

## Negotiating Commercial Leases 2021

Zoom Webcast

2.25-26.21

### Event Sponsor: Practising Law Institute

**Jack Fersko**, co-chair of the firm's Real Estate Department, will be a panelist at a two-day event focused on "Negotiating Commercial Leases 2021," to be presented by the Practising Law Institute (PLI) on Thursday, February 25 and Friday, February 26, 2021 as a live Zoom webcast.

The legal framework of commercial leases has been greatly disrupted by the COVID-19 pandemic and the resulting economic shifts of 2020, and it is critical to understand the changed circumstances under which landlords, tenants, and lenders are now operating as well as the courts' interpretations of those circumstances. This comprehensive program will provide important insights into the following issues:

- Duties of a landlords—whether to close or to safely operate and clean buildings
- Casualty clause triggers
- The common law on retail, medical and industrial leases
- COVID-19 issues in the Research and Development space
- When can a party recover attorneys' fees
- Tenant protocols and reporting requirements on medical waste and hazardous materials tenant
- Strategically drafting dispute resolution clauses
- Agreements to enter into ground leases and master leases – condominium conversions
- What is in the "fine print" for letters of credit?
- Rent deferral and abatement: contractual vs common law rights
- "Pop-up" occupancy in malls
- Key insurance coverage considerations
- Legal ethics in commercial leasing

### Attorneys

Jack Fersko

Seminars & Events (Cont.)

Mr. Fersko will participate as a panelist in the following segments, scheduled on Thursday, February 25:

**9:15-10:15AM**

COVID-19-Health and Lease Related Regulations

- Duty and/or ability of a landlord to close a building—Effect of Governmental orders on closings or reduced operations.
- Duty of a landlord to safely operate and clean a building – Follow CDC/Health Guidelines
- Access to tenant spaces and safe capacity of elevators and volume of traffic—HVAC upgrades
- Whether this crisis triggers casualty clauses – casualty/force majeure clauses, common law remedies or a combination of both
- Insurance considerations (business interruption, liability) trends in endorsements need for physical casualty
- Service interruptions / force majeure / frustration of essential purpose /impossibility or impracticability to perform/quiet enjoyment.
- Cases with broad or narrow application of Force Majeure
- Changing force majeure, multiple orders and structured rent concessions
- How best to approach landlords
- Use of Non-Disclosure Agreements (NDAs)

**10:30-11:30AM**

COVID-19 Landlord Defenses and Enforcement Actions – Tenant demands, rent defaults/terminations and attacks on Leases

- Government Action – State statutes/Executive Orders
- Lease termination
- Rent abatement and deferral demands – multiple shutdowns
- Lease extensions and rent recovery from concessions
- Lease Defaults – Use of collections/remedies vs. condition of limitation
- Taking as a remedy; pros and cons
- Current judicial processes and case law
- Current tenant attempts to move / transfer actions and covenants not to object to contracted jurisdictions and laws
- Current state of the common law on retail, medical and industrial leases

## Seminars & Events (Cont.)

- Current considerations on COVID in the Research and Development Space
- Legislation: CARES and pending HEROES Act provisions
- Party recovery of attorney fees

Mr. Fersko's practice reflects his extensive experience as a commercial real estate and general business lawyer. His legal services emphasize industrial and commercial real estate activities, with a particular focus on industrial leasing, project financing, sustainable development and alternative energy initiatives, urban redevelopment, and the impact of environmental laws on commercial real estate transactions, including the acquisition and redevelopment of environmentally contaminated sites.

Additional program information and registration at: Negotiating Commercial Leases 2021