Kelly Martin Malone

Partner
Boston
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PRACTICE AREAS

Construction
Design Professionals
Employment Litigation
Environmental Litigation
General Liability
Premises Liability
Products Liability
Professional Liability
Transportation

EDUCATION

The Catholic University of America, Columbus School of Law, JD, *cum laude*, 1998
American University, BA, Justice, , *cum laude*, 1995

BAR ADMISSIONS

Massachusetts
District of Columbia
Maine
New Hampshire
Vermont
US District Court, District of Maine
US District Court, District of Massachusetts
US District Court, District of New Hampshire
US District Court, District of Vermont

Overview

Kelly Martin Malone has more than 27 years of trial and litigation experience. She represents companies and individuals in numerous areas of the law, focusing on construction law and litigation, professional and general liability, and personal injury matters. Kelly also defends motor carrier owners and leasing companies in transportation-related personal injury litigation. Her experience trying cases before both judges and juries in state and federal courts throughout New England, as well as successfully resolving claims at arbitration and mediation, gives her a sharp judgement for evaluating cases for settlement and verdict value. A former prosecutor, Kelly's extensive trial experience also includes convening numerous grand juries and conducting scores of bench and jury trials, giving her an edge over her competition in the courtroom.

Kelly is one of the leaders of the Design Professionals Litigation Group. She represents owners, construction managers, general contractors, design professionals, subcontractors, and consultants in complex construction disputes, ranging from catastrophic jobsite accidents to multimillion-dollar cost overrun disputes. She assists clients with drafting and negotiating construction contracts. She represents insurance companies and their insureds accused of tort claims, as well as businesses involved in commercial disputes, and helps defendant-clients and their insurers set litigation budgets and reserves. She advises clients on risk management and insurance issues, and helps companies draft and implement employment, safety, and policy and procedure manuals. She also helps businesses defend discrimination claims and with other employment issues.

For more than 15 years, Kelly has served as counsel for a Fortune 50 home improvement retailer where she has defended the client against hundreds of general and product liability claims and lawsuits throughout New England.

Prior to joining MG+M, Kelly was a shareholder at a New England law firm, where she oversaw the firm's Boston office and chaired its Construction Law Department. She also has previous public-sector experience, having served as an Assistant District Attorney in the Suffolk County District Attorney's Office in Massachusetts and as an Assistant

State's Attorney in the Cook County State's Attorney's Office in Illinois.

When not serving her clients, Kelly serves her community by volunteering and fundraising for several charitable organizations, including Mothers Against Drunk Driving, the Jimmy Fund, and the American Heart Association, while also serving on the boards of two educational scholarship funds. She has a long history of coaching, volunteering, fundraising and serving on the board of multiple local youth sports leagues in her community.

Experience

+ Obtained a large settlement in a medical malpractice lawsuit where the client's biliary system was severely damaged during a failed gallbladder surgery.
+ Won a federal court jury verdict on behalf of a national retailer & ladder manufacturer accused of negligence/breach warranty in a $3.25M demand case involving a plaintiff left permanently injured after falling off a ladder.
+ Won a jury verdict on behalf of a national retailer accused of defamation, negligence & emotional distress by a former employee terminated for suspected theft.
+ Won a defense verdict on behalf of a construction management firm accused of negligence in constructing a wastewater treatment facility, including winning a breach of contract counter-claim resulting in client's recovery of unpaid contract balance, fees and litigation costs.
+ Won a jury verdict on behalf of two well known Massachusetts construction companies accused of negligence following a jobsite accident.
+ Won a jury verdict on behalf of a restaurant accused of battery and negligence.
+ Obtained a $4.5M settlement for a client left permanently disabled following a construction site accident
+ Obtained a $500,000 settlement for a client who was permanently injured in a motor vehicle accident following a house party where the driver consumed alcohol.
+ Successfully settled a lawsuit filed by a demolition subcontractor client against a general contractor to recover $600,000 in unpaid fees on a new school project.
+ Won a summary judgment and recovered litigation costs for a national retail store whose employee was accused of hitting a customer with her vehicle while working.
+ Won a summary judgment and the recovery of litigation costs on behalf of a residential construction and inspection company accused of deficient home inspection resulting in $200,000 in damages.
+ Won a summary judgment on behalf of an architectural firm in a case alleging the negligent design of a college laboratory resulting in exposure to toxic fumes.
+ Won a summary judgment on behalf of a space heater manufacturer in a wrongful death case.
+ Won a summary judgment on behalf of a homeowner accused of

overserving a guest involved in a motor vehicle accident.
+ Won summary judgment in a dental malpractice case after arguing that the statute of limitations barred claim.
+ Won a judgment of dismissal on behalf of a roofing contractor accused of negligence after arguing that the statute of repose barred the claim.
+ Successfully obtained the dismissal of a racetrack sued by a jockey who sustained a spinal cord injury resulting in paralysis after falling from a horse during a race.
+ Won a favorable ruling from a medical malpractice tribunal resulting in the plaintiff dismissing her client from a case involving spinal injury and paralysis.
+ Successfully sued a municipality for failing to renew a clients' moped rental licenses.
+ Represented a commercial property owner before the Massachusetts Commission Against Discrimination in a sexual harassment and discrimination claim by a former employee.
+ Represented a restaurant owner charged with violating the Americans with Disabilities Act.
+ Represented three design professionals in a claim for $188 million arising from services provided on the New York railway system expansion project.
+ Represented an engineering firm that designed a hospital expansion and renovation project in a $14 million construction defect case.
+ Represented an architectural firm in a claim by a municipality seeking $15 million in cost overruns arising from the design and construction of school.
+ Obtained dismissals of three separate actions filed against a general contractor and related companies, where the claims included negligence, breach of contract, defamation, fraud and deceit, slander, c. 93A and c. 176D violations, and civil rights violations.
+ Obtained the voluntarily dismissal of a suit filed by a publisher against a top Canadian book printer.
+ Successfully defeated a motion for summary judgment filed by an employee against their employer in a suit to recover for injuries the employee sustained when injured in a motor vehicle accident after drinking alcohol at a company holiday party.
+ Represented an attorney accused of legal malpractice.
+ Represented a financial services company in a suit to recover $5 million in unpaid brokerage fees.
+ Represented a national restaurant chain in a suit against an insurance broker and agent to recover $1 million in fraudulent billing.
+ Represented a genetic testing facility in a wrongful birth case.
+ Represented an out-patient mental health facility in a wrongful death suit.

Recognition

+ Leadership Team, MG+M Law, Design Professionals Litigation Group
+ Nominated to International Association of Defense Counsel, 2022
+ Fellow, Construction Lawyers Society of America

Involvement

- Member, Boston Bar Association (BBA), Construction Law Committee
- Member, Society of Construction Law NA, New England Region
- Member, National Association of Women in Construction (NAWIC), Boston Chapter
- Member, Professional Women in Construction (PWC), Boston Chapter
- Member, Professional Liability Underwriting Society (PLUS)
- Member, Claims & Litigation Management Alliance (CLM)
- Member, American Bar Association (ABA), Forum on Construction Law
- American Council of Engineering Companies (ACEC), National & MA
- American Society of Civil Engineers (ASCE)
- International Association of Defense Counsel
- PLUS Foundation Women's Leadership Network
- Associated Subcontractors of Massachusetts (ASM)
- Massachusetts Building Congress (MBC)
- Associated Builders & Contractors (ABC), Boston Chapter
- Boston Association of Claims Examiners (BACE)
- Massachusetts Defense Lawyers of America (MDLA)
- Massachusetts Bar Association (MBA)

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