

Mary Anne Mellow is a shareholder of Sandberg Phoenix & von Gontard. She concentrates her practice in civil litigation involving products liability, medical malpractice and insurance defense. Mary Anne was named to the 2005, 2006 and 2007 *Missouri & Kansas Super Lawyers* in the Medical Malpractice area, in 2007, 2008 and 2009 in the Products Liability area, and also in 2008, 2011 and 2013-2016 in the Personal Injury area. She was also included in the 2010

Corporate Counsel Edition of Super Lawyers, in the area of Products Liability. In 2005 and 2008, she was named as one of the Top 50 Missouri & Kansas Female Super Lawyers. Mary Anne is also a member of the International Association of Defense Counsel (IADC).



She has experience handling the defense of sophisticated medical malpractice cases and medical device, drug and pharmaceutical litigation since 1982. Mary Anne is currently defending multi-party cases in Missouri and Southern Illinois involving more than 350 plaintiffs alleging product liability/failure to warn claims against defendants for talcum powder use allegedly causing ovarian cancer. Her case experience also includes a wide variety of surgical/medical procedures including obstetrics/gynecology, thoracic surgery, radiology and emergency room care. She has handled medical device litigation for Cordis and Sims Deltec, Inc. involving catheters, syringes and chemotherapy pumps. She represented Firemen's Fund-Interstate, Darwin Professional Underwriters, Allied World Assurance Company Ltd., The Doctors Company and Catlin Underwriting in physician, psychologist, nursing and nursing home malpractice cases and has defended cases for Illinois Provider Trust, St. Elizabeth Medical Center and St. Paul Insurance Company. She regularly consulted on risk management matters with Southern Illinois Healthcare which operates four hospitals in southern Illinois and has actively defended those hospitals in malpractice litigation for over 20 years.

Mary Anne also gained a reputation in the products liability field by successfully defending product manufacturers in significant and catastrophic injury cases involving aerial devices, digger derricks, forklifts, tractors, cranes, tank cars, tractor trailers, autos, wheelchairs, helmets, lawn mowers and snow blowers. In addition, she has continued to represent Altec Industries, Inc. throughout Illinois and Missouri on their high exposure products liability cases for 25 years.

Mary Anne's appellate practice includes successful arguments in the Missouri Court of Appeals, Illinois Court of Appeals and Eighth Circuit. Her appellate decision of *Harber v. Altec Industries, Inc.*, established new law in Missouri for product manufacturers who sell equipment "As Is" in Missouri to shield them from strict liability actions. 812 F.Supp. 954 (W.D.Mo. 1993).

Professional Activities

Mary Anne is licensed to practice in the states of Missouri, Illinois and Kansas, and in the United States District Courts for the Eastern and Western Districts of Missouri and Southern District of Illinois.

She is a member of the Missouri Bar Association, the Illinois Bar Association, the Bar Association of Metropolitan St. Louis and the American Bar Association, where she serves on the Commercial Transportation Litigation, Medicine & Law, and Products Liability committees.

Mary Anne is a member of the Defense Research Institute (DRI) and Network of Trial Law Firms (NTLF). She served as former Chairperson of DRI's Scaffolding, Cranes and Aerial Devices (SCAD) subgroup. From July 2009 – July 2011, she served as Vice Chair of Insurance Executives and Corporate Counsel for the IADC Medical Defense and Health Law Committee. Mary Anne has served as IADC Vice Chair for Diversity since July 2012 and was appointed Vice Chair of Trucking and Vice Chair of Membership for the IADC Committee for July 2013 – July 2014. Recently, Mary Anne served as a 2014 Faculty Member for the IADC Trial Academy and currently serves as the IADC 2015 Membership Chair for the State of Missouri, Eastern District. In addition, Mary Anne is a member of the Council on Litigation Management (CLM), the Trucking Industry Defense Association (TIDA) and the National Association of Railroad Trial Counsel (NARTC). Her firm is also a member of the Network of Trial Law Firms. For more information on this organization, please visit www.trial.com.

Mary Anne also serves as the EEOC Chairperson for Sandberg Phoenix.

Education

Mary Anne earned her Juris Doctor, at Washington University in 1982, where she also received the American Jurisprudence Award in 1979-1980 and the Honors Scholar Award in 1980-1981

She earned her Bachelor of Arts, magna cum laude, at Duke University in 1979.

