

# Daily Journal

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FRIDAY, OCTOBER 6, 2017

## One-stop shop for business and commercial litigation

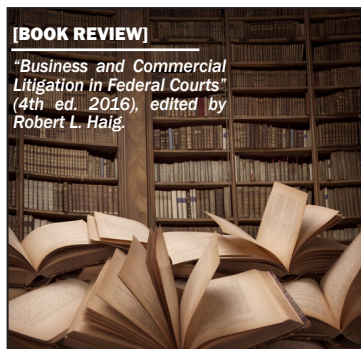
By Brad D. Brian  
and James C. Rutten

The modern business and commercial litigator faces many challenges — keeping abreast of constant changes in substantive and procedural law, mastering the art of effective advocacy, attracting and retaining clients, and training up the next generation of lawyers, to name a few. One has so many written, live and web-based resources to draw on in meeting these disparate challenges that it can be difficult to know where to begin. Wouldn't it be nice to have everything one needs to know collected in one place?

Enter “Business and Commercial Litigation in Federal Courts” (4th ed. 2016), edited by Robert L. Haig. More than a treatise on the law, this is the definitive guide to being a successful commercial litigator. Now in its 19th year, “Business and Commercial Litigation” has expanded to 15 volumes (up from 11 in the Third Edition) and 153 chapters (up from 128) written by 296 preeminent experts in their fields, including dozens of federal circuit, district and bankruptcy judges.

“Business and Commercial Litigation” of course contains what one would expect of any multi-volume practice guide: in-depth chapters on major substantive areas of the law. Need to learn what anti-trust law is all about? Check. Wondering about the implications of the Supreme Court's latest decision in the securities realm? Check. Patent and trademark? Labor and employment? Products liability? Check, check, check.

But “Business and Commercial Litigation” goes far beyond the standard fare, encompassing even the most obscure corners of the law



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— from derivatives to franchising to the Torture Victim Protection Act. New chapters in the Fourth Edition include Advertising, Aviation, Civil Rights, Fashion and Retail, Fiduciary Duty Litigation, Health Care Institutions, International Trade, Joint Ventures, Mass Torts, Media and Publishing, Public Utility, Regulatory Litigation, Securitization and Structured Finance, Social Media and the Telephone Consumer Protection Act. Whatever one's practice area, one can find it covered here in exhaustive detail.

Litigation procedure receives similarly comprehensive treatment. Subject-matter jurisdiction, venue, removal, class actions, multidistrict litigation, Declaratory Judgments (new to the Fourth Edition), appeals and numerous other procedural topics all have their own chapters. Various discovery techniques (including Discovery of Electronically Stored Information (chapter 26, Hon. Shira A. Scheindlin)) likewise are covered, with a variety of recommendations to make one a more proficient pretrial litigator. And once again, “Business and Commercial Litigation” does not stop at the obvious, but extends to such topics as Cross-Border Litigation (new to the Fourth Edition), Litigating International Disputes in Federal Court, and International

Arbitration. Students of procedure also will want to dive into the new chapter on Civil Justice Reform by Craig Stewart and Gregory E. Goldberg, which explores past and present changes to the process of civil litigation, analyzes the efficacy of such efforts, and provides a variety of practice tips for representing one's clients more effectively in this ever-changing environment.

Speaking of effective advocacy, much of “Business and Commercial Litigation” is dedicated exclusively to that topic, regardless of the areas in which one may practice. The most valuable lawyer, of course, may be the one who keeps the client out of litigation in the first place, and thus there is a chapter devoted to Litigation Avoidance and Prevention. Internal Investigations, Crisis Management, Negotiations (new to the Fourth Edition), Mediation (likewise new) and Settlements also have their own chapters. And effective advocacy during every phase of trial (jury selection, opening statements, cross-examination, closing arguments, jury instructions and so forth) occupies no fewer than 11 in-depth chapters by federal judges and nationally renowned trial lawyers.

“Business and Commercial Litigation” also focuses on not just the profession of law, but the business of law as well — something to which every law firm partner and in-house attorney must be attuned. How does one develop and implement a plan for establishing and deepening client relationships? See Marketing to Potential Business Clients (chapter 70, new to the Fourth Edition). How does one represent a client not just effectively, but *cost-effectively* — a critical part of outside counsel's job? Check out Litigation Management

by Law Firms (chapter 68). How does an in-house lawyer choose a law firm and ensure that it does the right things and keeps costs down by maximizing efficiency? Look no further than Litigation Management by Corporations (chapter 69).

One particularly valuable addition to the Fourth Edition is Teaching Litigation Skills, by Frederick L. McKnight. If you have ever struggled with how to train a new lawyer to create a strategic discovery plan, to write a brief that sings, or to deliver a compelling oral argument, this chapter will arm you with the insights you need. If you are wondering if it is possible to teach such “soft” skills as emotional intelligence, reading a room, and developing credibility with clients, judges, and juries, it is. This chapter will tell you how.

The Fourth Edition, despite covering every conceivable topic, is well organized and easy to navigate. It also comes with a CD-ROM containing a wealth of forms, checklists, and jury instructions.

Robert Haig has done an extraordinary job integrating 25 new chapters into the Fourth Edition. This work belongs on the bookshelf of every commercial litigator.

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