



Trending Topics in Business Litigation 2022

Program dates start December 1. Register today!

**8 CLE
1 EPR**

Trending Topics in Business Litigation 2022

On trend

Business litigation never stands still. To be competitive, businesses have to stay on top of emerging issues and they need attorneys who can adapt quickly to new developments, rules, and regulations. That's why *Trending Topics in Business Litigation 2022* brings together top business law practitioners and litigators to address a broad array of current issues, including restrictive covenants, shareholder disputes, and fraudulent transfers.

You'll also receive guidance on your ethical obligations relating to civility in the practice of law. Plus, explore effective strategies for handling depositions, business defamation claims, damages, frivolous claims, and more.

How you'll benefit:

- Learn how to best address various types of shareholder disputes
- Be able to spot abusive 30(b)(6) deposition tactics and learn how to reign them in
- Examine the most recent case law on restrictive covenants in Wisconsin
- Understand claims and defenses in fraudulent transfer cases
- Know how to properly analyze and itemize damages
- Explore the hottest topics in business litigation, arbitration, and mediation

Who should attend:

- In-house counsel
- Corporate lawyers
- Business lawyers who advise corporate clients
- Litigators
- Employment lawyers

Register now!

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Schedule

8:00 AM Registration

8:30 AM Shareholder Disputes

- Special Litigation Committee ("SLC")
 - ▶ Motion to enforce SLC's report
- Direct vs. derivative claims
- Equal distributions between shareholders
 - ▶ Excessive compensation
 - ▶ Bonuses and constructive dividends
- Self-dealing and mismanagement claims
- Judicial dissolution of company — be careful what you ask for
Matthew M. Fernholz, David G. Peterson

Panel Discussion – Shareholder Disputes

Moderator: Michael J. Cohen

Panelists: Aaron H. Aizenberg, Robert B. Corris, Dean P. Laing, Susan E. Lovern, Matthew W. O'Neill, David J. Turek

9:20 AM Weaponizing the 30(b)(6) Deposition

- Areas of potentials abuse
 - ▶ Number of topics
 - ▶ Application of the 7-hour limit
 - ▶ Paid witnesses unrelated to parties
- Remedies to curb abuse
Aaron H. Aizenberg

Panel Discussion – Weaponizing the 30(b)(6) Deposition

Moderator: Michael J. Cohen

Panelists: Robert B. Corris, Matthew M. Fernholz, Dean P. Laing, Susan E. Lovern, Matthew W. O'Neill, David G. Peterson, David J. Turek

10:10 AM Break

10:25 AM Mining for Diamonds: Examining *Diamond Assets, LLC v. Godina* and *Karsten v. Terra Eng'g & Constr. Corp.*

- Surveying *Diamond Assets*
- Re-inspecting *Hunter v. Hamilton* as discussed in *Diamond Assets*
- Testing the treatment of issues in *Diamond Assets* against *Karsten*
- Digging into *Karsten's* questioning of *Selmer Co. v. Rinn*
Robert B. Corris

Panel Discussion – Mining for Diamonds

Moderator: Michael J. Cohen

Panelists: Aaron H. Aizenberg, Matthew M. Fernholz, Dean P. Laing, Susan E. Lovern, Matthew W. O'Neill, David G. Peterson, David J. Turek

Continued →

Schedule *(Continued)*

11:15 AM Civility in the Courtroom

- Civility expectations
 - ▶ Attorney's Oath: "I will abstain from all offensive personality..."
 - ▶ SCR Chapter 62: Standards of Courtesy and Decorum
 - ▶ SCR Chapter 20: Rules of Professional Conduct
- Civility in practice
 - ▶ Zealous advocacy vs. civility
 - ▶ Know your judge
 - ▶ The role of SBW ethics counsel
 - ▶ The role of OLR
- Civility in times of crisis and elections

Moderator: Joseph M. Russell

Panelists: Hon. Ellen R. Brostrom, Timothy J. Pierce

12:05 PM Lunch (on your own)

