



New!

Minnesota CLE presents the
3rd Deskbook in the Business Law Series:

Representing the Ongoing Business

First Edition

A guide to representing the small- and medium-sized business owner

Edited by Donald C. Willeke

A Great NEW Deskbook

Announcing an all-new Deskbook designed to be your “go-to guide” for all of the issues faced by your clients running a small to medium-sized business. It includes succession planning issues, employment matters, business lease considerations, problems to avoid in shareholder agreements and much more!

A Great NEW Seminar

You will receive the NEW DESKBOOK at the information-packed 2-day seminar featuring our fabulous authors and editors on Monday, October 29 and Tuesday, October 30.

Monday, October 29, 2012 & Tuesday, October 30, 2012

Minnesota CLE Conference Center • 600 Nicollet Mall, Suite 370
Third Floor City Center, Minneapolis

Video replays available.

A Terrific New Deskbook

for lawyers who represent small- and medium-sized business owners!

Minnesota CLE proudly announces an all-new Publication in the Minnesota Business Law Deskbook Series – Representing the Ongoing Business. The Deskbook is a user-friendly practice aid for those who represent small- and medium-sized business owners. A talented team of authors have contributed their insights to this outstanding new resource, edited by Don Willeke and written by twenty seasoned business practitioners.

65+ Reasons to Own this Deskbook

- **Business Capitalization, Control and Buy-Sell Agreements**
 1. Why these agreements are vital for small- and medium-sized businesses
 2. What comprehensive BCCBS agreements should contain
 3. How to guard against court-made and statutory pitfalls in BCCBS agreements
 4. How to draft valuation and dispute resolution provisions and necessary timing provisions
 5. Checklist of required information and client decisions that are needed
- **Employment Law: Which Employment Policies Your Clients Must Have**
 6. Job description basics
 7. How to avoid disability discrimination claims
 8. Sexual harassment update
 9. How to manage an employee leave
- **Employee Benefits**
 10. How health care reform affects employer sponsored group medical plans
 11. Reporting and disclosure requirements affecting employer sponsored retirement plans, including new fee disclosure requirements
 12. Recent HIPAA developments that every employer should be aware of in order to reduce the risk of penalties
 13. IRS and DOL voluntary correction programs that employers can use when mistakes occur
- **Employment Contracts**
 14. Common mistakes made by employers and corporate attorneys relating to Minnesota employment contracts - including mistakes that often lead to litigation
 15. How to avoid inadvertently entering into binding contractual obligations
 16. Cases, trends, traps and strategies relating to executive agreements, non-compete agreements and bonus/commission agreements
 17. Successful drafting, implementation and enforcement strategies to help employers protect their business interests, accomplish their goals and decrease their risks and costs of litigation
- **Independent Contractors**
 18. Overview of risks and benefits of using independent contractors
 19. How to analyze independent contractor compliance – misclassification red flags
 20. Best practices: independent contractor agreements
 21. Best practices: independent contractor audits
- **The ABCs of Becoming a Franchisee in Minnesota**
 22. What should I look for in a franchise opportunity and what sort of team should I assemble
 23. Do I really want to be a franchisee at all
 24. Where are the bodies buried in franchise agreements
 25. Exactly what is a “franchisee” and may I already be one without even knowing it
 26. What special legal rights do franchisees in Minnesota and certain other states have
- **Sales and Distribution Agreements: Key Liability Provisions**
 27. Sources of liability
 28. Warranty and “super-warranty” provisions
 29. Ways to limit liability, including disclaimers and caps
 30. Force majeure
 31. Liquidated damages and other penalties
- **Business Leases and The Attorney’s Lease Analysis Letter**
 32. The lease as the beginning of the Landlord / Tenant relationship
 33. Identifying common areas of negotiation in commercial lease agreements
 34. Pick your battles – prioritize your requests
 35. Disputes: how to handle disagreements while preserving the long term relationship
- **Conducting a Business Review**
 36. Learn why a business “review” may be helpful
 37. Develop a process for doing a review
 38. Consider approaches to certain topics that often are part of a review
 39. Examine topics that may have particular value to a client - intellectual property, risk management, document retention, and more

Practice Tips and Ethics Commentary Make the Law Come Alive

The Deskbook chapters include numerous tips that go beyond the law to share real-world expert advice. Reading these tips is like having these professionals in the room with you answering your questions:

“Be careful about venue provisions that might prevent bringing action for injunctive relief in another jurisdiction where a violation is occurring.”

