



## Kevin J. Visser

*Member*

### *Contact*

Direct: (319) 896-4059

Location: Cedar Rapids

Fax: (319) 366-1917

Email: [kvisser@spmblaw.com](mailto:kvisser@spmblaw.com)

### **PRACTICE AREAS**

Appellate Advocacy

Business and Commercial  
Litigation

Labor and Employment Law

Antitrust and Trade Regulation

Transportation Law

Agriculture Law

Professional Liability Defense,  
Licensure and Credentialing

Probate, Estate and Trust  
Litigation

Kevin Visser tries cases to juries and judges and handles the appeals from such decisions, as demonstrated in the public record, noted below. Of the 150 federal cases where he has served as lead counsel, and several hundred more in state courts, 70+ have been tried to verdict or judgment in 22 Iowa counties and five federal judicial districts, resulting in judgments, stock awards, or verdicts for firm clients of more than \$77,000,000 in 14 of these cases - several of which involved prevailing defendants. In excess of 30 appellate decisions have followed these trials, divided between the Iowa appellate courts and the United States Court of Appeals. Substantive issues in these cases primarily involve business torts, shareholder disputes, ownership or use of intellectual property (including trade secrets and fair competition questions) and employment issues (including class actions). Industries in which these cases have arisen vary from manufacturing, renewable energy, insurance, finance, transportation, retail, the legal profession, franchising, organized labor and agriculture.

For the firm's clients that remain union organized, Mr. Visser has served as lead negotiator for more than 20 collective bargaining agreements and attendant issues which have arisen regarding unionized employment.

Mr. Visser's work for clients has been consistently recognized by peers in Chambers USA®, The Best Lawyers® in America and Super Lawyers. He is also an AV Rated attorney with Martindale-Hubbell®. Mr. Visser's professional affiliations included the Iowa Academy of Trial Lawyers, the American Board of Trial Advocates, and the Mason Ladd Inn of Court. He is a member of the American Bar Association (ABA), the Iowa State Bar Association (ISBA), the Linn County Bar Association (LCBA), and the AGC Labor Lawyers Council. Mr. Visser was a member of the United States Magistrate Judge Merit Selection Panel for the United States District Court for the Northern District of Iowa in 2014 and 2016.

Mr. Visser regularly presents to public and private groups on topics related to business or employment trial practice. He is the firm's primary contact with the USLAW Network and

serves on the firm's Board of Directors.

## Bar Admissions

- Iowa Supreme Court, 1980
- State of Iowa

## Court Admissions

- US District Court
  - Northern & Southern Districts of Iowa, 1981
- US Court of Appeals
  - Eighth Circuit, 1986
- United States Supreme Court, 1986

## Education

- University of Iowa College of Law, JD, 1980
- Central Missouri State, BS, 1978
  - Economics
  - Flippen Award: Outstanding Undergraduate

## Honors & Awards

- Included in the Best Lawyers in America® list, 2022
  - Bet-the-Company Litigation, Commercial Litigation, Employment Law - Management, Labor and Employment Litigation, Antitrust Law, Appellate Practice
- Included in the Best Lawyers® "Lawyer of the Year" list for Cedar Rapids
  - Bet-the-Company Litigation, 2021
  - Employment Law - Management, 2015
- AV Rating by Martindale-Hubbell®
- Ranked in Chambers USA, 2010-2021
  - Labor & Employment
    - Kevin Visser is recognized as a top labor and employment attorney and has experience with complex commercial litigation. One source comments: "Kevin Visser is particularly notable for his experience in employment litigation." Peers also describe him as an "outstanding litigator and a very effective judge and jury trial lawyer."

-- *Chambers USA*

- Litigation: General Commercial

- "Kevin Visser is a notable trial lawyer with experience advising clients on disputes involving breach of contract, misappropriation of trade secrets and other business torts. He provides a skillful handling of class action lawsuits."

