

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. Mr. Badger's litigation practice focuses on business disputes, frequently those involving competition in regulated and unregulated industries in which his background in economics is advantageous. Mr. Badger's litigation experience has included, for example:

- regulation of competition, including federal and state antitrust laws and by administrative bodies in regulated industries
- covenants not to compete, trade secrets and confidentiality obligations related to an employment relationship or sale of a business
- unfair competition, trademark infringement, copyright infringement,
- contract disputes, termination of distributors and franchisees, corporate governance (including fiduciary duties of directors, officers and majority shareholders)
- business valuation issues arising, for example, in fraudulent transfer cases, securities cases, commercial transactions and complex divorce cases

Mr. Badger also regularly handles cases involving insurance law and professional negligence, including representation of insurance brokers, lawyers and accountants. He also represents media organizations, journalists and writers in litigation involving defamation, media law and First Amendment rights of access and newsgathering.

Mr. Badger is a member of the American, Seventh Circuit, Indiana and Indianapolis Bar Associations. He 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. Both degrees were awarded *summa cum laude*. 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 - 2011 (Commercial Litigation); *The Best Lawyers in America*® 2009 - 2010 (First Amendment Law); *Indiana Super Lawyers*® 2010 (Business Litigation); AV Rated by Martindale-Hubbell; Order of the Coif; Phi Beta Kappa

Representative Matters

Complex Commercial Litigation and Antitrust

Successfully obtained a stay from the Marion Superior Court in administrative appeal against client's competitor in a regulated industry on grounds of anti-competitive conduct in violation of state laws. (Unreported, January 2010)

Summary judgment granted in favor of clients who were directors from whom contribution and indemnity was sought by co-director for state-law securities violations. (Indiana Court of Appeals, July 27, 2010) (unreported)

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), modified on appeal 582 F.3d 721 (7th Cir. Sept. 17, 2009)

Mennen v. Onkyo Corporation, U.S. Dist. Ct., S.D. Fla. (Feb. 2006) (obtained directed verdict for the defendant in two-week jury trial on lender's claims of fraud and negligent misrepresentation in financing purchase of business), affirmed by the United States Court of Appeals, 248 Fed. Appx. 112 (11th Cir. 2007)

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)

Litigation Involving Business Valuations



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**Indiana University School Of
Law - Bloomington**

Admissions

Indiana

United States Court of Appeals for
the Seventh Circuit

United States District Court for the
Eastern District of Michigan

United States District Court for the
Northern District of Indiana

United States District Court for the
Southern District of Indiana

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Obtained ownership and control of private real estate businesses for wife in divorce case in which the businesses were the primary contested marital assets. (Unreported, June 2010)

After 14-day bench trial, bankruptcy court judge entered \$ 6.1 million judgment in fraudulent transfer case in which \$13 million had been sought. In re *Global Technovations, Inc.*, 2010 WL 2671706 (U.S. Bank. Ct., E.D. Mich., July 2, 2010)

First Amendment and Media Law

Containment Technologies Group, Inc. v. American Society of Health-System Pharmacists, et al., 2009 U.S. Dist. LEXIS 25421 (March 26, 2009) (obtained summary judgment and the award of attorneys' fees and defense costs for an author of a medical journal article sued for defamation by a medical device manufacturer whose device was the subject of the article).

Negotiated reinstatement of media credentials for journalist whose credentials had been revoked by athletic organization for allegedly violating that organization's media policy (October 2009)

WTHR-TV v. Cline, 693 N.E.2d 1 (Ind. 1998) (represented television station in case of first impression in Indiana 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)

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

After an evidentiary hearing, successfully obtained a preliminary injunction from the Hamilton County Circuit Court against two former employees of an insurance brokerage firm. The injunction enforced the former employees' non-competition and confidentiality agreements. (Unreported, June 2009)

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)

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)

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)

Appearances / Publications

Speaker: "Successfully Navigating the Appeals Process" (NBI Seminar, 2010); "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)

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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)