- **Secured Transactions in Personal Property**
 40. For the uninitiated, a panoramic view of Article 9, including how to create, perfect and enforce security interests in personal property
 41. For the experts, a more in-depth look at recent amendments of Article 9 scheduled to take effect on July 1, 2013
- **Succession Planning**
 42. Simple and sophisticated estate tax reduction strategies for the business owner
 43. Non-tax estate planning tips for business owners, including sample will and trust provisions
 44. Protection of business interests from division in a divorce, including through the use of buy-sell agreements, antenuptial agreements and postnuptial agreements
 45. Planning for disability with powers of attorney, trusts and buy-sell agreements
 46. Practical tips for successfully transferring ownership of a privately held business to the next generation, to key employees, or to a third party buyer
- **Ownership Disputes in Privately Held Companies**
 47. Ownership disputes in privately held companies can be personal, complicated and contentious. Learn the key statutes and case law governing these disputes. This is essential knowledge for corporate and litigation attorneys with privately held clients as well as owners, directors, and officers of privately held companies
 48. What do reasonable expectations have to do with it? Learn what the courts think is important when deciding ownership disputes in privately held companies
 49. Can a written agreement resolve these disputes before they start? Learn how written agreements impact the resolution of ownership disputes
 50. What is a Special Litigation Committee (“SLC”) and how can it help me? Learn how companies can use an SLC to evaluate and resolve ownership claims before litigation erupts
 51. Who do I represent? Common pitfalls for the in-house and outside corporate attorney. Learn how to avoid a conflict of interest and to protect privileged communications and attorney work product
- **Family Law Issues Affecting Businesses**
 52. Impact of a Buy-Sell Agreement on the value of a business in a divorce
 53. Basics of non-marital property
 54. Potential “Double Dipping” – Using the same income for spousal maintenance and property value
 55. Personal vs. business goodwill
 56. How the business lawyer can protect the business and business owner in a divorce
- **Business Contract Drafting**
 57. Assessing and determining the reasons for having the contract
 58. Determining what core terms the contract needs to state
 59. Drafting the contract - plain language, clarity, and flexibility
 60. Addressing special contract issues - delivery, warranties and their disclaimer, intellectual property rights, confidentiality, and more
- **Intellectual Property Issues and “Business Name” Issues**
 61. There are two ways to protect an idea:
 - A. Trade Secret Protection: how to help your client identify and preserve trade secrets
 - B. Patent Protection: how to help your client understand the patent process, whether seeking patent protection is worth it, and how to read a patent
 62. Understanding the differences between trademarks and trade names (business names)
 63. Best practices: trademark and trade name selection and protection
- **Antitrust Considerations**
 64. The five key concepts of antitrust
 65. The basic do’s and don’ts of antitrust
 66. What to know about antitrust litigation
 67. Where antitrust is headed

And much more!

Representing the Ongoing Business

First Edition

1. Shareholder Agreements

WHAT IS A BUSINESS CAPITALIZATION, CONTROL AND BUY-SELL AGREEMENT? • WHERE IS IT "LOCATED"? • WHY IS IT "THE MOST NECESSARY BUSINESS AGREEMENT?" • WHY IS IT "THE MOST DIFFICULT BUSINESS AGREEMENT?" • SPECIFIC ELEMENTS OF A CAPITALIZATION, CONTROL AND BUY-SELL AGREEMENT • DEALING WITH LEGAL PITFALLS CREATED BY STATUTES AND COURT DECISIONS • TAX PLANNING • CHECKLIST FOR DATA COLLECTION ON THE ORGANIZATION AND CLIENT NEEDS AND WISHES

