

MICHIGAN

BAR JOURNAL

JULY/AUGUST 2024

Business Law

- Litigating a business fraud case? Don't overlook the red flag defense
- Trial experts beware! Court's duties under newly amended FRE 702
- Succession planning and the approaching massive transfer of wealth
- Privacies of life in commercial e-discovery: Modern opinions on employers' duties to preserve evidence on employees' personal cellphones

IN FOCUS

BUSINESS LAW: THE RIPPLE EFFECTS OF OUR WORK

BY GERARD V. MANTESE

In “A Christmas Carol,” Charles Dickens wrote:

“Business!” cried the Ghost, wringing its hands again. “Mankind was my business. The common welfare was my business; charity, mercy, forbearance, and benevolence, were all my business. The dealings of my trade were but a drop of water in the comprehensive ocean of my business!”

Business attorneys are invited to the front row of the high-stakes drama of commerce and relationships. Consider all the people we affect as business attorneys — owners, employees, vendors, customers, and beyond. We get involved in the very dreams of women and men.

Case law on business litigation and transactions is generated at a rapid pace, and the daily checking of the eJournal for business law decisions is necessary to stay abreast of developments in the law and not be left behind. Mastery of the Business Corporations Act and the Limited Liability Act is also essential. Practicing business law without reading both acts every few years is like playing a complicated card game with only a vague recollection of the rules.

In the following pages, several authors discuss important ideas and perspectives on four areas critical to business attorneys:

- Jon Frank provides an excellent discussion about claims of business fraud and the nuanced red flag defense.
- Linda Watson and Magy Shenouda write on a hot topic — changes to FRE 702 and the increasing number of challenges of experts in business litigation.
- In our article on succession planning, Ian Williamson and I explain how businesses can effectively plan for future growth and changes in control.
- Finally, Paul McCarthy and Elizabeth Badovinac describe nuances of important e-discovery considerations.

Business attorneys are problem solvers, strategic planners, and champions for their clients. I hope these articles help you in your endeavors. Enjoy!



Gerard Mantese has a national practice in business law at Mantese Honigman focusing on shareholder and member disputes, where he has handled leading cases in many states. A former adjunct professor at Wayne State University School of Law, he is co-chair of the LLC and Partnership Committee of the SBM Business Law Section. A graduate of the University of Missouri-St. Louis and St. Louis University School of Law, Mantese’s firm recently opened a new office in St. Louis.

