



**Joe Pozen** is a litigation Special Counsel who handles cases nationwide representing clients in business conflict disputes, personal injury litigation, insurance coverage cases and professional liability matters. His experience in a broad range of legal matters enables him to bring a well- rounded and informed approach to address our clients' concerns. Joe recently successfully defended a corporation in a trial in which \$60 million in damages were claimed. In another recent trial, Joe convinced the court to rule in favor of his client in a railroad indemnity dispute. To achieve a successful but cost effective outcome, Joe confers with clients to balance the speedy resolution of these disputes with the careful protection of each client's long-term interests. Although Joe will take a client's case to trial when the circumstances call for it, he is just as proud of the many times he has won a case by motion practice before the client incurs the cost and disruption of appearing at trial.

As counsel for insurance companies, Joe provides policy interpretation and coverage advice, legal representation in disputes with policy holders or other insurance companies, and has assisted several clients in drafting policy language.

He has also been selected to the prestigious "Leading Lawyers" list published by the Law Bulletin Publishing Company.

Joe was an infantry officer in the United States Marine Corps from 1980 to 1985.

## PUBLICATIONS

Panel speaker at American Short Line Railroad Association's Railroad Liability Conference, "Don't Tread on Me: A Look at Trespasser Prevention Programs." June 7, 2011.

Continuing Legal Education presentation: "Preparing Your Client For A Deposition." July 20, 2010.

Panel speaker at Railroad Liability Conference, "Employee Evaluations: What's Legal, What's Not?" June 24, 2010.

Continuing Legal Education presentation, "Deposition Techniques That Get The Evidence You Need." January 20, 2010.

Panel speaker at Railroad Liability Conference, "Initial Response And Investigation Of Employee Injury." July 24, 2008.

Panel speaker at Railroad Liability Conference, "Managing The Injured Worker From Hire To Retire." June 29, 2007.

## REPRESENTATIVE MATTERS

**Rice v. Union Pacific Railroad Co.**, 2012 WL 2087348 (E.D. Ark. 2012); aff'd **Rice v. Union Pacific Railroad Co.** (No. 12-2627) (April 12, 2013) Prevailed in bench trial and on appeal, defeating railroad's claim that it was entitled to complete indemnity from its customer for a railroad employee's injury, limiting the indemnity to 50% of the settlement amount.

## Contact Information

Email: [jpozen@batescarey.com](mailto:jpozen@batescarey.com)  
Office: (312) 762-3165

## Practice Areas

- Appellate
- Bad Faith
- Commercial General Liability
- Counseling and Risk Management
- General Commercial Litigation
- Professional Liability
- Transportation

## Education

- DePaul University College of Law, J.D. 1993, with honors; Order of the Coif
- Northwestern University, B.A. Political Science 1980

## Memberships

- American Bar Association
- Defense Research Institute

## Admissions

- Illinois
- U.S. District Court for the Northern and Central Districts of Illinois, Northern
- District of Indiana, District of Minnesota, and Eastern District of Wisconsin
- U.S. Court of Appeals for the Seventh Circuit and the Eighth Circuits

**Patrick McCarthy v. Sterling Chemical Co.**, 951 N.E.2d 441 (Ohio App. 2011) Obtained directed verdict after eight weeks of trial for railcar maintenance company in a case brought on behalf of a 26 year old father of two left in vegetative state following explosion of tank car; affirmed on appeal.

**Selective Ins. Co. v. City of Paris**, 681 F.Supp.2d 975 (C.D. Ill. 2010) Won summary judgment for one of city's liability insurance companies, proving that the insurer's policy did not cover a claim brought by two men convicted of murder, but released after 16 years.

**Charles Robinson v. Patrick Ryan**, 865 N.E.2d 400 (Ill. App. 2007) Intervened in legal malpractice case on behalf of professional liability insurance company to vacate settlement.

**Stevens v. Delgado Erectors, Inc.**, No. 04 L 8353 (Ill. Cir. Ct. 2007) Won summary judgment in wrongful death construction case filed against a contractor involved in Chicago Skyway reconstruction project.

**USF&G v. Napa Valley Wine Train**, No. C 04 3472 (N.D. Cal. 2006) Developed evidence to prove that flooding and property damage to vineyard abutting railroad was "expected or intended," recovering \$1.2 million from insured railroad to reimburse liability insurer for property damage verdict.

**Murphy v. Northeast Illinois Commuter Railroad Corp.**, No. 06 L 000858 (Ill. Cir. Ct. 2006) Obtained stipulated dismissal with prejudice during plaintiff's deposition by extracting admission under oath that claim against railroad was baseless.

**New Jersey Transit v. General Accident Ins. Co.**, No. L-4959-1 (Hudson Cty., N.J. 2004) Prosecuted professional malpractice claim against insurance broker that failed to add railroad to contractor's insurance policy.

**Wurster v. Riverport Railroad, LLC**, 2003 WL 22709900 (N.D. Ill. 2003) Successfully challenged federal court's jurisdiction over FELA case against railroad employer by proving that defendant was not "common carrier railroad in interstate commerce" at time of employee's injury.

**Wilson v. Leitner**, No. C4-99-7770 (Dist. Ct. Anoka Cty., Minn. 2002) Awarded defense verdict at conclusion of plaintiff's case in professional liability suit against CPA brought by former clients who had been penalized by IRS for underpayment of taxes and improper accounting practices.

**Bennett v. Swanson Asphalt Company, Inc.**, No. 00 L 014445 (Ill. Cir. Ct. 2002) Obtained summary judgment for construction company on personal injury claim alleging that equipment loaned or rented to another company was unsafe.

**Bean v. Northern Ohio & Western Ry.**, No. 3:CV7094 (N.D. Ohio 1999) Successfully defended port authority that owned railroad track and grade crossing where fatal crossing accident occurred.