



Joseph T. McCullough IV

Partner | Chicago

jmccullough@sgrlaw.com

Tel: 312-360-6327

Fax: 312-360-6520

Areas of Practice

Arbitration | Insurance & Reinsurance | Insurance Coverage Litigation | Litigation/Trial Law

Joe McCullough is a Partner in the Litigation and Insurance practices of Smith, Gambrell & Russell, LLP. He is a member of the Firm's Executive Committee and the Head of the Insurance and Reinsurance Practice. Mr. McCullough was previously a Partner with Freeborn & Peters, which combined with SGR in 2023.

For more than 35 years, Mr. McCullough has devoted his practice to representation of insurance and reinsurance companies in both life & health and the property & casualty matters. He has acted as counsel to insurers and reinsurers in more than 150 arbitration, court, and administrative proceedings across the United States as well as in Bermuda, England, Continental Europe, and Australia, including some of the highest-profile cases in the industry.

He regularly advises clients on a wide range of matters, including rescission claims; worker's compensation reinsurance issues; personal accident long-term care reinsurance issues and disputes, YRT issues and disputes and medical reinsurance issues; common account reinsurance issues; coverage of declaratory judgment, loss adjustment and monitoring counsel expenses; reinsurance pooling arrangements; financial reinsurance; directors and officers policy issues; petitions for pre-answer security; letter of credit disputes; follow the fortunes and follow the settlements doctrines; insurer insolvency issues and disputes; commutations; estimation and acceleration of claims; exit strategies and financial solutions for problem books of business; offset issues, including in the context of an insurer insolvency; aggregation and allocation of losses; contract drafting; broker funding of losses; records inspection rights; and fraud.

Admissions

Illinois

United States Court of Appeals for the Second and Seventh Circuits

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While at Freeborn (now SGR), Mr. McCullough served as Chair of the Executive Committee and as the Leader of the Insurance/Reinsurance Industry Team. Before joining Freeborn (now SGR), Mr. McCullough was a Partner at Sidley & Austin, where he started and led the firm's reinsurance practice. In 1995, he joined Lovells LLP, where he opened the firm's U.S. law practice, was the U.S. Regional Managing Partner for many years, served as the firm's U.S. Insurance and Reinsurance Practice Group Head.

Mr. McCullough earned his B.A., *magna cum laude*, from Georgetown University. He received his J.D. from Northwestern University School of Law, *cum laude*, where he was a member of the Order of the Coif and the Law Review. He also holds a Postgraduate License in European Law, *with high honors*, from the University of Ghent in Belgium.

Representative Experience

- Served as lead counsel in more than 140 reinsurance arbitrations and court cases.
- Served as a lead counsel on behalf of a major reinsurer challenging the re-domestication of EMLICO to Bermuda in both the Massachusetts and Bermuda courts.
- Successfully represented party in breach of contract and fiduciary duty arbitration with \$80 million in claimed damages brought by a major insurance carrier against its managing general underwriter for alleged underwriting guideline violations.
- Successfully represented life reinsurance companies in two arbitrations with their ceding company who fraudulently induced them into participating in a reinsurance quota share agreement covering risks that were part of the personal accident worker's compensation manufactured "spiral". Our clients settled the arbitrations on the eve of the two hearings, saving a total of more than \$150 million.
- Successfully represented a pool of reinsurers whose fellow pool member fronted a risk for the pool and later entered into a fraudulent commutation with the underlying cedent using a grossly inflated IBNR figure (more than \$100 million more than the IBNR carried on the underlying cedent's books at the time). The fronting pool member did not pay the commutation price but instead assigned to the underlying cedent its rights under its retrocession contract with the other pool members. Our clients arbitrated the dispute with the underlying cedent/assignee and the case settled very favorably just before the evidentiary hearing was scheduled to begin.
- Represented a German reinsurer in an arbitration against a S. insurer where the client raised breach of contract claims as well as breaches of the duty of utmost good faith. In a unanimous decision, the panel found for our client, awarding it over \$15 million in compensatory damages plus 6.5% compound interest and \$1 million in punitive damages.

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- Represented a major Japanese reinsurer, recovering hundreds of millions of dollars from a rogue managing agent who had defrauded the client and from a large international accounting firm who audited the account, but failed to alert the client about the agent's fraud.
- Served as lead trial counsel in AXA AIG (S.D.N.Y.) in a jury trial that resulted in a jury verdict in AXA's favor for \$35 million in fraud and rescission damages as well as punitive damages.
- Obtained rescission of quota share treaty on behalf of reinsurer for cedent's fraudulent accounting and reporting of historical loss ratios, resulting in award of \$28 million.
- Acted as counsel for reinsurers in a large number of disputes with insolvent cedents.
- Acted as counsel for a German retrocedent against an Australian retrocessionnaire operating under a scheme of arrangement. The scheme adjudicator ruled in favor of the retrocedent, denying the retrocessionnaire's rescission claim and ordering the retrocessionnaire to pay the claim.

Recognitions

- Chambers-USA Guide to America's Leading Lawyers for Business – Insurance: Dispute Resolution: Reinsurance: Nationwide, 2023 (ranked in top 10, cited in multiple years)
- Chambers-USA Guide to America's Leading Lawyers for Business – Insurance: Dispute Resolution: Reinsurance: Illinois, 2023 (cited in multiple years)
- Who's Who Legal: Insurance & Reinsurance, 2022 (cited in multiple years)
- Illinois Super Lawyers - 2022 (cited in multiple years)
- Illinois Leading Lawyers - 2022 (cited in multiple years)
- National Law Journal Trailblazers Award for Litigation – 2015