— Donald C. Willeke

2. Employment Law: A Primer

AT-WILL EMPLOYMENT • EMPLOYEE HANDBOOK BASICS • HIRING BASICS • FAIR WAGE BASICS • DISCRIMINATION • SEXUAL HARASSMENT; A FORM OF DISCRIMINATION • MANAGING LEAVE • PERFORMANCE MANAGEMENT • EMPLOYMENT TERMINATIONS • PROVIDING REFERENCES

— Tammy L. Pust

3. Employee Benefits Basics

INTRODUCTION • WHAT BENEFITS CAN/SHOULD AN EMPLOYER OFFER? • WHO IS THE EMPLOYER? • RETIREMENT / PENSION PLANS • LAWS IMPACTING RETIREMENT PLANS • WELFARE BENEFIT PLANS • LAWS IMPACTING WELFARE PLANS • LAWS IMPACTING BOTH PENSION AND WELFARE PLANS • NONQUALIFIED DEFERRED COMPENSATION PLANS • NON-ERISA EMPLOYEE BENEFIT PLANS • CLAIMS PROCEDURES AND CIVIL ENFORCEMENT • CONCLUSION

— Stephen A. Brunn

4. Minnesota Employment Contracts

INTRODUCTION • MINNESOTA EMPLOYMENT CONTRACTS COME IN MANY FORMS • CONTRACT DISPUTES OFTEN DECIDED BY A JURY; AND EXTRINSIC EVIDENCE • DAMAGES FOR BREACH OF CONTRACT • STATUTE OF LIMITATIONS • SIMPLE OFFER LETTER AGREEMENTS • EXECUTIVE AND KEY EMPLOYEE EMPLOYMENT AGREEMENT • CONFIDENTIALITY, NON-COMPETITION AND OTHER BUSINESS PROTECTION COVENANTS • BONUS AND COMMISSION AGREEMENTS • CONCLUSION

— Jeffrey B. Oberman

5. Independent Contractors

INTRODUCTION • BENEFITS OF INDEPENDENT CONTRACTOR STATUS FOR WORKERS AND BUSINESSES • RECENT MISCLASSIFICATION ENFORCEMENT EFFORTS • RISKS OF INDEPENDENT CONTRACTOR MISCLASSIFICATION • ANALYZING INDEPENDENT CONTRACTOR COMPLIANCE • INDEPENDENT CONTRACTOR BEST PRACTICES • KEY STRATEGIC STEPS IF A WORKER APPEARS TO BE MISCLASSIFIED • CONCLUSION

— Ryan E. Mick & Courtney J. DaCosta

6. The ABCs of Becoming a Franchisee in Minnesota

INTRODUCTION: THE GROWTH AND IMPACT OF FRANCHISES • WHAT A GOOD FRANCHISEE SHOULD KNOW ABOUT BECOMING A FRANCHISEE • CONCLUSION

— Jeffrey S. Haff

7. Sales and Distribution Agreements

INTRODUCTION • TYPES OF RELATIONSHIPS AND AGREEMENTS • ANATOMY OF A SUPPLY AGREEMENT • SPECIAL CONSIDERATIONS IN DISTRIBUTION AGREEMENTS • SPECIAL CONSIDERATIONS IN MULTINATIONAL TRANSACTIONS

— Jennie A. Clarke

8. Negotiating Commercial Leases for Small Businesses

INTRODUCTION • IDENTITY OF LANDLORD AND TENANT • DEFINING THE LEASED PREMISES • TERM OF THE LEASE • RENEWAL OPTIONS • RIGHT OF FIRST REFUSAL AND/OR RIGHT OF FIRST OFFER FOR EXPANSION SPACE • USE OF SPACE • SECURITY DEPOSIT • BASE RENT • PERCENTAGE RENT • COMMON AREA MAINTENANCE/OPERATING COSTS • UTILITIES • HAZARDOUS MATERIALS • INITIAL TENANT IMPROVEMENTS • REPAIRS AND MAINTENANCE • COMPLIANCE WITH LAWS • INDEMNITY • WAIVER OF SUBROGATION • ASSIGNMENT AND SUBLETTING • DEFAULT AND REMEDIES • ALTERNATIVE DISPUTE RESOLUTION • DAMAGE AND DESTRUCTION • RIGHT TO RELOCATE • EMINENT DOMAIN • ATTORNEY FEES CLAUSE • ALTERATIONS/SURRENDER • SMDA - LANDLORD WARRANTY OF TITLE • ENTRY BY LANDLORD • CONCLUSION

