

COMMERCIAL LITIGATION COMMITTEE
REPORT PREPARED FOR THE DECEMBER 5, 2024 COUNCIL MEETING

1. Next Scheduled Meeting of the Committee/Directorship.

No meeting of the Committee is currently scheduled.

2. Council Approval.

No matters except the budget require Council approval.

3. Membership.

The Committee comprises approximately 100 commercial litigators.

4. Accomplishments Toward Committee/Directorship Objectives.

The Committee co-sponsored a program with the Michigan Judicial Institute, Business Court Judges, mediators, and litigators on September 12, 2024 at the Hall of Justice in Lansing. Justice Brian Zahra attended. The program focused on how judges, mediators, litigators, and parties can make mediation more effective to benefit the parties and the overall administration of justice in the business courts. The program was well-attended and well-received.

5. Meetings and Programs.

See no. 4 above.

The Chair believes that a bench-bar program between the Business Court Judges and attorneys to celebrate the 12 years of the business court legislation may be appropriate. This is in the early planning stage. If this does occur, it would be an in-person, interactive event to reflect on what has occurred over the past 12 years, look forward to the future, and focus on best practices. More information will likely be included in the Council report for the spring Council meeting.

6. Publications.

The Committee has published no articles.

The Commercial Litigation Committee is responsible for providing articles for the 2025 Spring issue of the Michigan Business Law Journal. The submission deadline is November 30, 2024. ICLE is seeking 2-3 articles on commercial litigation. Articles should be 10-15 double-spaced pages in MS Word, with endnotes. While the focus is on commercial litigation,

articles on other topics of interest to the Business Law Section are also welcome. If you are interested in submitting an article, or if you have any questions, please e-mail Tala Dahbour tdahbour@icle.org and Brendan Cahill, BLS Publications Director, at bcahill@dykema.com. Please also copy the Committee Chair.

7. Methods of Monitoring Legislative/Judicial/Administrative Developments and Recommended Action

The Commercial Litigation Committee typically receives notices of proposed legislation or changes to the Michigan Court Rules. When the Committee is informed of potential changes to the Michigan Court Rules or proposed legislation that may impact the practice of Committee members, the Committee engages in an e-mail (or occasionally in-person) discussion of such proposed changes or legislation.

8. Miscellaneous.

As mentioned in the last Council report, the Michigan Supreme Court invited the BLS and others to file an amicus brief in *Kircher v Boyne* (Mich S Ct case no 166459).

An Hoc Committee proposed a position to the Council. The Council agreed, and the Business Law Section filed a brief with the Michigan Supreme Court on October 30, 2024. A copy of the brief is attached.

The Chair wishes to thank the following members of the Ad Hoc Committee for all their work on this. In particular, the Chair wishes to thank Bill Horton for taking the lead in drafting and filing the brief.

Jennifer Consiglio
Marguerite Donahue
William H. Horton (and those who assisted him at Giarmarco
Mullins & Horton, PC)
Michael Khoury
Justin G. Klimko
John Schuring
Ian Williamson

The Chair would like to maintain this Ad Hoc Committee until the Michigan Supreme Court issues an opinion.

Douglas L. Toering, Committee Chair
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Date of Report: 11/29/2024