

NEWSLETTERS

Commercial Litigation Update - May 2018

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Welcome to the May 2018 edition of the Commercial Litigation Update, an e-publication that features articles authored by the attorneys in Barnes & Thornburg LLP's Commercial Litigation Practice Group. To read an article from this month's edition of the Commercial Litigation Update e-newsletter, click on the hyperlinks in the article below.

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Decision in Case Consolidated Under Rule 42 Can Be Immediately Appealed, Despite Ongoing Related Litigation

The U.S. Supreme Court ruled unanimously earlier this year that when one of several cases consolidated under Rule 42(a) is finally decided, that decision confers upon the losing party the immediate right to appeal, regardless of whether any of the other consolidated cases remain pending. This article discusses that Rule 42 decision and the 125 years of history behind it.

By Daniel P. Albers

Selling Out on Attorney-Client Privilege: Asset Acquisitions as a Trap for the Unwary Business Lawyer

Attorney-client privilege is for sale. This probably came as a real shock to Minnesota attorney Edward Adams, who helped orchestrate the sale of two businesses' assets. Little did he realize what else was included in the terms of the deal.

By Kyle Gerlach

Is it Permissible to Redact Irrelevant Information in Documents Produced in the Discovery Process?

We will examine the important considerations of redacting portions of documents produced during litigation in light of new amendments to the Federal Rules of Civil Procedure.

By Laura E. Gorman

Supreme Court Upholds Enforceability of Employee Class Action Waivers

After years of uncertainty surrounding the legality of employee class action waivers, corporate executives and in-house counsel can breathe a collective sigh of relief. On May 21, the U.S. Supreme Court issued an opinion in *Epic Systems Corporation v. Lewis*, holding that class action waivers in employee arbitration agreements are enforceable under the Federal Arbitration Act (FAA) which brings finality to a hotly

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debated issue.

By Monique A. Hannam

Leveraging Cognitive Science When Mediating High-Stakes Commercial Cases

Commercial litigators know that an initial demand or offer often sets the tone for an entire mediation. The first move sometimes determines whether mediation will succeed or not. Typically, commercial litigators develop their own best practices for making an opening move. But is there cognitive science that informs this critical strategy call? Dennis Stolle and Amit Patel, attorneys and trial strategists, explore the science.

By Amit Patel and Dennis P. Stolle