



STATE BAR  
OF WISCONSIN

P.O. Box 7158, Madison, WI 53707-7158

## Trending Topics in Business Litigation 2024

**CREDIT HOURS:** 8 CLE credits including 1 EPR credit

**IN-PERSON SEMINAR:** Thursday, December 5, 2024 –  
Brookfield

**LIVE WEBCAST:** Thursday, December 5, 2024

**WEBCAST REPLAYS:** Friday, December 13, 2024  
Tuesday, December 17, 2024  
Monday, December 23, 2024  
Saturday, December 28, 2024  
Monday, December 30, 2024  
Wednesday, January 8, 2025  
Thursday, January 16, 2025  
Tuesday, January 21, 2025  
Friday, January 31, 2025  
Wednesday, February 12, 2025



STATE BAR OF WISCONSIN  
PINNACLE

# Trending Topics in Business Litigation 2024

8 CLE | 1 EPR

Program dates start December 5.  
Register today!

# Trending Topics in Business Litigation 2024

Endorsed by the Business Law Section of the State Bar of Wisconsin

## Bold strategies for business

Tackle the topics your business clients are facing today with **Trending Topics in Business Litigation 2024**. You'll delve into a range of litigation issues using real-world examples and benefit from engaging panel discussions with experienced litigators on everything from noncompete agreements in the wake of *Loper Bright* to current standards for punitive damages.

### HOW YOU'LL BENEFIT

- Discuss the impacts of recent U.S. Supreme Court decisions
- Trace the evolution of Wisconsin's Blue Pencil Rule
- Analyze trending appellate issues in business law
- Review the ins and outs of proving lost profits
- Know how to navigate civil litigation when a parallel criminal matter exists
- Evaluate ethical issues common to business litigation matters

Stay ahead of emerging issues and keep your practice up to date with *Trending Topics in Business Litigation 2024*. **Register today!**

## FACULTY

### PROGRAM CHAIR & PRESENTER

**Michael J. Cohen**, Meissner Tierney Fisher & Nichols, S.C., Milwaukee

### PRESENTERS

**Robert B. Corris**, Robert B Corris, S.C., Hartland

**Robert S. Driscoll**, Reinhart Boerner Van Deuren, S.C., Milwaukee

**Erik K. Eisenmann**, Husch Blackwell LLP, Milwaukee

**Matthew M. Fernholz**, Cramer Multhauf LLP, Waukesha

**Caleb R. Gerbitz**, Meissner Tierney Fisher & Nichols, S.C., Milwaukee

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

**Susan E. Lovern**, von Briesen & Roper, S.C., Milwaukee

**Ann M. Maher**, Husch Blackwell LLP, Milwaukee

**Matthew W. O'Neill**, Fox, O'Neill & Shannon, S.C., Milwaukee

**Benjamin R. Prinsen**, Kravit, Hovel & Krawczyk, S.C., Milwaukee

**David J. Turek**, Gass Turek LLC, Milwaukee

**Adam E. Witkov**, Michael Best & Friedrich LLP, Milwaukee

## DATES & LOCATION

### IN-PERSON SEMINAR — MADISON

Thursday, December 5, 2024

**Sheraton Milwaukee Brookfield**

375 S. Moorland Road

Brookfield, WI

(262) 364-1100

### LIVE WEBCAST

Thursday, December 5, 2024

### WEBCAST REPLAYS

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## CREDITS

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

# SCHEDULE

## 8:00 AM Registration

### 8:30 AM Punitive Damages – The Sky is Not the Limit

- The current standard for awarding punitive damages
- Statutory limitations on punitive damages
- The “unwritten” process for submitting punitive damages to the jury

*David J. Turek*

#### Panel Discussion

**Moderator:** Michael J. Cohen

**Panelists:** Robert B. Corris, Robert S. Driscoll, Erik K. Eisenmann, Matthew M. Fernholz, Caleb R. Gerbitz, Dean P. Laing, Susan E. Lovern, Ann M. Maher, Matthew W. O’Neill, Benjamin R. Prinsen, Adam E. Witkov

