

Steven M. Badger

Profile

Steve Badger is a partner in the Bose McKinney & Evans Litigation Group. Mr. Badger represents clients in commercial and complex business litigation matters and appeals. His litigation experience includes First Amendment and media law cases, defamation and class action defense. He also handles matters involving business torts, fraud and malfeasance in corporate and consumer transactions, as well as defense of accountants and attorneys against claims of professional negligence and misconduct. He also represents clients on issues of corporate governance, fiduciary duties of directors, officers, shareholders and trustees, commercial contracts and insurance coverage litigation. In addition, he has handled employment litigation matters, including discrimination, trade secrets and covenants not to compete. He is a member of the American, Seventh Circuit, Indiana and Indianapolis Bar Associations. Mr. Badger is a former chair of the Indiana State Bar Association's Civil Rights of Children Committee, member of Indianapolis Law Club and former member of Second Indiana Conclave on Legal Education. He earned a bachelor of arts degree from Wabash College and his law degree from the Indiana University School of Law in Bloomington. During law school he was a managing editor of the *Indiana Law Journal*.

Education

Indiana University School of Law - Bloomington (J.D., *summa cum laude*, 1992)
Wabash College (B.A., *summa cum laude*, 1987)

Honors / Awards

The Best Lawyers in America® 2008 - 2010 Commercial Litigation; *The Best Lawyers in America*® 2009 - 2010 First Amendment Law; *Indiana Super Lawyers*® 2009 (Business Litigation); AV Rated by Martindale-Hubbell; Order of the Coif; Phi Beta Kappa

Representative Matters

First Amendment and Media Law

WTHR-TV v. Cline, 693 N.E.2d 1 (Ind. 1998) (case of first impression on the protections afforded the media for unpublished and unbroadcast material subpoenaed by a litigant; adopted a modified version of the qualified privilege)

WTHR-TV v. Milam, 690 N.E.2d 1174 (Ind. 1998) (amicus) (companion case to *Cline*; quashed subpoenas to television stations seeking outtakes of jailhouse interview)

Containment Technologies Group, Inc. v. American Society of Health-System Pharmacists, et al., 2009 U.S. Dist. LEXIS 25421 (March 26, 2009) (granting summary judgment and awarding attorneys' fees and defense costs to client who authored medical journal article alleged by the plaintiff to be defamatory and disparaging of a medical device plaintiff manufactures).

Containment Technologies Group, Inc. v. American Society of Health-System Pharmacists, 2008 U.S. Dist. LEXIS 80688 (S.D. Ind. Oct. 10, 2008) (discovery ruling on scope and other terms of protective order in defamation lawsuit against authors and publisher of peer-reviewed journal article reporting findings of scientific study of medical equipment)

Antitrust and Complex Commercial Litigation

Hoosier Energy Rural Electric Cooperative, Inc. v. John Hancock Life Ins. Co., 588 F. Supp. 2d 919, (S.D. Ind. Nov. 25, 2008) (granting a preliminary injunction temporarily halting enforcement of credit default swap triggered by event of default in complex \$120 million financing transaction)

Hoosier Energy Rural Electric Cooperative, Inc. v. John Hancock Life Ins. Co., 2008 U.S. Dist. LEXIS 100353 (S.D. Ind. December 11, 2008) (addressing the appropriate amount and type of security necessary to satisfy the bond requirement of Rule 65(c) of the Federal Rules of Civil Procedure)

In re Ready-Mixed Concrete Price-Fixing Litigation, 2006 U.S. Dist. LEXIS 71874 (S.D. Ind.) (denying a defendant's motion to dismiss price-fixing claims of putative class as untimely and barred by the statute of limitations)

Hendrickson v. Alcoa Fuels, 735 N.E.2d 804 (Ind. Ct. App. 2000) (preclusive effect of prior judgment barred contract and fraud claims of property owners against mining companies for royalties allegedly due under coal lease)

Prime Vision Health, Inc. v. Indiana Eye Clinic, P.C., 2000 U.S. Dist. LEXIS 9893 (S.D. Ind.) (arbitrator acted within his authority in deciding dispute about terms of a settlement agreement when the only arbitration provision between the parties was contained in an earlier agreement that was the subject of the original (settled) dispute)

Employment, Covenants Not-To-Compete and Civil Rights Litigation



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**Indiana University School Of
Law - Bloomington**

Admissions

Indiana

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Flying J Inc. v. City of New Haven, 2008 U.S. Dist. LEXIS 35535 (N.D. Ind. April 28, 2008) (granting municipality's motion to dismiss complaint alleging equal protection "class of one" violation arising from city's enactment of zoning ordinance), aff'd 549 F.3d 578 (7th Cir. 2008)

Adams v. Indiana Bell Telephone Co., 2 F. Supp. 2d 1077 (S.D. Ind. 1998) aff'd in part and reversed in part, *Adams v. Ameritech Services Inc.*, 231 F.3d 414 (7th Cir. 2000) (District Court granted summary judgment of age discrimination and ERISA claims arising from a downsizing based, among other things, on Plaintiffs' irrelevant and inadmissible statistical evidence; the Seventh Circuit affirmed the dismissal of the ERISA claims)

After an evidentiary hearing, the Hamilton County Circuit Court granted a preliminary injunction against two former employees of an insurance brokerage firm. The injunction enforced the employees' non-competition and confidentiality agreements.