— Thomas M. Hart & Tammera R. Diehm

9. Intellectual Property Issues and "Business Name" Issues

INTELLECTUAL PROPERTY FUNDAMENTALS • TRADE SECRETS • COPYRIGHTS • TRADEMARKS • PATENTS • BUSINESS NAME ISSUES

— James L. Young

10. Secured Transactions in Personal Property

INTRODUCTION • CREATING AN ARTICLE 9 SECURITY INTEREST • PERFECTION • PRIORITY • DEFAULT AND ENFORCEMENT • CONCLUSION • SECURITY AGREEMENT • APPENDICES

— Gene H. Hennig

11. Succession Planning

OVERVIEW OF FAMILY BUSINESS ISSUES • ESTATE PLANNING BASICS • ESTATE AND GIFT TAX PRIMER • BUY-SELL AGREEMENTS • RETAINING KEY EMPLOYEES • WILL AND REVOCABLE TRUST PROVISIONS • STRATEGIES FOR LIFETIME TRANSFERS

— Todd D. Andrews & Cameron R. Seybolt

12. Ownership Disputes in Privately Held Companies

INTRODUCTION • FIDUCIARY DUTIES AND RELATIONSHIPS • THE KEY STATUTES • CONDUCT GIVING RISE TO MINORITY OWNER DISPUTES • REMEDIES • DISSSENT AND APPRAISAL RIGHTS • THE USE OF SPECIAL LITIGATION COMMITTEES (SLC) • LEGAL REPRESENTATION IN OWNER DISPUTES

— Brooke D. Anthony & Janel M. Dressen

13. Family Law Issues Affecting Businesses

INTRODUCTION • SEMINAL MINNESOTA VALUATION CASE: NARDINI V. NARDINI • VALUATION DATE • STANDARD OF VALUE • FACTORS AFFECTING VALUE • ANALYSIS FRAMEWORK – FINANCIAL STATEMENT ADJUSTMENTS • VALUATION APPROACHES • VALUATION PREMIUMS AND DISCOUNTS • OTHER VALUATION ISSUES IN THE DIVORCE CONTEXT • COMMON MISTAKES LAWYERS MAKE WHEN DEALING WITH BUSINESS VALUATION ISSUES • HOW THE BUSINESS LAWYER CAN PROTECT THE BUSINESS AND BUSINESS OWNER IN A DIVORCE

— Steven G. Dennis & Patrick K. Schmidt

14. Antitrust Considerations for Small- and Medium-Sized Businesses

THE BASIC STATUTES: THE SHERMAN ACT • CONSEQUENCES OF VIOLATION • BASIC ANTITRUST CONCEPTS • SHERMAN ACT, SECTION 1 VIOLATIONS • VIOLATIONS OF SECTION 2 OF THE SHERMAN ACT • VIOLATIONS OF SECTION 7 OF THE CLAYTON ACT • THE ROBINSON-PATMAN ACT • SOME SIMPLE DO'S AND DON'T'S • BASICS OF PRIVATE ANTITRUST LITIGATION • THOUGHTS ON ENFORCEMENT

— Daniel R. Shulman

15. Conducting a Business Review

INTRODUCTION • INITIAL INFORMATION GATHERING • PROPER CREATION, OPERATION, AND MAINTENANCE OF LEGAL ENTITY • CONTRACTS • EMPLOYMENT AND INDEPENDENT CONTRACTOR PRACTICES • BUSINESS CONTINUATION AND SUCCESSION PLANNING • INTELLECTUAL PROPERTY • BUSINESS PREMISES • SECURITIES CONSIDERATIONS • MAINTAINING RECORDS AND DOCUMENT RETENTION AND DESTRUCTION POLICIES • LITIGATION CONSIDERATIONS • RISK MANAGEMENT AND INSURANCE • CLIENT RELATIONSHIPS WITH BANKS AND LENDERS • RETIREMENT PLANNING