### 9:20 AM Agencies Under Attack: The FTC Non-Compete Rule, *Chevron*, and Other Recent Supreme Court Decisions

- The FTC Non-Compete Rule: case law update
- The FTC Rule: predicting appellate outcomes
- Demise of the *Chevron* Doctrine and recent Supreme Court agency decisions
- Recent non-compete developments in the states

*Robert B. Corris*

### 9:40 AM Evolution of Wisconsin’s Blue Pencil Rule

- Wisconsin’s Common Law Rule
- Section 103.465, Wis. Stats
- *Streiff, Brass*
- *Star Direct*
- Subsequent Cases

*Dean P. Laing*

## 10:10 AM Break

### 10:25 AM Legal Considerations Relating to Executives

- Confidentiality issues
- Non-compete and other restrictive covenants
- Termination issues

*Erik K. Eisenmann*

#### Panel Discussion

**Moderator:** Michael J. Cohen

**Panelists:** Robert B. Corris, Robert S. Driscoll, Matthew M. Fernholz, Caleb R. Gerbitz, Dean P. Laing, Susan E. Lovern, Ann M. Maher, Matthew W. O’Neill, Benjamin R. Prinsen, David J. Turek, Adam E. Witkov

### 11:15 AM Panel Discussion – Hot Topics in Business Litigation

- Limited liability corporation charging orders
- Proof of attorneys’ fees and strategies
- Enforceability of term sheets and other settlement communications
- Discoverability of settlement agreements

**Moderator:** Adam E. Witkov

**Panelists:** Michael J. Cohen, Robert B. Corris, Robert S. Driscoll, Erik K. Eisenmann, Matthew M. Fernholz, Caleb R. Gerbitz, Dean P. Laing, Susan E. Lovern, Ann M. Maher, Matthew W. O’Neill, Benjamin R. Prinsen, David J. Turek

### 12:05 PM Lunch (on your own)

#### 1:05 PM Proving Lost Profits

- When lost profits may be recovered
- Different methods of calculating lost profits
- Effective and timely use of damages experts
- Defending against claims for lost profits
- Enforceability of contractual limitations on lost profits

*Matthew W. O’Neill*

#### Panel Discussion

**Moderator:** Michael J. Cohen

**Panelists:** Robert B. Corris, Robert S. Driscoll, Erik K. Eisenmann, Matthew M. Fernholz, Caleb R. Gerbitz, Dean P. Laing, Susan E. Lovern, Ann M. Maher, Benjamin R. Prinsen, David J. Turek, Adam E. Witkov

#### 1:55 PM Trending Appellate Issues

- What is a “final order” for purposes of appeal as of right?
- Appealing summary judgment decisions to preserve appeal as of right
- State law questions in federal court and certification
- Survey of other business litigation decisions

*Robert S. Driscoll, Caleb R. Gerbitz*

#### Panel Discussion

**Moderator:** Michael J. Cohen

**Panelists:** Robert B. Corris, Erik K. Eisenmann, Matthew M. Fernholz, Dean P. Laing, Susan E. Lovern, Ann M. Maher, Matthew W. O’Neill, Benjamin R. Prinsen, David J. Turek, Adam E. Witkov

## 2:45 PM Break

### 3:00 PM Navigating Civil Litigation When a Parallel Criminal Matter or Potential Criminal Matter Exists

- Existing state of the law
- What to consider in civil fraud matters
- Strategy in civil litigation when your client faces criminal exposure

*Benjamin R. Prinsen*

#### Panel Discussion

**Moderator:** Michael J. Cohen

**Panelists:** Robert B. Corris, Robert S. Driscoll, Erik K. Eisenmann, Matthew M. Fernholz, Caleb R. Gerbitz, Dean P. Laing, Susan E. Lovern, Ann M. Maher, Matthew W. O’Neill, David J. Turek, Adam E. Witkov