--*Chambers USA*

- Included in Great Plains Super Lawyers list, 2007, 2009-2021
  - Business Litigation
- Included in Super Lawyers Top 10 Attorneys in the State of Iowa, 2014

## Professional Affiliations

- American Bar Association
  - Law Practice Section
  - Labor & Employment Law Section
  - Litigation Section
  - Division Membership in Senior Lawyers
- Iowa State Bar Association
  - Litigation Section
  - Labor and Employment Section
- Linn County Bar Association
- American Board of Trial Advocates (ABOTA)
- Iowa Academy of Trial Lawyers
- Dean Mason Ladd American Inn of Court
- AGC Labor Lawyers Council
- USLAW NETWORK, Inc.
- United States Magistrate Judge Merit Reappointment Panel for the United States District Court for the Northern District of Iowa, 2003 & 2014
- United States Magistrate Judge Merit Selection Panel for the United States District Court for the Northern District of Iowa, 2016

## Representative Experience

### **Sellars, et al. vs. CRST Expedited, Inc., No. C15-117 (N.D. Iowa 2019)**

- After decertifying a putative 300-woman sex harassment class action, the Iowa federal court granted summary judgment on a class action where claimants asserted that a diminution in their pay when promptly removed from reportedly

hostile workplaces was retaliatory. The court also dismissed the claims of the three named plaintiffs on their hostile work environment claims.

**Sharon Bertroche, M.D., et al. v. Mercy Physician Associates, Inc., No. 1:18-cv-59 (N.D. Iowa 2019)**

- After the district judge decertified a collective action by female physicians under the Equal Pay Act, a jury entered a verdict rejecting the lead plaintiff's claim that a hospital physicians group's pay formula was at a rate which differentiated on the basis of the gender of the physician performing services.

**CRST Expedited, Inc. v. Swift Transportation Co. of Arizona, LLC, No. 17-cv-25 (N.D. Iowa 2019)**

- A federal jury returned a \$15,500,000 verdict on the business tort and unjust enrichment claims of a company which invested in training and qualifying drivers against a competitor which elected to misappropriate the use of 246 drivers' labor prior to the expiration of their ten month agreement to refrain from driving for companies which neither paid for their qualification nor a liquidated sum which would satisfy the obligation.

**Tina Haskenhoff v. Homeland Energy Solutions, LLC, No. LACV003218 (Ia. Dist. Ct. 2019)**

- On remand from the Iowa Supreme Court, a Chickasaw County jury found, upon admission of liability for an underlying hostile work environment, that an ethanol plant's officers had not constructively discharged a complaining lab manager.

**Parker v. Platinum Services Inc. n/k/a Platinum Supplemental insurance, Inc., No. LACV106241 (Ia. Dist. Bus. Ct. 2019)**

**Jury Verdict and Judgment Entry Order**

- In the Iowa Business Specialty Court, after a multi-week trial a jury rejected the claims of a former sales executive, and returned a counterclaim verdict against him of nearly \$1,000,000 for his misappropriation of its trade secrets in using customer information and developing a product with a national insurance company to compete contrary to his agreement.

**Tina Haskenhoff v. Homeland Energy Solutions, LLC, No. 15-0574 (Iowa Supreme Court 2017)**

- Iowa Supreme Court reversed the 2015 order of a trial judge denying Homeland Energy, LLC a new trial based upon improper instructions of law requested by the

Homeland's former lab manager. The Court's 173-page, three-opinion ruling vacates a \$2.5MM judgment and announces the elements of Iowa law on a sexually hostile work environment, the standard for retaliation claims, and constructive discharge.

**Busse, et al. v. Busse, et al., No. LACV083022 (Ia. Dist. Bus. Ct. 2017)**

**Findings of Fact, Conclusion of Law, and Judgment Entry**

- Jury rejects 14 theory Petition by disappointed shareholders and beneficiaries and court orders return of voting control of commercial real estate firm to its benefactor and managing director.

**Dubuque Injection Service Company, Inc. v. Kress (Iowa Court of Appeals 2017)**

- Appellate Court refuses to order new jury trial for managing shareholder's misappropriation of corporate funds after trial judge allows evidence of a non-party's extraneous litigation to discredit closely-held business' claims.

**Bruening Rock Products v. Hawkeye International Trucks (Iowa Court of Appeals 2015)**

- \$1.4MM jury verdict for failure to provide 74,000 lb. GVWR mining trucks reinstated by Court of Appeals, reversing post-trial grant of directed verdict.

**Branimir Catipovic v. Mark Turley, No. C11-3074 (N.D. Iowa 2014)**

- Jury verdict in favor of promoter of first American-style ethanol plant in Europe for unjust enrichment in the amount of \$2,000,000.

