

Commercial Counsel

IT HAS BEEN BUSINESS AS USUAL SINCE OUR LAST REPORT

Since our April issue, KMKSC attorneys have been active in document preparation and negotiation as well as in litigation and arbitration, delivering the successes that those of you who know us have come to expect.

Commercial Litigation

Our litigators have recovered many millions of dollars in contract claims in the course of the large volume of claims resolved during the period throughout the U.S. and other areas of the world. For instance, in one lawsuit in Wisconsin we secured the recovery of over \$900,000, for value of goods supplied and damages for breach of contract. In another, unrelated litigation, appellate activity included persuading the Wisconsin Court of Appeals to overturn a lower court refusal to consider evidence of breach of warranty in a dispute stemming from our client's purchase of a condominium unit.

Bankruptcy Preference Success

In a recent case in Tennessee, our client, a well-known manufacturer, was sued by a federal trustee for the return of millions of dollars in alleged preferential payments under bankruptcy law. KMKSC succeeded in convincing the court that none of the claims had merit. This notable success resulted in savings to our client of more than \$6 million.

Arbitration Victory

In a highly contested national securities arbitration, KMKSC used its substantial experience in electronic discovery to require opposing parties to disgorge evidence important to proving breaches of fiduciary duty and violations of securities laws. As a result, KMKSC was able to obtain a seven-figure settlement for our clients.

Transnational Litigation and Transactions

In a case crossing North American borders, KMKSC represented one of the largest petroleum companies in the world, obtaining the return of tens of thousands of barrels of fuel oil from a Canadian company. In expedited proceedings, both the lower and appellate Canadian courts sided with our client and permitted the reclamation of hundreds of thousands of

General Discussion Relating to Business Legal Issues

The information contained herein is not provided as legal advice. Legal advice should be sought as to any factual and legal issue.

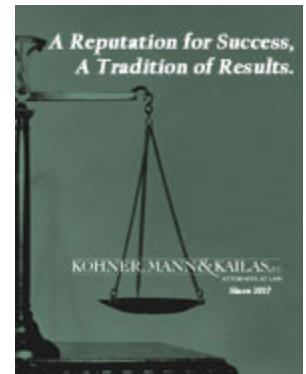
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dollars of fuel oil, despite international complications and the fact that the Canadian company was insolvent and had commingled the oil with that of other suppliers.

During this period, we also advised clients on hiring specialist overseas expertise unavailable within the U.S. and assisted in the navigation of related employment issues and permissions. Separately, we successfully renegotiated the terms of a patent licensing agreement and advised on trademark strategy and registration in North American and other markets.

Preventing Court Action

This summer, one client faced personal and business allegations of trade secret violations and unfair competition made by a competitor with a litigious history. Regardless of merit, court action risked significant damage to our client's reputation in its industry. Through tenacious yet tactful negotiation and legal argument, we were able to defuse emotions sufficiently to convince the other side that both the law and commercial logic were against the continuation of the dispute in court. All demands and allegations were withdrawn without public damage to our client's reputation.



Document Negotiation and Preparation

KMKSC continually adds value for clients in many areas beyond dispute resolution and recovery of debt and assets. One current example is the successful negotiation and conclusion of significant commercial lease arrangements during the period. In another instance, we redrafted the language of all employment agreements used in Wisconsin by a major motor industry company.

On the Web: www.kmksc.com

You may find it interesting to visit our redesigned website: www.kmksc.com. The new format better illustrates the breadth of our activity and how our diverse experience in transactions and dispute

resolution combines to furnish our business clients with comprehensive, integrated support for their objectives.

KMKSC Litigator Named President of the Federal Eastern District of Wisconsin Bar Association

Robert L. Gegios is a shareholder and Executive Committee Member of KMKSC. This organization is dedicated to improving the administration of justice in the federal courts of the Eastern District of Wisconsin, including reducing cost and delay. It works to promote understanding of federal court practices and procedures among both the public and the legal profession. Bob's work with the Association represents a valuable contribution to the community and legal profession.



An Invitation to Lunch!

Why not visit us? Take a break from your busy day to share lunch with us and discuss issues of mutual interest. We find that this helps us to better address your objectives and deliver the results that you wish to achieve.

For a tour of our operations and a free lunch, contact Pat Leu Kinateder at (414) 962 5110, or at kmksc@kmklawfirm.com, to schedule a visit.

LATEST SPEECHES AND PRESENTATIONS BY KMKSC ATTORNEYS

Since our last issue, KMKSC attorneys have spoken to legal and business audiences around the U.S., including:

- April 2007 – **“Managing Overlimits, Collection Problems and Third-Party Resources,”** presented by Matthew P. Gerdisch, before the National Energy Credit Association 70th Annual Conference, Austin, Texas.
- August 2007 – **“When Different Cultures Meet: Mastering Cross-Cultural Considerations in Business and Litigation,”** Annual Meeting of the American Bar Association, Presenter and Program Chair, Robert L. Gegios, San Francisco, California.
- September 2007 – **“Judgments: Go For The Jugular,”** co-presented by David Chartier and Jordan Reich, Wisconsin State Credit Conference, Neenah, Wisconsin.
- October 2007 – **“Construction Lien and Bond Law: Aids to Successful Collection,”** presented by David Chartier before the Wisconsin Credit Association, various Wisconsin venues.

MOST RECENT PUBLICATIONS BY KMKSC ATTORNEYS

During the period, KMKSC attorneys' work has been published in the U.S. and Europe. These include:

- **“Cross-Cultural Understanding: An Essential Skill in International Advocacy,”** Robert L. Gegios and Stephen D.R. Taylor; in *“International Arbitration and Mediation – From the Professional's Perspective,”* Alibekova & Carrow, eds., Yorkhill Law Publishing, (2007). ISBN 978-1-4303-2526-0.
- **“Developments in Business and Securities law,”** Alexander ‘Sandie’ Pendleton; *State Bar of Wisconsin, Annual Survey of Wisconsin Law*, 2007 Edition.
- **“Be Prepared for the Burden of Digital Legal Discovery,”** Robert L. Gegios and Stephen D.R. Taylor; *Small Business Times*, September, 28, 2007.
- **“Why the Ability to Bridge Cultural Differences is Essential for Counselors to Transnational Businesses,”** Robert Gegios & Stephen D. R. Taylor; American Bar Association, August 2007.

Most articles are available on our website – www.kmksc.com - where you can also keep tabs on forthcoming presentations, many of which are designed for business audiences, rather than lawyers.

If you have any questions on any of the content in this issue of *Commercial Counsel*, contact attorney Stephen Taylor at (414) 962 5110, or at kmksc@kmklawfirm.com. If you would like another member of your organization to receive *Commercial Counsel*, or copies of an article, please contact Vicki Miller at (414) 962 5110 or at vmiller@kmklawfirm.com.



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