### 3:50 PM Ethics Hot Topics

- Law firm and lawyer obligations when lawyers change firms
- Use of artificial intelligence by lawyers – ABA Formal Opinion 512
- Recording others without disclosure or consent – Wisconsin Formal Ethics Opinion EF-24-01
- Minimizing imputed prospective-client conflicts – ABA Formal Opinion 510 client option letters

*Ann M. Maher*

#### Panel Discussion

**Moderator:** Michael J. Cohen

**Panelists:** Robert B. Corris, Robert S. Driscoll, Erik K. Eisenmann, Matthew M. Fernholz, Caleb R. Gerbitz, Dean P. Laing, Susan E. Lovern, Matthew W. O’Neill, Benjamin R. Prinsen, David J. Turek, Adam E. Witkov

## 4:40 PM Program Concludes

*Following start time, schedule will vary slightly from above. All times are Central Time Zone.*

## TUITION

	IN-PERSON	WEBCAST
State Bar Member	\$249	\$279
Nonmember	\$329	\$359
Ultimate Pass Gold/Silver	\$0	\$0
Ultimate Pass Bronze	\$249	\$0
Passbook Certificate	1 Certificate	1 Certificate

## REGISTRATION & GENERAL INFO

**ONLINE:** [wisbar.org/seminars](https://wisbar.org/seminars)

**PHONE:** (800) 728-7788

**MAIL/FAX:** Visit [wisbar.org/regform](https://wisbar.org/regform)  
for registration form



**PINNACLE PASSBOOK REGISTRATIONS:** PINNACLE 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.

**COURSE MATERIALS:** Course materials are provided to seminar attendees in PDF format and are downloadable from *myStateBar* on [wisbar.org](https://wisbar.org) up to two days prior to and 90 days after your seminar.

**CANCELLATIONS:** Please visit [wisbar.org/cancellations](https://wisbar.org/cancellations) for information on PINNACLE registration cancellation policies.

**ACCOMMODATIONS:** If you need special accommodations, please contact us at (800) 728-7788, ext. 6142 at least three weeks prior to the program date so we can make appropriate arrangements.

**NOTICE:** By attending this State Bar event, you understand and agree that you may be photographed and/or electronically recorded during the event and you hereby grant to the State Bar the right to use and distribute your name and likeness for promotional or educational purposes without monetary compensation. The State Bar assumes no liability for such use.

Event Code: CA3692 Priority Code: S4435B

## BOOK BONUS!

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**PRINT BOOK:** AK0254 **BOOKS UNBOUND:** AE0254\_SUB

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## ADDITIONAL LEARNING OPPORTUNITIES

### 9th Annual Closely Held Business Update

Review the latest legal developments impacting closely held businesses, including oppression of minority shareholders, using life insurance to fund buy-sell agreements, noncompetes, and unwinding marital trusts that own family business stock. Explore the multiple roles lawyers play in advising closely held businesses.

**CREDITS:** 6.5 CLE/1 EPR

**WEBCAST REPLAYS:** Oct. 31, 2024 | Nov. 7, 2024 | Nov. 15, 2024 | Nov. 20, 2024 | Nov. 29, 2024 | Dec. 5, 2024  
Dec. 18, 2024 | Dec. 30, 2024 | Jan. 11, 2025 | Jan. 18, 2025

### The Law of Damages in Wisconsin

Help your clients recover the damages they're entitled to with this comprehensive statement of Wisconsin law that covers the types of damages available, practical guidance on practice and procedure, and detailed explanations of the special rules governing damages.

**PRINT BOOK:** AK0063 | **BOOKS UNBOUND SUBSCRIPTION:** AE0063\_SUB

### Business Law Forms Library

Your time is valuable, and the *Business Law Forms Library* helps you manage it wisely with online access to customizable, current, fillable forms you need anytime, anywhere. Gain quick access to more than 65 forms from our most popular business resources books and make searching for forms a thing of the past.

**ONLINE SUBSCRIPTION:** FSFB2000