**LaRhonda Austin v. CRST Expedited, Inc., No. C13-91 (N.D. Iowa 2015)**

- Jury verdict against driver on her state and federal claims of sexual harassment, constructive discharge, and punitive damages, and for employer on its counterclaims.

**J. Richard Ransel, Trustee of the Estate of John Kaufman v. CRST Dedicated Services, Inc., No. 2:10-cv-466 (N.D. Ind. 2015)**

- Jury verdict and judgment in favor of trucking employer on Plaintiff's FMLA interference claim and FMLA retaliation claim. Plaintiff's Indiana retaliatory discharge claim dismissed on directed verdict. Summary judgment previously entered on 03/24/2014 in favor of Defendant and against Plaintiff on Plaintiff's ERISA interference claim and Indiana Wage Claims statute claim.

**Front Range Equine Rescue, et al. v Tom Vilsack, Secretary U.S. Department of Agriculture, et al, No. 13-2187 (10th Cir. 2013)**

- Court of Appeals denies animal rights activists' efforts to enjoin Iowa equine abattoir entrepreneurs.

**Jackson and Adams v CRST Expedited, Inc., No. LACV73594 (Ia. Dist. Ct. 2014)**

- Jury verdict against drivers on their public policy discharge claims and for employer on its counterclaims, including fee award.

**St. Malachy Roman Catholic Congregation of Geneseo, Illinois, et al. v Robert W. Baird & Co., Inc., et al, \_\_N.W.2d \_\_ (Iowa 2013)**

- Iowa Supreme Court applies duty to carry out transfers to intended beneficiaries to a decedent's financial advisors as well as his lawyers.

**American Family Mutual Insurance Company v Hollander, 705 F.3d 339 (8th Cir. 2013)**

- Appellate court affirms \$343,000 2011 jury verdict plus more than \$300,000 in attorney fees and costs for defendant independent insurance agent sued by financial institution.

**Art's Way Vessels, Inc., 358 NLRB No. 142 (2012)**

- NLRB adopts employer's backpay measure, affirming ALJ decision rejecting Peoria Regional Director's overreaching proposed measure.

**Arthur Harris v. CRST Van Expedited, Inc., No. 13-cv-119 (N.D. Iowa 2015)**

- Jury verdict for employer against driver on his FMLA claims.

**Robert F. Kazimour Co. v West Side Unlimited Corp., 820 N.W.2d 159 (Iowa App. 2012)**

- Court of Appeals affirms 2010 arbitration award in favor of defendant acquiring entity in failed merger.

**Eastman v Homeland Energy Solutions, LLC, 837 N.W.2d 681 (Iowa App. 2013)**

- Iowa Court of Appeals refuses to extend public policy retaliation protection to employee who complained of ethanol plant's director election proceedings.

**EEOC v CRST, 670 F.3d 897, 679 F.3d 657 (8th Cir. 2012)**

- Appeals court vindicates district court's summary judgment rulings rejecting EEOC systemic sex harassment claims and sets aside, without prejudice, a \$4.5 million attorney fee award to prevailing defendant.

**U.S. Bank, N.A., Executor of the Estate of Michael G. O'Donnell, Sr., Deceased, vs. Johnson Gas Appliance Company, Inc., No. LACV061704 (Ia. Dist. Ct. 2011)**

- District judge rejects exaggerated stock redemption value advanced by deceased shareholder's expert and orders stock redemption to be specifically performed.

**Brown v McGraw-Hill, 526 F. Supp. 2d 950 (N.D. Iowa 2007)**

- As noted in this award of defense costs, jury rejected \$2.8MM claim for business torts and contract breach associated with earn-out and employment provisions of the acquisition of a reading company by an industry leader.

**Estate of Frink v Flowerama et al— 725 N.W.2d 658 (Iowa Ct. App. 2006)**

- Iowa Court of Appeals affirms grant of summary judgment in favor of franchisor and its officers and against claims of estate of majority shareholder that contractual term "book value" meant "fair market value" of shares and ordering redemption of shares at contract price.

**Bodnarek et al v BRK Wireless (S.D. Iowa, 2005)**

- Judge rejects former managers' tort claims limiting wireless firm's liability to former managers to unpaid contractual wages in weeklong jury trial.

**Iowa Midland Supply v Mid-Iowa Tool (Iowa District Court, Linn County, 2005)**

- Jury rejects claims of competitor that tool supplier unfairly interfered with customer relationship of plaintiff and the former Amana Refrigeration.

