



Don R. Sampen

PARTNER

Location: Chicago, IL

Phone: 312.606.7803

Email: dsampen@clausen.com

Biography

Don R. Sampen has over 30 years of trial and appellate experience in various areas, including insurance coverage and commercial litigation. Don is a *magna cum laude* graduate of Northwestern University College of Law, where he was Executive Editor of the Northwestern Law Review. He is a former clerk to the Honorable Philip W. Tone of the United States Court of Appeals for the Seventh Circuit. He also formerly served as the Chief of the Public Interest and Special Litigation Divisions of the Illinois Attorney General's Office.

Don has taught a course in insurance Law for 13 years as an Adjunct Professor at Loyola University Chicago Law School. In the past he has taught courses in Remedies, Advanced Trial Practice, Pretrial Litigation, and Trademarks. Outside of academia, Don is a frequent presenter at in-house educational seminars for the firm's insurance clients, speaking on such topics as additional insured coverage and settlements between claimants and insureds.

As an appellate lawyer, Don has argued appeals in the Illinois Supreme Court and all five Illinois appellate court districts. He also has argued in the state appellate courts in New York, New Jersey, Iowa, and California, and in the United States Courts of Appeals for the Second, Seventh, Eighth, Ninth, Tenth and Eleventh Circuits. His appellate practice frequently begins in the trial courts, and includes trial monitoring from an appellate perspective, briefing summary judgment motions, and participating in post-trial motion preparation.

Don also is a prolific writer outside the courtroom. He has authored articles and book chapters in various areas of the law, including contempt of court, special remedies, whistleblower litigation, and appellate practice. He coauthored an article appearing in the Insurance Litigation Reporter entitled "Enforcement of Settlements between Insureds and Claimants." He also writes a column in the *Chicago Daily Law Bulletin* which appears twice monthly on insurance coverage matters.

Beginning January 1, 2015, the Illinois Supreme Court honored Don by appointing him to the Supreme Court Committee on Professional Responsibility. Don also has been elected

to the Board of Directors of the Appellate Lawyers Association. In addition, he serves on the Rules and Seminars Committees for the Association.



Education

J.D., magna cum laude, Northwestern University College of Law, 1975

B.A. Northwestern University, major in political science/economics, 1972

Bar Admissions

Illinois

Court Admissions

United States Supreme Court
U.S. Court of Appeals, Second Circuit
U.S. Court of Appeals, Third Circuit
U.S. Court of Appeals, Fifth Circuit
U.S. Court of Appeals, Seventh Circuit
U.S. Court of Appeals, Eighth Circuit
U.S. Court of Appeals, Ninth Circuit
U.S. Court of Appeals, Tenth Circuit
U.S. Court of Appeals, Eleventh Circuit
U.S. District Court, Northern District of Illinois
U.S. District Court, Southern District of Illinois

Memberships

Chicago Bar Association
Illinois State Bar Association
American Bar Association
Appellate Lawyers Association
Illinois Supreme Court Committee on Professional Responsibility

Awards

Martindale Hubbell AV® rating
Super Lawyers® 2021
Chicago's Top Rated Lawyers

Matters of Note

Column titled “Insurance Matters” published about twice monthly in the Chicago Daily Law Bulletin since 2008

Recent columns include the following:

Loss payee’s interest valued at time of payment, not loss(February 24, 2020)

Estoppel doesn't apply where insurer is not controlling defense(September 9, 2019)

No Defense Obligation for Motion to Adjudicate Attorney Lien(August 26, 2019)

Absent Claimant Not Bound by Coverage Judgment in(August 13, 2019)

Surety finds quia timet remedy not in play under contract terms (July 30, 2019)

Possible liability proves insufficient to support bad faith settlement suit (July 16, 2019)

Unambiguous policy defeats last-antecedent grammar rule (May 20, 2019)

‘Occurrence’ definition gets special subcontractor angle (Apr. 30, 2019)

Successor to bankrupt housing developer must honor surety (Apr. 23, 2019)

Loss payee ID’d in certificate of insurance can continue claim (Apr. 9, 2019)

Multiple limits on declarations pages results in stacking (Mar. 25, 2019)

Filed rate doctrine no bar to rate claims (Mar. 12, 2019)

Court finds malicious prosecution coverage upon exoneration (Feb. 25, 2019)

Prior ‘wrongful act’ exclusion not triggered by mere allegation (Feb. 12, 2019)

UIM policy working allows \$4M stacking coverage (Jan. 28, 2019)

No evidentiary hearing for insurer liquidation claimant (Jan. 15, 2019)

Slow-motion claims service brings heavy penalty (Dec. 20, 2018)

Good Faith covenant assists jilted agent (Dec. 11, 2018)

Insureds have obligation to read policy (Nov. 26, 2018)

No coverage for injuries arising out of billing collecting practices (Nov. 13, 2018)

"Due proof" needed for death claim (Oct. 30, 2018)

