



# Robert N. Hermes

*partner*

Bob Hermes, partner-in-charge of Porter Wright's Chicago office, has 40 years of trial experience in all aspects of reinsurance arbitration/litigation, commercial litigation and appeals in state and federal courts. His experience includes jury and bench trials and arbitrations in reinsurance disputes, breach of contract and fraud actions, business torts, defense of officers and directors, shareholder derivative suits, real estate transactions, trade secret and restrictive covenants, insurance coverage disputes, antitrust and class actions.

Bob's reinsurance experience includes disputes involving the scope and applicability of arbitration clauses, placement disclosures, claim handling, adherence to underwriting guidelines, retrospectively rated business, obligations to follow settlements, allocation of settlements, obligations under surplus share reinsurance contracts, excess of loss contracts, application of ultimate net loss and net retained line clauses, clash covers, and accounting for premiums and losses. Bob has also provided reinsurance and other mass tort advice to insurance company clients who are involved in large asbestos bankruptcies.

## REPRESENTATIVE MATTERS

- Successful representation of plaintiffs in trial and appellate courts in a dispute concerning the validity of an arbitration clause in a reinsurance participation agreement.
- Successful defense of defendant company in class action on behalf of preferred shareholders alleging breaches of fiduciary duty in connection with the issuance of common stock and subsequent cash-out merger.
- Successful defense of a class action on behalf of preferred shareholders seeking to enjoin a merger.
- Represented plaintiff in lawsuit against a property owner seeking a declaration that the property owner breached the Management Agreement and related contracts by improperly purporting to terminate the Management Agreement and certain related contracts.

## CONTACT

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## EDUCATION

DePaul University College of Law,  
J.D., 1979, *DePaul Law Review*,  
Editor-in-Chief

Indiana University, B.A., 1976

## SERVICES

### Reinsurance Litigation & Arbitration

#### Litigation

- Antitrust litigation
- Class actions, mass torts and MDLs
- Commercial litigation
- Securities litigation
- Professional liability
- Non-competition and trade secrets litigation
- Arbitration and mediation
- Appellate and Supreme Court practice
- Insurance litigation
- Financial services litigation
- Unmanned and autonomous systems (Drones and driverless vehicles)

- Successful defense of a shareholder derivative suit by preferred shareholders seeking the return of \$121 million in dividends paid to common shareholders.
- Represented a real estate developer in litigation brought by terminated executive who claimed entitlement to an equity stake in an affiliated entity valued by the plaintiff in excess of \$9 million.
- Successful defense of an action seeking rescission of a real estate sales contract alleging impossibility of performance due to the 2009 credit crisis.
- Represented plaintiff in lawsuit seeking balances due under nine facultative certificates that reinsured seven excess liability umbrella policies. The plaintiff sought prejudgment interest, reasonable attorneys' fees, and a declaration that the defendant must reimburse plaintiff for its share of current and future losses and loss expenses under the certificates in connection with payments by plaintiff under the policies.
- Prosecuted a claim in arbitration against insurance company for malfeasance in connection with the insurer's handling of workers' compensation insurance claims for a period of four years.
- Represented limited partnership in connection with charges filed by former employee with the Illinois Department of Human Rights and the Equal Employment Opportunity Commission alleging harassment on the basis of race and sex.

## SIGNIFICANT TRIALS

During his career, Bob has been involved in more than 30 major trials and 80 reinsurance arbitrations. Significant cases include:

- Successful appeal establishing that denial of a motion for pre-hearing security is a final order for purposes of appeal.
- Successful defense of class-action alleging ordinance violations.
- Affirming summary judgment for defendants in fraud and breach of contract action.
- A bench trial in federal court enforcing an agreement to arbitrate and the companion arbitration.
- Leading case on duty to appoint arbitrators in compliance with contractual deadlines.
- Creditor's standing to pursue alter ego claim against parent of insolvent reinsurer.
- Set-off issues in insolvency and the duty to arbitrate disputes regarding set-offs.
- Successful defense at trial of defendant in RICO action alleging criminal copyright infringement, theft and the use of the U.S. mail in furtherance of a scheme to defraud.
- Federal abstention in case of insurance insolvency.
- Successfully represented the defendant in an action alleging violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5.
- Leading reinsurance case on the finality of settlements.
- Summary judgment in favor of a government authorized liquidator for conversion against controlling shareholder.
- Jury verdict for plaintiff affirmed by U.S. Supreme Court in an often-cited antitrust price-fixing case.

## SERVICES (CONTINUED)

### Bankruptcy, Workout & Creditors' Rights

- Bankruptcy litigation

### Business Competition, Advice & Litigation

- Antitrust advice and litigation
- Non-compete, non-solicitation, non-recruitment and non-disclosure agreements

### Financial Institutions

- Financial services litigation

### International Business & Trade

- Cross-border litigation and arbitration

## BAR ADMISSIONS

- Illinois
- U.S. Court of Appeals for the Fourth Circuit
- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. District Court for the Northern District of Illinois (Trial Bar)
- U.S. District Court for the Northern District of California
- U.S. District Court for the Eastern District of Wisconsin
- U.S. District Court for the Western District of Wisconsin

## PRESENTATIONS

- “Negotiation Workshop,” AIRROC, Feb. 26, 2014
- “Educational and Workshop Program,” June 2012

## PUBLICATIONS

- “Information security in arbitrations,” *ARIAS-U.S. Quarterly*, Second Quarter 2017
- “Driverless cars will lead to greater product liability,” *Insurance Business America*, February 2017
- “U.S. insurance market braces for a seismic shift due to driverless cars,” *InsideCounsel*, Jan. 23, 2017

## PROFESSIONAL ASSOCIATIONS

- Chicago Bar Association
- ARIAS-U.S., Forms and Procedures Committee
- Association of Insurance & Reinsurance Run-Off Companies (AIRROC)

## HONORS | AWARDS

- *Chambers USA*, Insurance: Dispute Resolution: Reinsurance, Illinois
- *The Legal 500 United States*, Insurance (Recommended Attorney)
- *Illinois Super Lawyers*<sup>®</sup>
- *Best Lawyers*<sup>®</sup>, Insurance Law
- *Leading Lawyers*, Civil Appellate Law, Commercial Litigation and Insurance, Insurance Coverage & Reinsurance Law

## COMMUNITY

- Western Golf Association (Evans Scholars Foundation), Director