaron, co-editor, 2004
- "Sword and Shield Revisited: A Practical Approach to Section 1983," Mary Massaron, ABA, 1998

### Articles and Lectures

- "Know Your Audience and be Able to Think Like the Judge and Court," DRI's *For the Defense*, co-authored with Judge Henry Saad, March 2021
- "Appellate Advocacy: Tips and Pitfalls for Pursuing or Defending Appeals of Your Automotive Case," DRI's Strictly Automotive - Innovation and Evolution in Automotive Issues seminar session, co-presenter, Detroit Marriott Troy, Sept. 15, 2017
- "Police Civil Rights Litigation: From Ferguson to Dallas and Beyond" webinar, American Bar Association, Presenter, Jan. 24, 2017
- "The Appellate Lawyer on the Trial Team: What is the Job & Does it Provide Value?," 8 *In-House Defense Quarterly* 3 (2013)
- "How Not to Get 'Lost in Translation:' The Scientific or Technical Appeals," 55 *For the Defense* 11 (2013)
- "*First American Corp v Edwards*: The Battle for Standing Without 'Actual Injury,'" Westlaw Journal Insurance Coverage, Volume 22, Issue 12 (Dec. 30, 2011)
- "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)

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- “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, 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)



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- "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

### Community Involvement

- Cranbrook Music Guild (Vice President, 2018-2019)
- Detroit Institute of Arts, European Paintings Council (Board Member, 2018)
- Detroit Institute of Arts, American Art Wing Auxiliary (Board Member, 2018)
- Detroit Institute of Arts, Visiting Committee for Decorative and Sculptural Arts (Board Member, 2018)
- Marygrove College (Board of Trustees, 2014-2019; Treasurer, 2018)

### Honors & Recognitions

- Best Lawyers® 2021 Appellate Practice "Lawyer of the Year" in Bloomfield Hills, Michigan
- Best Lawyers' Detroit Appellate Practice "Lawyer of the Year," 2016 - 2017
- Best Lawyers in America® for Appellate Law, 2008 - 2024
- Leading Lawyer in Civil Appellate Law / Appellate Law, Leading Lawyers Magazine Michigan, 2015 - 2021
- Leading Michigan Business Lawyers, Leading Lawyers Magazine Michigan, 2021
- Martindale-Hubbell's highest rating-AV Preeminent™ Peer Review Rated
- Michigan Super Lawyer, Appellate Law Practitioner, 2006 - 2023
- Michigan Super Lawyer, Top 100 Lawyers in Michigan, Top 50 Business Lawyers in Michigan, Top 25 Women Business Lawyers, 2006 - 2023
- Michigan Super Lawyer, Top 50 Women Attorneys in Michigan, 2006 - 2023
- Lawyers for Civil Justice AI Cortese Award, 2021
- State Bar of Michigan's Appellate Practice Section 2022 Lifetime Achievement Award, Recipient

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- Crain's Detroit Business, Michigan's 2021 Notable Women in Law
- Benchmark Appellate Litigation Star, 2013
- Top Lawyer Appellate Law, Dbusiness Magazine, 2012 - 2018, 2020
- Influential Women of Law honoree, Michigan Lawyers Weekly, 2023
- Leader in the Law, Michigan Lawyers Weekly, 2009
- Cooley Law Review Distinguished Brief Award for brief authored in Nexteer Automotive Group v Mando America Corp, 2018
- 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
- Thomas M. Cooley Law Review 2005 Distinguished Brief Award
- Marygrove College, Board of Trustees, 2015-2018
- Detroit Institute of Arts, European Paintings Council Board, 2018-2020
- Detroit Institute of Arts, American Art Wing Auxiliary Board, 2018-2020