Estoppel defense arises from statements traded between counsel (Oct. 17, 2018)

No estoppel for late reporting under claims-made policy (Sept. 17, 2018)

Common-interest doctrine exception applies to broker litigation (Sept. 4, 2018)

No violation for carrier's failure to maintain coverage (Aug. 21, 2018)

'Willful' misconduct by attorney brings no duty to defend (Aug. 7, 2018)

Health-care providers lose claim against workers comp insurer (July 24, 2018)

No estoppel without prejudice to the insured (July 10, 2018)

Excess Label pushed aside in insurance dispute (June 26, 2018)

Malicious prosecution coverage triggers from the start (June 12, 2018)

Mortgagee entitled to coverage even if insured's standing is void (May 29, 2018)

Breach of defense duty found despite insurer argument (May 14, 2018)

Driver exclusion not effective to deny underinsured coverage (Apr. 17, 2018)

Additional Publications & Presentations

"Guide To Appeal Of Final Judgments In Ongoing Litigation," *Illinois Bar Journal*, 107 *Illinois Bar Journal* 36 (April 2019)

"Final Judgments in Non-Final Litigation," presentation as part of the Advanced Appellate Practice Seminar hosted by the Appellate Lawyers Association (April 19, 2018)

"A Guide to Illinois Interlocutory Appeals," 106 *Illinois Bar Journal* 42 (March 2018)

"Interlocutory Appeals," presentation as part of the Advanced Appellate Practice Seminar hosted by the Appellate Lawyers Association (April 28, 2017)

"A Guide to Illinois Postjudgment Motions," 105 *Illinois Bar Journal* 52 (March 2017)

"Enforcement of Settlements," presentation to the Chicago Bar Association Insurance Law Committee Meeting (March 1, 2017)

"Federal Post-Judgment Motion Practice: Twenty-Five Questions and Answers You Should Know," 59 *For the Defense* 26 (Defense Research Institute magazine) (Feb. 2017)

"Quo Warranto, Mandamus and Prohibition," Chapter 8, in IICLE volume on Chancery and Special Remedies (2009/11/13/17)

"Principles of Contempt," Chapter 2 in IICLE volume on Chancery and Special Remedies (2013/17)

"Post-Judgment Matters," presentation as part of a Fourth District Appellate Practice Seminar hosted by the Appellate Lawyers Association (October 5, 2016)

"Post-Judgment Motion Practice in Anticipation of Appeal," presentation as part of the Advanced Appellate Practice Seminar hosted by the Appellate Lawyers Association (March 18, 2016)

"Enforcement of Settlements between Insureds and Claimants," 35 Insurance Litigation Reporter 409 (West August 2013); related written presentation at ABA Tort Trial & Insurance Practice Section (February 2013) (cited in *CE Design Ltd. v. King Supply Co.*, 791 F.3d 722, 725 (7th Cir. 2015))

"Overview of Antitrust Law for the Corporate Practitioner," Chapter 6 in IICLE Business Law Series Volume III (2005/11/13)

"Additional Insured/Targeted Tender Issues" Series of CLE In-House Presentations to insurer clients, 2011 to present

"New Conflict of Interest," Chicago Daily Law Bulletin (January 20, 2011)

"Prosecuting a Claim under the Illinois False Claims Act," Chapter in IICLE Volume on Employment Termination (2002/11/13/18)

"Mediation Considerations on Appeal: Frivolous Arguments, Fee-Shifting and Interest," CLE Presentation to insurer clients, 2011 to present

"Additional Insured Issues in the Construction Setting," CLE Presentation to insurer clients, 2009 to present

"Coverage Issues Arising in the Context of Employee Injuries Giving Rise to Third Party Claims against Employers," CLE Presentation to insurer clients, 2008 to present

"Initiating Insurance Coverage Litigation," Chapter 14 (Co-Author), in New Appleman Insurance Law Practice Guide (Lexis 2007)

"Estates ruled off limits to Medicaid," Reprint in the October 15, 2005 Edition of Council News, Published by the Northwest Suburban Estate Planning Council

"Consumer Protection: Enforcement in the United States and Japan," 43 Journal of Research on Social and Economic Life 1 (June 2003) (Co-Authored with Koichi Hosokawa)

"Amendments to the Federal Rules of Evidence," Program Speaker, CBA Continuing Legal Education Seminar on Federal Expert Witness Practice (November 1, 2000)

"The New Federal Local Rules and Current Developments in Federal Civil Procedure," Program Moderator, CBA Continuing Legal Education Seminar (November 1, 1999)

"Smoke and Minors: Fee Awards to Government Plaintiffs in Tobacco Cases," Program Speaker, ABA Annual Meeting (August 10, 1999)

"State and Federal Allocation of Enforcement Responsibility: Does a Market Allocation Agreement Exist? If Not, Should It?" Program Speaker and Moderator, ABA Section of Antitrust Law 47th Annual Spring Meeting (April 15, 1999)