A sampling of Mary Anne Mellow's litigation experience includes:

Benson v. Allen Palmer, et al. Together with John Sandberg and Alex Bean, Mary Anne Mellow obtained a defense verdict in favor of a Gynecologist and his group, who were defendants in a medical malpractice action in January 2015. The case involved an alleged failure to timely diagnose and repair a bowel perforation in a 39 year-old patient who underwent a Laparoscopically-Assisted Supracervical Hysterectomy (LSH), performed by our client, within 24 hours after presenting to the emergency room following her discharge from the original LSH surgery. Plaintiffs sued two Gynecologists and the General Surgeon who were managing the care in the hospital. Both Plaintiffs, the patient and her husband based on his loss of consortium, asked the jury for roughly \$900,000 in closing. All three physicians received defense verdicts.

Burbridge v. Harsco Corporation, et al. In March 2012, Mary Anne, together with partner Mark Prost, tried and won a defense verdict in this case involving a train conductor alleging

permanent eye injuries from shattered glass from a train accident. She also successfully defended the case upon appeal in 2014.

Joseph v. Dr. Carroll. In March 2006, Mary Anne, along with Sig Adler, won a defense verdict on behalf of NCMIC Insurance Company after a 5 day jury trial. A chiropractic cervical adjustment allegedly performed on plaintiff resulted in a vertebral artery dissection, leading to several strokes 35 days later which resulted in permanent peripheral vision loss for this 56 year old truck driver. In closing argument, plaintiff's counsel asked for an award of \$1.2 million. The jury returned a defense verdict in 4 hours, rejecting plaintiff's arguments.

Shaw v. Dr. Charles. In August 2004, Mary Anne second-chaired this complicated medical malpractice action in Macon County, Illinois. Charlie Hughes, of Hughes, Hill & Tenney, served as lead counsel. Plaintiff claimed that following two surgeries by defendant, he first developed a bowel obstruction, then an intermittently draining fistula that has required TPN care for the last six years. The jury returned a verdict in plaintiff's favor but for substantially less than the plaintiff requested. A post-trial motion is pending.

Brawley v. American Isuzu Motors. Mary Anne and Bryan Cavanaugh represented the defendant in this April 2004 trial in St. Louis County. The plaintiff claimed the defendant breached a written and implied warranty in connection with his lease of an Isuzu Rodeo. We negotiated an excellent settlement during the first day of trial.

Blatz v. American Isuzu Motors, Inc. In November, 2003, Mary Anne, with the assistance of Bryan Cavanaugh, won a directed verdict on behalf of American Isuzu Motors in a trial in St. Louis County. Plaintiff leased a 2000 Isuzu Rodeo for three years and the client issued a written warranty with it. Three days after the lease expired, plaintiff filed suit against American Isuzu. After the close of plaintiff's evidence, the court directed a verdict for American Isuzu Motors, finding that plaintiff could not prove several elements of plaintiff's case and that plaintiff failed to provide damages and that plaintiff failed to comply with plaintiff's own requirements under the Isuzu written warranty.

Hayungs v. Memorial Hospital of Carbondale. In July of 2003, she began trial in a medical malpractice case in Jackson County, Illinois, where Mary Anne represented Memorial Hospital of Carbondale. Plaintiff alleged negligence in the failure to diagnose a subarachnoid hemorrhage, resulting in the subsequent death of the plaintiff's wife. The parties entered into a favorable settlement in this case during the first week of trial.

Maurizio v. Memorial Hospital of Carbondale. In June of 2000, Mary Anne represented Memorial Hospital of Carbondale in this six week medical malpractice jury trial in Williamson County, Illinois where plaintiffs alleged physician and nursing malpractice during performance of a hysterectomy which resulted in an injured ureter and significant urological problems. Plaintiff also filed a negligent credentialing action against the hospital for the OB/GYN who performed this surgery and a failure to supervise the physician to restrict his gynecological privileges. After the underlying medical malpractice action was tried and the Court directed a verdict against the defendant OB/GYN, the parties settled during the negligent credentialing phase of the trial.

Bauer v. Gundaker Realtors v. ReMax Gateway. In September 1999, Mary Anne represented ReMax Gateway and Mary Kay Carapella in this real estate malpractice case where plaintiff claimed fraud and negligent misrepresentation for failing to disclose problems with the home's septic tank system resulting in significant repairs after closing and reduction of the home's property value. This case was tried in St. Louis County. The Court directed a verdict in favor of our client at the close of all the evidence.