1:05 PM Fraudulent Transfers – Claims and Defenses

- Wisconsin Uniform Fraudulent Transfer Act ("WUFTA"), Wis. Stat. ch. 242.
 - ▶ Key definitions
 - ▶ Claims
 - Fraudulent as to present *and* future creditors
 - Fraudulent as to present creditors
 - ▶ Remedies
 - Injunctive relief
 - Avoidance
 - Monetary damages
 - ▶ Statute of limitations

Susan E. Lovern

Panel Discussion – Fraudulent Transfers

Moderator: Michael J. Cohen

Panelists: Aaron H. Aizenberg, Robert B. Corris, Matthew M. Fernholz, Dean P. Laing, Matthew W. O'Neill, David G. Peterson, David J. Turek

1:55 PM Panel Discussion – Hot Topics in Business Litigation

- Business defamation claims
- Boundaries of zealous advocacy/frivolous claims
- Contempt of court
 - ▶ Civil vs. criminal sanctions

Moderator: Michael J. Cohen

Panelists: Aaron H. Aizenberg, Robert B. Corris, Matthew M. Fernholz, Dean P. Laing, Susan E. Lovern, Matthew W. O'Neill, David G. Peterson, David J. Turek

2:45 PM Break

3:00 PM Damages – Offense and Defense Issues and Strategies

- Getting out early on analyzing damages
 - ▶ Have client's financial officers developing the damages evidence
 - ▶ In non-compete cases, analyze loss of business
 - ▶ Learn how to use a spreadsheet
- Importance of itemization and supplementing itemization of damages
 - ▶ Always include a thorough itemization and reserve right to update
 - ▶ Update prior to mediation and prior to final pretrial
- Early discovery focused on plaintiff's damages
 - ▶ Demanding itemization, documents and names of witnesses
 - ▶ Discovery focused on mitigation
- Retention and use of experts
- Motions in limine

Matthew W. O'Neill

Panel Discussion – Damages

Moderator: Michael J. Cohen

Panelists: Aaron H. Aizenberg, Robert B. Corris, Matthew M. Fernholz, Dean P. Laing, Susan E. Lovern, David G. Peterson, David J. Turek

3:50 PM Panel Discussion – Hot Topics in Arbitrations, Mediations, Settlement Agreements

- Scope of arbitrability
- Finality of arbitrability
- Dealing with a biased arbitrator
- Enforceability of terms sheets and settlement agreements in mediation
 - ▶ Importance of detailing essential terms and conditions
 - *Paul R. Ponfil Trust v. Charmoli Holdings, Inc.*
 - ▶ Signed by parties
- Limitations of Peiringer releases
 - ▶ Intentional acts
 - ▶ Insurance claims
 - ▶ Other non-negligence claims

Moderator: Michael J. Cohen

Panelists: Aaron H. Aizenberg, Robert B. Corris, Matthew M. Fernholz, Dean P. Laing, Susan E. Lovern, Matthew W. O'Neill, David G. Peterson, David J. Turek

4:40 PM Program Concludes

Following start time, schedule will vary slightly from above listed times.

Faculty

Program Chair & Presenter

Michael J. Cohen

Meissner Tierney Fisher & Nichols, S.C.,
Milwaukee

Presenters

Aaron H. Aizenberg

Kravit, Hovel & Krawczyk, S.C., Milwaukee

Hon. Ellen R. Brostrom

Milwaukee County Circuit Court,
Milwaukee

Robert B. Corris

Robert B. Corris, S.C., Hartland

Matthew M. Fernholz

Cramer, Multhauf & Hammes LLP,
Waukesha

Dean P. Laing

O'Neil Cannon Hollman DeJong & Laing,
S.C., Milwaukee

Susan E. Lovern

von Briesen & Roper, S.C., Milwaukee

Matthew W. O'Neill

Fox, O'Neill & Shannon, S.C., Milwaukee

David G. Peterson

Reinhart Boerner Van Deuren, S.C.
Waukesha

Timothy J. Pierce

State Bar of Wisconsin, Madison

Joseph M. Russell

von Briesen & Roper, S.C., Milwaukee

David J. Turek

Gass Turek LLC, Milwaukee

Dates Location

In-Person Seminar – Milwaukee

Thursday, December 1, 2022
Radisson Milwaukee West
2303 N. Mayfair Rd
Milwaukee, WI

