

NEWSLETTERS

Barnes & Thornburg LLP Commercial Litigation Update - December 2013

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Welcome to the December 2013 edition of the *Commercial Litigation Update*, an electronic publication that features articles authored by the attorneys in Barnes and Thornburg LLP's Commercial Litigation Practice Group. If you are not currently on our mailing list and would like to receive issues of this newsletter directly via email, [visit our subscription page](#) to sign up.

Indiana Court of Appeals Reverses Injunction Granted in Non-Compete Case

The Indiana Court of Appeals has reversed a trial court order that granted a preliminary injunction against a recruiter who was subject to a non-compete covenant. Learn more about *Buffkin v. Glacier Group*, - N.E.2d --, 2013 WL 5516472 (Ind. Ct. App. Oct. 7, 2013) and what the court determined.

Recent Court Decisions Highlight the Importance of Customizing Arbitration Agreements

Arbitration is quickly becoming an alternate dispute forum as public courts deal with decreasing budgets and a resistance to keeping proceedings confidential. The United States Supreme Court continued its legacy of enforcing arbitration agreements and upholding arbitrators' exercise of contractually-granted authority in two different cases during its 2013 term.

Two Recent Cases Address What Happens When the Arbitral Forum Selected by the Parties is not Available

By: Timothy J. Abeska

Agreement on an arbitral organization has become an important provision parties include in their contracts. But what happens when it comes time to arbitrate and the organization no longer accepts cases? Learn more about how two recent court decisions addressed this issue.

Michigan Court Enforces Oral Agreement to Arbitrate

By: Scott R. Murphy

In a recent franchise dispute concerning the ownership of a Subway franchise, the Court in *Namari v. Subway Real Estate Corp*, 2013 WL 5450283 (Mich App October 1, 2013) enforced an oral agreement to arbitrate all disputes between the parties that was entered into by counsel on the record in the 36th District Court in Detroit, Michigan. Learn more about the Court's decision.

Indiana Supreme Court Reaffirms Rule that Puffery is not

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Actionable as Deception or Fraud

By: Caitlin S. Schroeder

A seller's opinion – what Judge Learned Hand called the “kind[] of talk which no sensible man takes seriously” – is sales puffery that is not actionable as deception or fraud. The Indiana Supreme Court recently reaffirmed this longstanding rule.

Buyer Beware When Defects are Readily Discoverable

By: Jeanine Kerridge

Buyers and sellers of goods should take note of a recent Indiana case holding that, under the Uniform Commercial Code (UCC), a buyer could not revoke acceptance of non-conforming goods where the defect could have been discovered before the purchase. Learn more about what the case means.

About Our Group

Barnes & Thornburg's commercial litigators advocate our clients' rights in a wide variety of areas at both the trial and appellate levels in state and federal courts throughout the United States. We also represent clients in alternative methods for resolution of disputes outside the courtroom, through negotiation, mediation, and arbitration. We provide nationwide coordination of litigation for several Fortune 500 clients and we advise clients with respect to litigation prevention, insurance, and claims-management systems.

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