— James E. Snoxell

16. Business Contract Drafting

OVERVIEW - THE ROLE AND IMPORTANCE OF CONTRACTS • THE STARTING POINT: BASIC REQUIREMENTS FOR A CONTRACT • DEFINING THE REASON FOR THE CONTRACT AND DETERMINING NEEDED TERMS AND CONDITIONS • IDENTIFYING AND DRAFTING A CONTRACT'S TERMS

— James E. Snoxell

A Great New Seminar

Day 1 – Monday, October 29

8:30-9:00 a.m. – CHECK-IN & CONTINENTAL BREAKFAST

9:00-9:15 a.m.

Representing the Ongoing Business Overview

9:15-9:45 a.m.

Business Capitalization, Control and Buy-Sell Agreements

Donald C. Willeke

9:45-10:15 a.m.

Employment Law

Tammy L. Pust

10:15-10:30 a.m. – BREAK

10:30-11:15 a.m.

Employee Benefits

Stephen A. Brunn

11:15-12:00 p.m.

Employment Contracts

Jeffrey B. Oberman

12:00-12:15 p.m. – QUESTIONS AND ANSWERS

12:15-1:15 p.m. – LUNCH (on your own)

1:15-2:00 p.m.

Independent Contractors

Ryan E. Mick & Courtney J. DaCosta

2:00-2:30 p.m.

The ABCs of Becoming a Franchisee in Minnesota

Jeffrey S. Haff

2:30-2:45 p.m. – BREAK

2:45-3:15 p.m.

Sales and Distribution Agreements: Key Liability Provisions

Jennie A. Clarke

3:15-4:00 p.m.

Business Leases and The Attorney's Lease Analysis Letter

Thomas M. Hart & Tammera R. Diehm

4:00-4:15 p.m. – QUESTIONS AND ANSWERS

5.75
CREDITS

Day 2 – Tuesday, October 30

8:30-9:00 a.m. – CHECK-IN & CONTINENTAL BREAKFAST

9:00-9:45 a.m.

Conducting a Business Review

James E. Snoxell

9:45-10:25 a.m.

Secured Transactions in Personal Property

Gene H. Hennig

10:25-10:35 a.m. – BREAK

10:35-11:25 a.m.

The Importance of Succession Planning

Todd D. Andrews & Cameron R. Seybolt

11:25-12:10 p.m.

Ownership Disputes in Privately Held Companies

Brooke D. Anthony & Janel M. Dressen

12:10-12:25 p.m. – QUESTIONS AND ANSWERS

12:25-1:25 p.m. – LUNCH (on your own)

1:25-2:05 p.m.

Family Law Issues Affecting Businesses

Steven G. Dennis & Patrick K. Schmidt

2:05-2:50 p.m.

Business Contract Drafting

James E. Snoxell

2:50-3:00 p.m. – BREAK

3:00-3:30 p.m.

Intellectual Property Issues and "Business Name" Issues

James L. Young

3:30-4:00 p.m.

Antitrust Considerations for Small- and Medium-Sized Businesses

Daniel R. Shulman

4:00-4:15 p.m. – QUESTIONS AND ANSWERS

5.75
CREDITS

Representing the Ongoing Business Seminar

Monday, October 29 & Tuesday, October 30, 2012

1 ATTEND BOTH DAYS

Attend both day 1 and 2, live or video replay. Includes 1 copy of the new 1st edition Deskbook and fully searchable CD-ROM.

PLEASE "✓" APPROPRIATE BOX BELOW:

TUITION

- \$495 MSBA member \$495 paralegal \$550 standard rate
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DAY 1: (Choose one)

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2 ATTEND DAY 1 ONLY

10-083-1301 – HGL

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DAY 2: (Choose one)

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VIDEO:

Location: _____

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4 CAN'T ATTEND?

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I cannot attend. Please send me the following: (Available after 11/7/12.)

