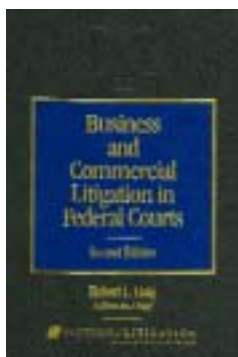


Business and Commercial Litigation in Federal Courts



Edited by Robert L. Haig
Thompson/West, 2005
\$960, 8 volumes

The second edition of *Business and Commercial Litigation in Federal Courts* is a practical treatise that every federal court litigator will find useful. For example, the multivolume set devotes chapter 22 (of 96) to e-discovery. Another example is the treatment of the ever-evolving use of litigation technology, covered by renowned trial attorney David Boies. Nor does editor Robert L. Haig's compilation limit itself to the domestic realm. The work also offers insight from former Secretary of State Warren Christopher into litigating international disputes in federal courts.

Haig's compilation avoids the pitfall that tends to ensnare treatises on the federal courts—namely, skewing too far toward the academic. By collecting the work of judges and active federal practitioners, Haig maintains a practical focus in each of the chapters. The value of Haig's treatise to new and seasoned litigators is demonstrated by chapter 5, titled "Case Evaluation." New litigators will find helpful the comprehensive consideration given to all aspects of case evaluation, including the impact of Sarbanes-Oxley and the possibility that case evaluations may later be subject to disclosure.

Compilations are generally only as good as their contributors, and in this set all of them are plainly experts in their fields. An example of this shines in chapter 20, "Depositions." In an area that arguably has already been covered quite comprehensively, authors Patrick Lynch and Paul Salvaty add new and important insights. For example, they suggest exploring stipulated predesignation of deposition exhibits in large business cases, which can result in a time and cost savings for all involved. The chapter also includes great suggestions on language for discovery plans.

This set is relevant to daily practice thanks to its focus on cutting-edge legal issues. Foremost among them is the issue of e-discovery, which chapter 22 addresses directly. Practitioners should note, however, that the current version of this chapter was written prior to adoption of the new Federal Rules of Civil Procedure addressing the subject. This caveat aside, the chapter serves as a great primer on important issues to consider, including prelitigation planning relating to electronic information retention and the distinctive aspects of electronic information.

Like other chapters on topics well covered in other works—this treatise's chapter 38, "Evidence," adds significant value to the set. The chapter's authors provide a concise and compelling summary of the federal evidentiary rules. Most notable, however, are the practical pointers not found elsewhere. For example, the chapter includes great question-and-answer vignettes that highlight fundamental principles in a highly effective way. Also helpful are the checklists on pre-

senting and admitting evidence, which are as valuable to a new litigator researching an evidentiary issue as they are to experienced first-chair counsel. Finally, the sample demonstrative exhibits at the end of the chapter are exceptional.

Excellent Content Throughout

Haig's treatise does more than address such preliminary topics as case evaluation and discovery. The set is strong in its latter volumes too. In volume 5, chapter 56, for example, Boies is the reader's able guide through the tangled world of litigation technology, exploring the ever-changing challenge of using technology during the various phases of litigation. Standout sections address 1) how to choose an e-discovery firm, which is invaluable for young associates who are often charged with identifying potential vendors, 2) common courtroom devices and document management techniques, and 3) advice and case law on recovering a client's technology costs.

Chapter 60, "Civility," is perhaps the best of volume 5. In this chapter, the author offers a concise discussion of the standards of attorney interaction and what recourse an attorney has when an adversary fails to meet the minimal requirements of civility. The chapter includes a checklist that assists the reader in mulling over options when confronted with incivility.

Insurance issues are part and parcel of almost every case that attorneys handle, but the rather dry subject is often overlooked in law school. Haig remedies this in chapter 69, which explores all species of insurance and risk allocation, including doctrines, tactics, and recent trends in federal court. Volume 6 also features a chapter devoted to director and officer liability authored by Judge Paul S. Diamond and litigator Mathieu J. Shapiro. At first glance, the reader may be surprised to see a "D&O" discussion in a federal practice treatise, because this area traditionally has been the province of state law, and the authors provide a terrific discussion of state-law liability. They also discuss Congress's foray into the D&O arena with Sarbanes-Oxley.

Volume 7 addresses the dreaded federal code-based topics, including labor law, ERISA, and copyright. Chapter 76 explores the busy area of copyright litigation in an approachable manner. The chapter provides a valuable exploration of the origins of and developments in modern copyright litigation and touches upon alternative dispute resolution options. Chapter 77 tackles labor law, going beyond the fundamentals by providing a detailed plan for using injunctive and equitable maneuvers. The labor chapter is thorough but not too dense, with a welcome focus on practical applications.

Ultimately, volume 8 illustrates the breadth and depth of Haig's compilation, covering topics from commercial paper (chapter 87) to construction (chapter 93). In the final analysis, Haig's treatise is worth its price of nearly \$1,000. Every lawyer's library would benefit from having this set. ■

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