



**Ernest Summers**

Partner

Ernest Summers is a Partner in the Global Litigation and Insurance Recovery practice in Howrey's Chicago office.

Mr. Summers has extensive experience in both corporate and private practice, concentrating largely on complex litigation. He has handled numerous cases on behalf of policyholders in many types of insurance recovery claims and litigation as well as cases involving antitrust, licensing and distribution, securities fraud and other shareholder disputes, mass toxic tort and many other areas of commercial litigation.

In the area of insurance coverage, Mr. Summers focuses on litigation and counseling regarding general liability insurance, environmental impairment liability insurance, asbestos coverage, director and officer liability insurance, legal and medical malpractice, first party property, all-risk coverage, business interruption, workers compensation, insurance archaeology, policy interpretation and insurer notice correspondence.

Mr. Summers' experience also includes many federal class actions and international distribution disputes involving the Hague Convention. Mr. Summers successfully tried the first US case interpreting the antitrust laws of the European Community. Additional experience includes general commercial litigation matters, general corporate and transactions matters, ethics and compliance, and consumer products packaging, advertising and marketing.

Mr. Summers is also a frequent speaker on business litigation, insurance claims and other subjects.

**REPRESENTATIVE MATTERS**

- *American Medical Security, Inc. v. Executive Risk Specialty Insurance Co.* Serves as lead counsel for American Medical Security, Inc., a managed care health organization, in litigation under its errors and omissions insurance policies regarding coverage for numerous disputes involving health insurance premiums, life insurance conversion rights and other liability claims.
- *Executive Risk Insurance Co. v. Jenkins & Gilchrist.* Acted as coverage counsel for Jenkins & Gilchrist in a legal malpractice insurance dispute over complex tax shelter advice. Recovered \$100 million in legal malpractice insurance proceeds.
- *Waste Management, Inc.* Served as lead counsel for Waste Management, Inc. in pursuing and resolving director and officer

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321 North Clark St.  
Suite 3400  
Chicago, IL 60654  
t. +1 312.595.1285  
f. +1 312.595.2250

SummersE@howrey.com

**ADMISSIONS**

Illinois

**EDUCATION**

Indiana University School of Law -  
Bloomington (JD, 1980). Glenn  
Peters Fellowship

Indiana University (MBA, 1980)

Indiana University (AB, 1976)

**CLERKSHIP**

Hon. William E. Steckler, United  
States District Court for the  
Southern District of Indiana (1979)

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liability coverage disputes for six different sets of D & O claims: 1) 10b-5 shareholder damages cases, 2) 10b-5 injunction actions, 3) shareholder derivative suit challenging Dutch-Auction tender offer, 4) shareholder derivative suit regarding Emmelle royalty liabilities, 5) employment disputes, and 6) shareholder suits challenging tender offers for public shares of majority-owned subsidiaries.

- *Medical Protective Insurance Co. v. Consultants in Pathology, S.C.* Acted as lead counsel for Consultants in Pathology, S.C. in a medical malpractice insurance rescission dispute. Successfully defeated insurer's attempts to rescind.
- *The Dick Corporation v. SNC Lavalin Constructor Incorporated et al.* Served as lead insurance coverage counsel in a dispute involving the construction of two electrical power plants in Illinois under errors and omissions policies, several general liability policies. Successfully recovered defense and indemnity in excess of self-insured retention.
- *Waste Management Inc. et al v. Admiral Insurance et al.* Acted as lead counsel for Waste Management, Inc. in a comprehensive environmental insurance coverage action that resulted in hundreds of millions of dollars in insurance recoveries. Personally negotiated and documented hundreds of millions of dollars in settlements.

## COURTS & ADJUDICATIVE BODIES

- United States Supreme Court
- United States Court of Appeals for the Seventh Circuit
- United States District Court for the Northern District of Illinois

## PROFESSIONAL AFFILIATIONS

- Member, American Bar Association
- Attorney Registration and Disciplinary Commission of the Illinois Supreme Court, (Inquiry Board, 1986-1990; Hearing Board, 1990-2002; Panel Chairman 1996-2002)
- Member, Chicago Bar Association
- Member, Illinois Bar Association
- Member, Seventh Circuit Bar Association

## PRO BONO

- Former *pro bono* General Counsel for National Swedish Historical Society.
- Attorney Registration and Disciplinary Commission of the Illinois Supreme Court (Inquiry Board, 1986-1990; Hearing Board, 1990-2002;

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Panel Chairman 1996-2002).

### COMMUNITY SERVICE

- Active in many Indiana University alumni groups (Member of various boards)
- America's Cup (Heart of America Syndicate, Corporate Fundraising Chairman; 1987)
- Indiana Society of Chicago (Chairman, 2007 to date; Officer & Trustee, 1986 to date; President 1993-1995)
- Masonic Bodies, 1974 to present
- Member of the Village of Deer Park Planning Commission (1991-1994)
- Sagamore of the Wabash (Awarded by Indiana Governor Bayh; 1996)
- The Economic Club of Chicago (1991 to present)

### PUBLICATIONS & SPEAKING ENGAGEMENTS

#### ARTICLES

"Actual Policy Language' May Cover Damage to 'Your Work'" *Risk* (Fall 2009). Co-authored with Stephen V. Masterson.

"Maximizing Coverage for Your Mold Claim." *RISK* (Summer 2004).

"Reinsurance, Reserves, and Drafting Histories: Age of Discovery for Policyholders." (June 1999).

"Monthly Review of Economic Indicators." *Indiana Business Review* (1976–1980).

#### SPEECHES

"Insurance Coverage for Intellectual Property Litigation." Howrey Seminar (June 2009).

"Complex Business Interruption Insurance Coverage." Risk and Insurance Management Society (April 2004).

"First Party Policies and Construction Defect Claims." Mealeys (September 2003).

"Y2K." ABA Section of Business Law Committee of Corporate General Counsel (October 1999).

"The Use of Insurance Company Financial Statements in Proving Bad Faith Claims." Kentucky Academy of Trial Attorneys (April 1999).

"Litigating Insurance Coverage Disputes - A Policyholder's Perspective." CBA Insurance Committee (March 1999).