

James M. Boyers

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Overview

Jim's trial and appellate practice focuses on commercial litigation.

His cases have involved:

- Products Liability and Mass Torts
- E-Discovery
- Construction & Real Estate Disputes
- Environmental Insurance Coverage
- Secured Lender Rights & Liabilities

Jim represents clients in complex matters, involving multiple parties arising from product liability, construction and environmental claims. His work has included multiple Multi-District Litigation ("MDL") matters in Federal Court. Jim works on E-Discovery issues, including negotiation of and court arguments about search terms, the format of data

from complex databases, and Standing Orders for Production of such discovery. Jim organizes review efforts – including contract reviewers and applying appropriate technology – to reduce his client’s costs and to serve their litigation goals.

He focuses on efficiency and prompt, effective service. Jim’s litigation experience includes both bench and jury trials. He has first chair responsibility. Jim also resolves many cases through alternative dispute resolution using both mediation and arbitration. Finally, he handles appeals before both the Indiana Supreme Court and the Indiana Court of Appeals.

Jim devotes himself to publishing articles on Indiana law. He has co-authored three academic articles: a) a survey of Indiana Product Liability law and appeared in the Indiana Law Review, Vol. 34, No. 4, 2003; b) Indiana Civil Litigation Review, Vol. I, No. 1, 2004 (evaluating an Indiana Supreme Court case on the Indiana Product Liability Act Statute of Repose) and Vol. II, No. 1, 2005 (evaluating certain defenses under the Indiana Product Liability Act); and c) The Indiana Lawyer on environmental insurance coverage issues in long tail contamination cases.

Experience

Medical Device Litigation – Part of team defending Medical Device product liability claims asserted throughout the country. Heavily involved in assessing design, manufacturing, post-market surveillance, regulatory compliance and marketing issues.

E-Discovery – Lead Partner addressing E-Discovery issues in two Multi-District Litigation matters in Federal Court. Developed strategy for handling large scale review of data under significant time pressure and satisfied court requirements. Participated in multiple meet-and-confer conferences, regular status conferences and Magistrate conferences to address and resolve many discovery issues.

Construction Disputes. Jim resolved a significant dispute with a major regional construction project through pre-trial mediation in which he represented a General Contractor against the owner in direct negotiations and in mediation.

Jim helped resolve a multi-party construction case arising from damages to an adjacent historical building during construction of a new municipal building.

Motion Practice – Jim successfully opposed a summary judgment successfully arguing to expand existing Indiana law regarding “de facto” merger. Jim drafted Motions for Partial Summary Judgment in a multi-million dollar commercial dispute that led to orders which substantially limited the potential scope of damages and liability theories available to the plaintiff and led to resolving the case.

The Indiana Supreme Court. Jim led a joint defense group effort to obtain direct transfer to the Supreme Court from the trial court and was heavily involved in briefing Defendants’ position in *Allied Signal v. Ott*, 785 N.E.2d 1068 [Ind. 2003] in which the Indiana Supreme Court upheld the constitutionality of the Indiana Product Liability Act Statute of Repose as applied in asbestos cases.

Reducing Potential Liability by Strengthening the Non-Party Defense. Drafted the joint brief of defendants/appellants by which the Indiana Court of Appeals recognized that Bankrupt entities are proper non-parties for fault allocation under the Comparable Fault Act. *Bondex International, Inc. v. Ott*, 774 N.E.2d 82 [Ind.Ct.App. 2002]. The opinion reversed a trial court decision which had precluded defendants from identifying certain bankrupt entities as non-parties for fault allocation.

Piercing the Corporate Veil. Jim served as first chair in a bench trial where his client obtained a judgment piercing the corporate veil of an Indiana Limited Liability Company which resulted in a six figure recovery for his clients. Jim also served as lead attorney on the appeal which resulted in an unpublished opinion which affirmed the judgment.

Complex Insurance Actions. Jim regularly represents insurers in coverage actions related to environmental contamination from many industries which involve many years and layers of insurance coverage.

Selected to Represent the Defense Bar. The Defense Trial Counsel of Indiana has retained Jim to represent it as an amicus curiae participant in three separate appeals, two of which resulted in opinions which furthered the defense bar’s interpretation of the Indiana Product Liability Act Statute of Repose.

Defending Class Actions. Jim serves as local counsel for a large telecommunications corporation in a Multi-District Litigation matter pending in the United States District Court for the Southern District of Indiana which has involved the resolution of class action lawsuits in over forty states.

Defending Mortgage Servicers Borrower Claims. Resolved multiple cases for Mortgage Servicers and Investors in which borrowers alleged violations of Truth for Lending Act, Fair Debt Collection Act, and Real Estate Settlement Procedures Act and contractual claims.

Professional Activities

- American and Indiana State Bar Associations
- Defense Trial Counsel of Indiana
- Defense Research Institute

Articles & Presentations

Jim is a co-author of Chapter 6 “Designing an Effective Records Management Program” in the January 9, 2018 edition of *eDiscovery for Corporate Counsel* published by Thomson Reuters.

Co-Presenter, 2019 Evansville Bar Association Bench Bar Conference, “The Data Iceberg: How to Navigate in the Digital World”

Awards & Honors

- Named to Best Lawyers for Defense-Mass Torts and Defense-Product Liability in 2018

- Named to The Best Lawyers in America, 2019, Mass Tort Litigation / Class Actions – Defendants and Product Liability Litigation – Defendants
- Attained AV[®] Peer Review Rating with High Ethical Standing by Martindale Hubbell[®], 2017
- Indiana Super Lawyers “Rising Star” in 2011 and 2012
- Indiana Super Lawyer, 2019
- Passed the four hour examination of the Association of Certified Electronic Discovery Specialists (“ACEDS”), 2017
- The Defense Trial Counsel of Indiana named Jim as its Outstanding Section Leader in 2004 for his efforts in leading its Product Liability Section.

Practice Areas

- Asbestos Litigation
- Business Disputes
- Construction
- Creditors’ Rights & Loan-Related Disputes
- E-Discovery & ESI
- Environmental Litigation
- Insurance Coverage Counseling & Litigation
- Premises Liability
- Privacy & Data Security
- Product Liability
- Professional Liability
- Real Estate Disputes

Industries Served

- Family & Closely Held Businesses
- Manufacturing

- Mortgage Banking & Brokerage
- Professional Practices

Bar & Court Admissions

Admitted to the Indiana Bar and U.S. District Courts for the Southern and Northern Districts of Indiana and the Seventh Circuit Court of Appeals

Education

Indiana University Maurer School of Law, J.D.

Hanover College, B.A.