Live Webcast

Thursday, December 1, 2022

Webcast Replay

Saturday, December 10, 2022
Friday, December 16, 2022
Thursday, December 22, 2022
Wednesday, December 28, 2022
Tuesday, January 3, 2023
Monday, January 9, 2023
Wednesday, January 18, 2023
Tuesday, January 24, 2023
Tuesday, January 31, 2023

Credits

This program will be submitted to the Wisconsin Board of Bar Examiners for **8 CLE credits, including 1 Ethics and Professional Responsibility credit.**

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Business Litigation and Dispute Resolution in Wisconsin

Seminar attendees will enjoy a **free two-week trial** of the *Business Litigation and Dispute Resolution in Wisconsin* Books UnBound® title and an invitation to **save 20%** on either a one-year subscription to the Books UnBound title or purchase of the print book.* Prepare for every stage of trial with step-by-step guidance on practices and procedures.

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Additional Learning Opportunities

Unpacking Wisconsin's New Business Entity Law 2022

Get up to speed on the long-anticipated overhaul of Wisconsin's laws that govern limited liability companies, partnerships, business corporations, and nonstock corporations. Attorneys involved in drafting the new legislation provide invaluable insight on what to expect for your clients and the pros and cons of each choice of entity. **4 CLE**

Webcast Replays: Nov. 24, 2022 | Dec. 19, 2022 | Jan. 17, 2023

The Law of Damages in Wisconsin

The Law of Damages contains the guidance you need on the types of damages available in Wisconsin and the special rules governing them. With comprehensive analysis and practical wisdom, this trusted reference is cited with confidence by thousands of attorneys and judges. (Includes 2020-21 supplement)

Print Book: #AK0063; 1,634+ pp.; 8th ed. 2019-20; 3 vols; **Member:** \$275 | **Nonmember:** \$343.75
Books UnBound Subscription: #AE0063_SUB; **Member:** \$270 | **Nonmember:** \$337

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Online Subscription: # FSFB2000 | **Members Only:** \$99/year
(Discounts available on multi-user subscriptions.)

Registration

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FAX: (608) 257-5502
MAIL: State Bar PINNACLE Registrations
 P.O. Box 7158
 Madison, WI 53707-7158

State Bar CLE/PINNACLE Passbook Registrations: Passbook Certificates must be received by the State Bar at least one business day prior to the event. For in-person seminars, walk-in registrations using Passbook Certificates are also welcome.

Registration Cancellations: Please visit wisbar.org/cancellations for information on PINNACLE registration cancellation policies.

Course Materials for Attendees: Course materials are provided in PDF format and are downloadable from *myStateBar* on wisbar.org up to two days prior to and 90 days after your seminar.

COVID-19 Safety Information: Complete and current safety guidelines can be found at wisbar.org/covidsafety.



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IN-PERSON SEMINAR:

Thursday, Dec. 1, 2022 – Milwaukee

LIVE WEBCAST:

Thursday, Dec. 1, 2022

WEBCAST REPLAYS:

- Saturday, Dec. 10, 2022
- Friday, Dec. 16, 2022
- Thursday, Dec. 22, 2022
- Wednesday, Dec. 28, 2022
- Tuesday, Jan. 3, 2023
- Monday, Jan. 9, 2023
- Wednesday, Jan. 18, 2023
- Tuesday, Jan. 24, 2023
- Tuesday, Jan. 31, 2023

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