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PRACTICE AREAS

- Bad Faith and Extra-Contractual Liability
- Breach of Contract
- Class Actions
- Commercial Litigation
- Cyber Risk and Losses
- General Liability Coverage and Defense
- Insurance
- Pandemic Claims and Litigation
- Products Liability
- Professional Liability
- Property Insurance
- Reinsurance
- Subrogation

BAR AND COURT ADMISSIONS

- State and Federal Court: Massachusetts
- U.S. Court of Appeals: First, Third and Seventh Circuits

EDUCATION

- Yale University, J.D., 1977

Jerry is a trial and appellate lawyer who has handled major complex civil litigation for over thirty years. He has represented both plaintiffs and defendants in a wide range of major cases, including reinsurance arbitrations; products liability litigation; environmental, toxic tort and asbestos insurance coverage litigation; first-party property insurance coverage cases; negligent inspection cases; bad faith litigation; other third-party liability insurance coverage cases; subrogation cases; class action suits; employment discrimination cases; breach of contract cases, commercial litigation; antitrust litigation; and administrative proceedings. He has written and given presentations on numerous insurance-related topics, such as cyber risks, hurricane losses, environmental coverage disputes, and reinsurance arbitrations.

Jerry has been lead counsel in litigating cases in numerous state and federal courts around the country and has successfully tried cases as lead counsel in Massachusetts, New York, New Jersey, and Illinois. He has successfully handled appellate arguments before numerous courts, including the First Circuit, the Seventh Circuit, the Massachusetts Court of Appeals, the Massachusetts Supreme Judicial Court, the New Jersey Appellate Division, the Appellate Court of Illinois, and the West Virginia Supreme Court.

Jerry has participated in numerous mediations and has completed the JAMS intensive four-day mediation training program.

REPRESENTATIVE MATTERS**First Party Property Coverage**

Represented an insurer in litigation in federal court in Galveston, Texas in which its policyholder (a steel mill) claimed it suffered approximately \$116 million in business interruption losses as a result of property damage from Hurricane Ike and sought \$150 million in extra-contractual damages for alleged bad faith conduct. The case settled in January 2012 after 5 days of trial.

Obtained summary judgment in insurer's favor in an insurance coverage case involving a major explosion and claimed damages in excess of \$26 million (excluding interest). The trial court's ruling was affirmed on appeal. See *Commonwealth v. Stone Container*, 2002 WL 31833862 (N.D. Ill.), *aff'd*, 351

- Harvard University, Ph.D. Political Science, 1977
- Harvard University, A.M. Political Science, 1975
- University of Notre Dame, B.A., summa cum laude, 1972

F.3d 774 (7th Cir. 2003).

Obtained summary judgment for insurer in a first-party coverage dispute over whether a loss was caused by flood or electrical engineering. The ruling was affirmed on appeal by the First Circuit. *See Continental Insurance Co. and Hartford Insurance Co. v. Arkwright Mutual Insurance Co.*, 102 F.3d 30 (1st Cir. 1996).

Obtained successful settlement in a first-party property insurance coverage case involving a \$5.4 million claim after obtaining a ruling from the bankruptcy court in Boston barring the insured from presenting expert testimony at trial regarding key elements of the case.

Represented property insurer in an insurance coverage suit in New York involving a claimed loss of \$310 million resulting from the collapse of a salt mine.

Represented a property insurer in a coverage case arising from withdrawal of Tylenol from the market after tampering. Summary judgment granted in favor of property insurer.

Environmental, Asbestos, Toxic Tort, and Other Liability Coverage

Obtained a judgment in insurer's favor after a two week bench trial in Cook County, Illinois in an environmental insurance coverage case in which a policyholder sought approximately \$11 million from the insurer prior to trial. The trial court's judgment was affirmed by the Appellate Court of Illinois, and the Illinois Supreme Court denied the policyholder's petition for leave for further appellate review. *See Mosaic Global Holdings, Inc. v. Employers Insurance Company of Wausau*, 378 Ill.App.3d 797 (1st Dist. 2007), *petition for leave to appeal denied*, 227 Ill.2d 580 (2008).

Counsel for insurer in major PFAS insurance coverage litigation in federal court in the Western District of Michigan for three and a half years prior to settlement with the insured.

Counsel for insurer in major insurance coverage litigation in Ohio state court involving liability for contamination resulting from coal combustion residuals

(CCRs) for three and a half years prior to settlement with the insured.

Representation of insurer of pharmaceutical company involved in major litigation – providing coverage advice, monitoring the underlying litigation, and assessing the reasonableness and necessity of defense costs.

Counsel for insurer involved in coverage litigation with major oil company regarding MTBE litigation.