**Diamond v Midwest Agric. Warehouse Co., 2004 Iowa App. LEXIS 435 (Iowa Ct. App. 2004)**

- Appellate court affirms district court's six figure award to agricultural products distributor on its counterclaim against its former salesman, and further affirms failure of salesman's claim.

**BBSerCo v Metrix, 324 F.3d 955 (8th Cir. 2003)**

- Appellate panel affirms blood serum harvester and distributor's six figure jury verdict for compensatory and punitive damages against slaughterhouse for fraud.

**McGrane v Saks, Inc., 36 Fed. Appx. 568 (8th Cir. 2002)**

- Panel affirms six figure sex discrimination jury verdict against publicly owned retailer on behalf of experienced saleswoman.

**Iverson v Johnson Gas Appliance Co. (U.S. D.C., Minnesota, 2000)**

- Following 8th Circuit reversal of grant of motion to dismiss, Minnesota federal jury rejects claims of manager of fireplace retail outlet for breach of contract and business torts, seeking compensatory and punitive damages.

**S & W Agency, Inc., et al v Foremost Insurance Company, et al, 51 F. Supp.2d 983 (1998), aff'd, No. 98-2132 (8th Cir. 1999)**

- Iowa insurance agent twice obtains multi-million dollar judgment on fraud, contract, and trade secret theories against publicly owned insurance company, affirmed by appellate court.

**Berg v Norand Corp., 169 F.3d 1140 (8th Cir. 1999)**

- Appellate panel affirms grant of summary judgment to employer on former controller's ADA claim.

**Kim v Nash Finch, 123 F.3d 1046 (8th Cir. 1997)**

- Iowa jury awards \$8.7MM to Korean-born warehouse leadman on multiple claims of failure to promote and retaliation under Section 1981 and Title VII in one of the first jury trials under the 1991 Civil Rights Act. Trial court additionally awards promotion and attorney fees. On appeal, court holds that district court improperly imposed Title VII's damage caps to plaintiff's verdict.

**Moore Business Forms v Wilson, 1996 U.S. App. LEXIS 33854 (8th Cir. 1996)**

- Federal Court of Appeals affirms then-District Judge Michael Melloy's grant of injunctive relief on behalf of business forms manufacturer and distributor against husband and wife former employees who violated terms of contractual post-employment restrictions on soliciting manufacturer's customers.

**EEOC v Cherry-Burrell Corp., 35 F.3d 356 (8th Cir. 1994)**

- Circuit Court affirmed portions of district court's Equal Pay Act award to buyer of carton-manufacturer.

**Palen v Gannett (Iowa District Court, Linn County, 1994)**



- Jury verdict for television station on sales executive's claims for breach of contract and employment torts after 3 week trial.

**Cedar Valley Corp v NLRB, 1992 U.S. App. LEXIS 31322 (8th Cir. 1992)**

- Appellate court refuses to grant petition of employer who Labor Board assessed with liability under a long-dormant Section 8(f) construction labor agreement.

**Diversified Fastening Services v Rogge, 786 F. Supp. 1486 (N.D. Iowa 1991)**

- District court enjoins fastener distributor's former employee under Iowa's UTSA.

**United States v Vogt, 901 F.2d 100 (8th Cir. 1990)**

- Appellate panel affirms refusal of district court to allow government to revoke plea agreement after it has knowingly taken advantage of its benefits.

**Norand v Parkin, 785 F. Supp. 1353 (N.D. Iowa 1989)**

- District Court enjoins marketing executive with no non-competition agreement from threatened inevitable disclosure of tech firm's rival under authority of Iowa's Uniform Trade Secrets Act.

**Teamsters Local 238 v CRST, Inc., 795 F.2d 1400 (8th Cir. 1986) (en banc)**

- En banc court reverses divided panel addressing extent to which employer may impose unilateral terms and conditions of employment on labor union members, post-impasse and after expiration of collective bargaining agreement, and affirms District Court's full granting of summary judgment for employer.

## News & Events

### 2021

- Best Lawyers® 2022, 08/19/2021
- SPMB Listed in Chambers USA 2021, 5/20/2021

### 2020

- Best Lawyers In America Recognizes 37 SPMB Attorneys, 08/20/2020
- 2020 Great Plains Super Lawyers Announced, 07/31/2020
- Chambers USA 2020 List Announced, 05/08/2020