Hansford v. Memorial Hospital of Carbondale. In April, 1999, Mary Anne represented Memorial Hospital of Carbondale in this premise liability case where a patient exited the Cancer Care Center and fell on a sidewalk sustaining significant hip and ankle fracture injuries. The case proceeded to trial against the hospital resulting in a defendant's verdict.

Granda v. Morgan Engineering. In 1995, Mary Anne defended this products liability action in Madison County, Illinois for her client, Morgan Engineering. Plaintiff claimed the overhead crane installed in Granite City Steel was defective in its design and lack of warning devices. A Madison County jury, after a long trial, returned a defense verdict for her client.

McCray v. Memorial Hospital of Carbondale. In July, 1995, Mary Anne represented Memorial Hospital of Carbondale and resident Dr. Clay Halberg, where plaintiff claimed the failure to diagnose and treat bacterial meningitis resulted in the death of a Southern Illinois University student. This case was tried in Jackson County, Illinois, and the jury returned a defense verdict after a long trial.

Pride Electric v. Dr. Broncato. In 1994, she represented Pride Electric, Inc. in St. Louis County, Missouri. Pride Electric filed suit based upon theories of breach of contract and quantum meruit against the defendant for failure to pay for electrical work performed to his physician office. This bench trial resulted in a plaintiff's verdict for her client.

Rohr v. Memorial Hospital of Carbondale. In 1988, she second chaired this case with Peter von Gontard in Madison County, Illinois where plaintiff claimed an alleged failure to timely diagnose and treat bacterial meningitis. The case settled during the first week of trial.

Lam v. Atlas Tool. In 1986, she served as co-counsel at trial on this product liability case. Plaintiff claimed injuries for an allegedly defective snow blower that a physician plaintiff used during a St. Louis snowstorm. During trial, this case resulted in a favorable settlement.

Speaking Engagements

Mary Anne co-presented on "Admissibility of Traffic Citations in Subsequent Civil Litigation" to the International Association of Defense Counsel in April 2015. She has also presented "Strategic Implications of Joint and Several Liability, Contribution and Indemnity" for the Network of Trial Law Firms at seminars in August 2006 in New York, and again in November 2006 in Palm Beach. In February of 2005, Mary Anne presented "Defending the Electrocutation Lawsuit" at the DRI Products Liability Conference in Los Angeles. She presented a Lorman Education Seminar in 2002, "Confidentiality of Medical Records" in

Fairview Heights, Illinois. She has also presented numerous seminars for Illinois Provider Trust and Memorial Hospital of Carbondale on medical staff and credentialing issues.

Publications

Co-author, "Employee or Independent Contractor? How the Effects of Classification Impact Employer Liability," *IADC Defense Counsel Journal Volume 83, Ed. 1*, January 2016

Co-Author, "General Jurisdiction via State Registration Statute – Consistent with Daimler?" *IADC Product Liability Newsletter*, International Association of Defense Counsel (September, 2015)

Co-Author, "Admissibility of Traffic Accident Citation in Subsequent Civil Suit For Injury," *IADC Transportation Committee Newsletter*, International Association of Defense Counsel (May, 2014)

Co-Author, "Driving Logs: Can Deficiencies Expose Motor Carriers and Their Drivers to Criminal and Civil Liability?," *IADC Transportation Committee Newsletter*, International Association of Defense Counsel (March, 2013)

Contributor, *Missouri Best Practices Guide*, International Association of Defense Counsel (2011)

Contributor, *Missouri Best Practices Guide*, International Association of Defense Counsel (2010)

Co-Author, "Crashworthiness Claims and Comparative Fault," *For the Defense*, Defense Research Institute (2008)

Services Offered

- Product and Toxic Tort Liability
- Personal Injury and Tort Defense
- Medical Malpractice Defense
- Professional Liability
- State Board Disciplinary Proceedings
- Warrantly Litigation
- Fire / Arson Defense

Industries Served

- Heavy Machinery
- Recreational Products
- Hunting and Sporting Goods
- Consumer Products
- Manufacturing / Distribution
- Trucking & Transportation
- Automotive
- Medical Devices
- Drugs and Pharmaceuticals
- Hospitals
- Physicians / Allied Health Professionals
- Long-Term Care and Senior Living