
PREFACE TO THE SECOND EDITION

The original conception of this book remains the same. The book is targeted to those lawyers, in-house counsel, or sophisticated businesspeople, entrepreneurs, and professionals who might now or in the future face a business emergency, one in which fast legal action is essential to preserve rights or defend them. The first half of the book considers TROs and preliminary injunctions in general: what they are; the factors required to obtain one; the order; bonds; enforcement; reconsideration, modification, and appeal; and strategic and tactical considerations. The second half of the book considers recurrent fact patterns in which injunctions are frequently sought: preserving assets; protecting against infringement of intellectual property (four separate chapters); restrictive covenants; and shareholder and LLC member disputes.

Mike Haerberle spearheaded the research and rewriting of this second edition. The original work held up very well, and there are many pages that lack any changes to the text. Even where that is the case, more recent cases of value to practitioners have been added to the footnotes, and sprinkled throughout the text are new formulations of old rules, exceptions to existing rules, and the extension of some principles. The trade secrets chapter has been updated to account for a federal statute enacted in 2016. Statutes governing restrictive covenants enacted by many states are now included in the restrictive covenants chapter. The chapters on intellectual property infringement have been updated to account for the elimination of the presumption of irreparable harm upon a showing of infringement, something we had predicted in the first edition but that had not yet occurred, as well as a subsequent statutory reimposition of the presumption for trademarks. We have added a chapter on declaratory judgments, which represent an alternative option for the practitioner facing a business emergency. The first edition included some discussion of this option, but we believed that it deserved its own separate chapter. We have added a chapter on limited liability companies, even though there are many similarities to shareholder remedies. For the practitioner in an emergency, it is simply easier to find the basic principles and resources.

We wish to thank Kelsey Smith, Hannah Cannon, Sabrina Lieberman, Savannah Major, Abbey Luffey, Alix Zelener, Jesse Oppenheim, and Olivia Paxinos for their excellent research assistance.

Thanks to Jenna, Margo, and June for their support.

PREFACE TO THE FIRST EDITION

After seeing a need for this book and starting the research in 2005, I received a lot of help writing it. Kristina Ash worked on it full-time from January to September 2006, particularly on chapters 2, 9, 10, and 13, and then part-time during 2008 while a lawyer in my firm, until she left to get her master's in tax at Northwestern's LLM program. Kevin Rasp worked part-time on the project from September 2006 until May 2007, particularly on chapters 2–5, 8–10, and 13; he is now an associate at Miller Murphy LLP. Jon Pulkkinen worked on it full-time while a law clerk during the summer of 2007, particularly on chapters 3–6 and 14; he starts a job at Mayer Brown in September 2009. Betsy Palathinkal worked on it full-time from November 2007 to September 2008, particularly on chapters 2–6 and 8–11; she is now an associate at my firm. Joseph Barber worked on it full-time from September to November 2008, particularly on chapters 8–14 and proofreading chapters 2–7, and is now an associate at my firm. Forrest Millikin worked part-time on the project while a law student from August to November 2008, researching declaratory judgments (part of chapter 7), chapter 14, and obtaining forms for chapters 8, 9, 11, and 13. Kristi Browne critiqued chapters 2 and 7; Maureen Cole read and supplemented chapter 14. Both are lawyers at my firm.

For two weeks during the month of June 2008, Julie Thompson and Christine Reilly provided research for several chapters in the second half of the book. Tiffany Cochran and Laura Hernandez were indispensable in repeatedly implementing our format and editorial changes. Both are staff members in my firm. Richard G. Paszkiet, deputy director, ABA Book Publishing, provided valuable direction and advice about the book's scope and content, and supervised the peer review, conducted by Richard L. Neumeier and Robert P. Redemann. Meredith Phillips, production editor, Westchester Book Group, supervised the production of the book, and was ably assisted by Melody Negron, copyeditor Francis Lyon, and proofreader Kathy Holt. Neal Cox is in charge of marketing. The staff of the Cook County Law Library and the staff in the office of the Clerk of the Circuit Court of Cook County helped track down files so that we could pull relevant forms. I am grateful to all of them.

Thanks also to Tom, Zully, and Christina for their support.