Insurance Litigation

Freidline v. Shelby Insurance Co., 774 N.E.2d 37 (Ind. 2002) (amicus) (reversing judgment against insurance carrier for bad faith denial of coverage under pollution exclusion but affirming that carrier was obligated to defend and indemnify policyholder)

Allstate Insurance Co. v. Dana Corporation, 759 N.E.2d 1049 (Ind. 2001) (amicus) (general liability policies did not cover damages from contaminated groundwater on policyholders' property, but later policies encompassed such coverage which was not excluded by owned property exclusion at least as to third-party damages claims; denied coverage for wrongful eviction and invasion of privacy under CGL; also analyzed CGL coverage for "all sums caused by an occurrence," including damages occurring after the policy period and other issues)

American States Insurance Co. v. Kiger, 662 N.E.2d 945 (Ind. 1996) (amicus) (question of first impression under Indiana law regarding application of the pollution exclusion to environmental damages caused by leaking underground storage tanks, and concluding that pollution exclusion was ambiguous as applied to gas station's leaking storage tanks)

Seymour Manufacturing Co. v. Commercial Union Insurance Company, 665 N.E.2d 891 (Ind. 1996) (amicus) (companion case to *American States Insurance Co. v. Kiger*)

City of South Bend v. Century Indemnity Co., 821 N.E.2d 5, clarified on rehearing, 824 N.E.2d 794 (Ind. Ct. App. 2005) (amicus), trans. denied (environmental claims by municipality against insurers of dissolved, corporate policyholder could proceed directly against insurers under an exception to the direct action rule)

Hartford Accident & Indemnity Co. v. Dana Corporation, 690 N.E.2d 285 (Ind. Ct. App. 1997) (amicus), trans. denied (in action against insurer seeking defense and indemnity coverage for CERCLA environmental claims, adversarial EPA proceedings constituted "suits" triggering duty to defend, but less coercive administrative actions did not)

Great Lakes Chemical Corporation v. International Surplus Lines Insurance Co., 638 N.E.2d 847 (Ind. Ct. App. 1994) (amicus), trans. denied (pollution exclusion did not preclude coverage of claims against policyholder for environmental damages caused by policyholder's chemical product)

Trinity Homes LLC v. Ohio Casualty Insurance Co., 2007 U.S. Dist. LEXIS 24370 (S.D. Ind.) (denying motion for partial summary judgment to policyholder because of material fact regarding insurers' duty to defend the policyholder home builders from mold claims)

Trinity Homes v. Regent Ins. Co., 2006 U.S. Dist. LEXIS 24017 (S.D. Ind.) (denying insurers' motion to bifurcate for purposes of discovery and trial the policyholders' claims of coverage and bad faith)

Other Reported Decisions

Barber v. Cox Communication, 629 N.E.2d 1253 (Ind. Ct. App. 1994), trans. denied (trial court correctly permitted jury to allocate fault to settling defendant for purposes of allocating fault under Indiana's Comparative Fault Act)

Appearances / Publications

Speaker: "Top 6 Trial Skills You Need To Know" (National Business Institute, October 2009); Electronic Discovery Podcast "What To Do If a Judge Lets You Down in an E-Discovery Case" (www.esibytes.com, 2009); "Online Ethics" (AP Managing Editors Conference, 2008); "E-Discovery Issues in Employment Litigation" (Indiana Continuing Legal Education Forum, 2007); "Public Access Boot Camp" (Indiana State Bar Association, 2007); "Federal Litigation Update" (Lorman Educational Services, 2002); "Law School for Journalists" (Indiana State Bar Association, 2001)

Appointments / Memberships

Member: Indianapolis Association of Wabash Men (Board of Directors); Indiana Business Network (2009); Indiana State Bar Association, Member of planning committee for the Summit of Racial Disparities in the Juvenile Justice System (2009); Indianapolis, Indiana State, Seventh Circuit and American Bar Associations; Indianapolis Law Club; IPS School 20 (mentor); Stacy Toran Foundation (Board of Directors); Wabash College Alumni Association (Zionsville Community Day chairman, 2009); Indiana State Bar Association's Civil Rights of Children Committee (chair, 2004-2006); Children, Mental Health & the Law Summit (2005); Marion County Board of Zoning Appeals (2001-2005); Second Indiana Conclave of Legal Education (2002)