

ALFA International

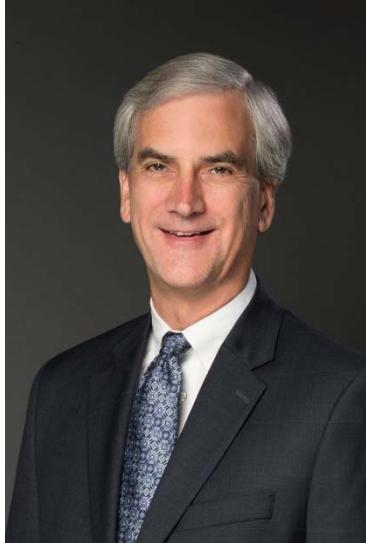
Business Litigation

Practice Group Newsletter - June 2018

Featured Member – John Newcomer

Inside This Issue

- 1 Featured Member
- 3 Subcommittee Focus



**John
Newcomer**
Partner

Morris James LLP

Wilmington, DE

Practice Description

John practices in the areas of real estate and commercial litigation. His experience in these dual fields provides his clients with a rare perspective in dealing with complex real estate and business matters. Understanding the dynamics of litigation, and how it impacts his clients' business strategies, gives John the ability to draft transactional documents with an eye towards avoiding problems before they arise.

John's litigation practice involves a wide range of business, contract, and real property disputes. His experience includes cases dealing with land purchase and sale agreements, construction defects and disputes, leases, adverse possession of real property, zoning and deed restrictions, breach of fiduciary duties, non-compete agreements, contract and commercial disputes, and estate litigation. His experience as a certified mediator of the Delaware Superior Court gives John the additional insight to resolve his clients' disputes before they turn into costly litigation.

Interesting Career Highlight

In his first case before the Delaware Supreme Court in 1992, John represented a homeowner whose house literally rotted out from inside the walls, causing catastrophic failure if not remedied. The defendant homebuilder sought to avoid liability for its negligence in constructing the home by relying on the economic loss doctrine, which had not yet been addressed in any Delaware decision. The doctrine prohibits recovery in tort for damages to a product that only harms the product itself. Instead of tort, an injured party is left to rely on contract damages, which in this case were barred by the statute of limitations. Ultimately, the Delaware Supreme Court ruled against John's client. Dissatisfied with the result of the court case, John introduced legislation in the Delaware legislature, which was enacted, to "overrule" the decision. Who says the Supreme Court has the last word?

Interests Outside the Practice of Law

When not practicing law, John enjoys riding motorcycles. He bought his first bike in 2008, when two of his friends from church convinced him to give riding a try. He has been in love with it ever since, and gets out on twisty back roads around his home as often as time permits. He takes trips across the country and internationally with the two friends who introduced him to riding, along with their wives. They have taken trips throughout the west and Texas. They even went to Canada and Europe (renting bikes for the latter trip). The Furka Pass in Switzerland, made famous by James Bond's car chase in Goldfinger, was one of his favorite rides.



Furka Pass, Switzerland



Skyline Drive, Virginia

**Beartooth Highway, Montana**

Subcommittee Focus

The ALFA International Business Litigation Practice Group's ("BLPG") recognition that its subject matter encompassed such a broad array of disputes resulted in the formation of the Business-to-Business (a/k/a Business v. Business) Subcommittee. The BvB Subcommittee's (the "BvBS") bailiwick includes litigation arising from contractual disputes, business torts, and statutory claims. By way of non-exclusive example, ALFA attorneys whose practice includes shareholder/member disputes, business divorces, joint venture disputes, agency disputes, directors & officers litigation, real property disputes, deceptive and unfair practices claims, fraud, defamation, and breach of fiduciary duties should all find much to help them and their clients in the BvBS.

In some ways, this Subcommittee should be thought of as addressing the run-the-business disputes, or the meat-and-potatoes business disputes, yet that is only part of the story. If an ALFA attorney's business litigation practice, and hers or his clients' needs, are broader than the more narrow focus of bankruptcy, intellectual property disputes, business v. consumer litigation, international business litigation, financial services litigation, and business disputes with government, then their practice and their clients' needs are under the BvBS umbrella. Of course, there is a large overlap in business v. business litigation and these more narrow areas of focus, yet even then often the base case is simply contractual, a business tort, or a statute focused on business claims. If you are interested, please contact John Osgathorpe, subcommittee chair.



John D. Osgathorpe

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