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NEW LAWYER DISCOUNT!

I was first admitted to the bar after October 29, 2009, and have deducted \$60 from the registration fee marked at left.

COURSE INFORMATION

LIVE PRESENTATION

DAY 1: Monday, October 29, 2012 | DAY 2: Tuesday, October 30, 2012

Minnesota CLE Conference Center

600 Nicollet Mall, Suite 370 • Third Floor City Center, Minneapolis

VIDEO REPLAYS

Schedule times for video replays are subject to change due to abbreviated lunch and break periods. Start times are as indicated below. Please register at least one week in advance to secure your copy of the course materials on the day of the seminar.

DAY 1:

Minneapolis – 11/19/12 & 1/7/13

Reg. 8:30; Replay 9:00 a.m.

MN CLE Conference Center
 600 Nicollet Mall, Suite 370
 Third Floor City Center

DAY 2:

Minneapolis – 11/20/12 & 1/8/13

Reg. 8:30; Replay 9:00 a.m.

MN CLE Conference Center
 Seventh Street & Nicollet Mall
 Third Floor City Center

Albert Lea – 1/11/13

Reg. 8:30; Replay 9:00 a.m.

Christian & Peterson
 314 South Broadway

Albert Lea – 1/18/13

Reg. 8:30; Replay 9:00 a.m.

Christian & Peterson
 314 South Broadway

Duluth – 12/7/12

Reg. 8:30; Replay 9:00 a.m.

Radisson Hotel Duluth – Harborview
 505 West Superior Street

Duluth – 12/14/12

Reg. 8:30; Replay 9:00 a.m.

Radisson Hotel Duluth – Harborview
 505 West Superior Street

Mankato – 12/6/12

Reg. 8:15; Replay 8:30 a.m.

Farrish Johnson Law Office
 Eastwood Industrial Centre
 1907 Excel Dr.

Mankato – 12/7/12

Reg. 8:15; Replay 8:30 a.m.

Farrish Johnson Law Office
 Eastwood Industrial Centre
 1907 Excel Dr.

St. Cloud Area – 2/1/13

Reg. 8:30; Replay 9:00 a.m.

Minnesota School of Business
 1201 Second Street South
 Waite Park

St. Cloud Area – 2/8/13

Reg. 8:30; Replay 9:00 a.m.

Minnesota School of Business
 1201 Second Street South
 Waite Park

CREDITS

Minnesota CLE has applied to the State Board of CLE for **5.75 CLE credits** for each day. The maximum number of credits attendees may report for this seminar is **5.75** per day.

NEW LAWYER SCHOLARSHIP PROGRAM

In recognition of the challenges facing lawyers entering the profession, Minnesota Continuing Legal Education has established a scholarship program for unemployed and underemployed lawyers admitted fewer than three years. Those wishing to apply for such assistance should contact Grant at 651-254-2111 or [gdavies@minncle.org](mailto:gDavies@minncle.org) for details.

CANCELLATION/NO-SHOW POLICY

Paid registrants who cancel their registration at least 3 business days before the program will receive a full credit on their account; if fewer than 3 business days, a \$25 administrative fee will be deducted. Paid registrants who do not cancel, yet fail to attend, will receive the written materials. Passholders may purchase materials for 50% of the full retail price.

ACCOMMODATION

If you have a disability and need an accommodation in order to attend, contact Minnesota CLE as soon as possible at 2550 University Avenue West, Suite 160-S, Saint Paul, MN 55114 or call us at 651-227-8266 or 800-759-8840.

QUESTIONS?

Call Minnesota CLE at **651-227-8266** or **800-759-8840**. Or, visit us online at www.minncle.org.



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Representing the Ongoing Business

First Edition



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*It's
Here!*

A Terrific
NEW DESKBOOK
from Minnesota CLE

You Will Receive the Deskbook When You Attend the "Kick-Off" Seminars! Attend the Representing the Ongoing Business Deskbook one- or two-day seminar on October 29 and 30, 2012 and receive the new Deskbook. The seminar will give you an overview of the new Deskbook, a fast-paced format, practical course segments and much more!