Obtained summary judgment on eve of trial in favor of insurer based on known risk doctrine in a major environmental insurance coverage case in federal court in Boston arising from PCB contamination of the New Bedford harbor. Obtained summary judgment rulings in favor of insurers in numerous other environmental insurance coverage cases and other liability insurance coverage cases. See, e.g., *Muralo Co., Inc. v. Employers Ins. of Wausau*, 759 A.2d 348 (N.J. App. Div. 2000) (environmental insurance coverage case involving the owned property exclusion); and *Nationwide Mutual Insurance Co. v. Lafarge Corporation, et al.*, 1994 WL 706538 (D.Md. 1994)(Civ. A. No. H-90-2390) (liability insurance coverage case involving trigger of coverage issue).

Obtained favorable choice of law ruling from the West Virginia Supreme Court in an insurance coverage case. See *Liberty Mut. Ins. Co. v. Triangle Industries, Inc.*, 390 S.E.2d 562 (W. Va. 1990).

Reinsurance

Obtained a \$6.2 million panel award in a reinsurance arbitration in 2004 involving a dispute over whether an event was a fire or boiler and machinery loss.

Insurance-Related Cases

Obtained favorable decision by the Massachusetts Supreme Judicial Court affirming summary judgment in favor of client in a case involving testing procedures. See *Martin v. Factory Mutual Research Corporation*, 401 Mass. 621 (1988).

Negligent Inspection

Obtained summary judgment on behalf of property insurer in a negligent inspection case in New Jersey involving a \$200 million warehouse fire loss and in another negligent inspection case in North Carolina involving a major explosion at an aluminum billets facility.

Product Liability And Major Personal Injury And Property Damage Defense

Obtained a defense jury verdict in federal court in New York in a products liability case against a baler manufacturer. Obtained a directed verdict in another products liability case against a baler manufacturer in state court in New York. Obtained a very favorable settlement on behalf of a crane manufacturer in a case in state court in New York involving very serious personal injuries.

Retained by insurers to represent policyholders in major personal injury and property damage cases involving millions of dollars in claimed damages. Obtained dismissals with prejudice with no payment made in two of these cases (one involving a dry cleaning machine manufacturer and another involving a wind turbine blade manufacturer) after filing motions to dismiss based on lack of personal jurisdiction. Obtained very favorable settlements in other such cases on behalf of policyholders engaged in the manufacture of chemical compounds, wood stains, lifts, and other equipment and machines and a well drilling company.

Commercial Disputes

Obtained a jury verdict in federal court in Boston in a commercial dispute involving a turbine and a favorable ruling after a bench trial in state court in Massachusetts in a commercial dispute involving industrial equipment.

Subrogation

Obtained multi-million dollar settlements in major subrogation cases.

ARTICLES & PRESENTATIONS

"PFAS: The New Frontier in Environmental Litigation," Massachusetts Insurance and Reinsurance Bar Association (MIREBA) Fall Symposium,

December 5, 2023, panelist

"Judicial Resolution of Disputes Relating to Commutation of Reinsurance Agreements," *ARIAS Quarterly*, Q2 2017, author

"An Analysis of Environmental Impairment Liability Issues," *Insurance Law360*, March 7, 2017, author

"A Fresh Perspective on Mediation of Reinsurance Disputes," Massachusetts Reinsurance Bar Association Seventh Annual Symposium, October 8, 2015, panel moderator and co-coordinator

"Cyber Insurance Coverage," webinar for If P&C Insurance Company, LTD, March 2023, sole presenter

"Assessing Exposures Following A Data Breach," PLRB Large Loss Conference, Jacksonville, Florida, November 2013, co-presenter

"The Brand New World of Cyber Risks," Emerging Issues in Property Insurance, Chicago, IL, March 28, 2013, co-presenter

"Settlement Strategies In Direct Negotiations and Mediations," webinar presented to Nationwide Indemnity Company, April 2023, co-presenter

"The Late Notice Coverage Defense In Environmental Coverage Cases and Coverage For Pre-tender Defense Costs," Nationwide College of Insurance, Wausau, Wisconsin, September 2013, white paper and presenter

"The 'Sudden And Accidental' Pollution Exclusion," Nationwide College of Insurance, Wausau, Wisconsin, September 2013, white paper and presenter

"Underwriting Disputes and Broker E&O Implications," HarrisMartin Superstorm Sandy Insurance Coverage Litigation Conference, February 26, 2013, panelist

Bayous, Bays, and Boroughs: The "Money Pits" Of the Insurance Industry (dealing with issues related to major hurricane losses, including Hurricane Sandy), 2013 WIND Conference, panelist

PROFESSIONAL AFFILIATIONS

ARIAS

Defense Research Institute

Massachusetts Bar Association

American Bar Association

Massachusetts Insurance and Reinsurance Bar Association (MIReBA):
founding member, symposium chair, and currently a director

NOTEWORTHY

Jerry is AV Preeminent rated by Martindale-Hubbell and was named one of the Top 100 Massachusetts Super Lawyers in 2004.

Selected as a Fellow of the American Bar Foundation.

Selected for inclusion in *The Best Lawyers in America*®, 2023, 2024.