"State Enforcement," Chapter 9, in 1998 Annual Review of Antitrust Developments (Contributing Author), Published by the ABA Section of Antitrust Law as a Supplement to Antitrust Law Developments 4th (Spring 1999)

"Suing on Behalf of the State: A Parens Patriae Primer," Co-Authored with Attorney General James E. Ryan, 86 Ill. Bar J. 684 (December 1998)

"Age Discrimination and Reasonable Non-Age Factors," 23 Notre Dame J. College & Univ. Law 1 (Summer 1997)

"Exemptions and Defenses," Chapter 3; "The Corporate Opportunity Doctrine and Fiduciary Duties of Corporate Officers and Directors," Chapter 11; and "Commercial Bribery," Chapter 16, in IICLE Volume on Antitrust and Unfair Competition (June 1996), and 1998 Supplement (December 1998); General Editor of the Entire Volume

"Post Judgment Practice Changes: Traps for the Unwary," Speaker, CBA Seminar Hosted by the Federal Civil Procedure Committee, Seminar titled "Current Developments in Federal Civil Procedure" (May 1996)

"Consumer Fraud: Applications & Enforcement," Program Moderator, CBA-Sponsored CLE Education Seminar (May 1996)

"Innovation Markets: A New Frontier for Antitrust," Program Moderator, CBA seminar hosted by the Antitrust Law Committee (March 1996)

"Changes -- New and Proposed -- in the Federal Rules of Procedure," Printed in CBA Federal Civil Procedure Committee Reporter 2 (January 1996); 8 DuPage County Bar Association Brief 36 (February 1996); 7 ABA Committee on Pretrial Practice & Discovery Newsletter 15 (March 1996)

"Reducing Your Liability," 8 Aberdeen's Magazine of Masonry Construction 413 (August 1995)

"Regulated Industries and the State Action Doctrine," Speaker, ISBA Antitrust and Unfair Competition Spring Symposium (May 1992); Related Article Published in 30 Antitrust & Unfair Competition Law Newsletter 1 (June 1992)

Commentary on Proposed Amendments to the Federal Rules of Civil Procedure Promulgated by Judicial Conference of the United States, adopted by The Chicago Bar Association Board of Managers and Sent to the Judicial Conference (January 1992)

Commentary on Interim Report of the Committee on Civility of the Seventh Federal

Judicial Circuit, Adopted by The Chicago Bar Association Board of Managers, and Sent to Seventh Circuit Committee (October 1991); Moderator of Related Panel Discussion on Civility (July 1991)

"Antitrust Restrictions on Managed Care Arrangements," Speaker, ISBA Antitrust Spring Symposium (May 1991); Related Article Published in 30 Antitrust & Unfair Competition Law Newsletter 5 (October 1991)

Commentary on Proposed Amendments to Local Rule 3, Pertaining to Admission to Trial Bar, Adopted by Chicago Bar Association Board of Managers and Sent to Federal District Court (April 1991)

"The Illegal Loan That Was Never Made: Is It Still Illegal?," 76 Illinois Banker 14 (March 1991)

"Tying By Financial Institutions: Once Commitment Is Made, Refusal to Make Tying Loan Is No Defense to Liability," 29 ISBA Antitrust & Unfair Competition Law Newsletter 1 (December 1990)

"Developments in Private Lanham Act Cases and Legislation," Speaker, ISBA Antitrust Spring Symposium (May 1990)

"When the Feds Come A Knocking," 74 Illinois Banker 16 (July 1989), Reprinted in Kansas Banker 6 (September 1989)

"Personal Liability of Financial Institution Directors and Officers: Are You Protected?," 6 Illinois Reporter 5 (March April, 1989)

"Personal Liability of Financial Institution Directors and Officers: Are You Protected?," 74 Illinois Banker 24 (April 1989)

"Insecure Security," 81 American Banking Association Banking Journal 77 (April 1989)

Handbook on Hazardous Waste Law and Its Impact on Secured Lending Transactions (August 1988)

Handbook on Lenders' Liability (June 1988)

"Influencing 'Private' Legislation: The Split Widens Over Application of Noerr Pennington," 26 ISBA Antitrust Law Newsletter 4 (December 1987)

"Municipal Antitrust Liability: New Federal and State Limitations" and "Follow Up," 74 Ill. B.J. 345 (March 1986) and 74 Ill. B.J. 228 (January 1986)

"Petitioning Foreign Governments: The Act of State and Noerr Pennington Doctrines," 15 Ga. J. Int'l. & Comp. L. 205 (1985)

"Law and Equity, The Right to a Jury Trial, and Equal Protection," 70 Ill. B.J. 376 (February 1982)

"Civil Courts, Church Property, and Neutral Principles: A Dissenting View," U. Ill. L.F.
543 (1975)

"Criminal Conspiracy in the New Criminal Codes," 68 Nw. U.L. Rev. 851 (1974)