

Negotiating Commercial Leases 2022

Live Webcast

February 24, 2022

Event Sponsor: Practising Law Institute

Jack Fersko, Chair of the firm's Real Estate Department, will be a panelist at the two-day program "Negotiating Commercial Leases 2022," to be presented by the Practising Law Institute (PLI) as a live webcast on Thursday, February 24 and Friday, February 25, 2022.

As the economic fallout from the COVID-19 pandemic continued into 2021, courts across the country have been called upon to decide drastically different interpretations of high-cost commercial leasing terms at a rate and scale not seen since the months following 9/11. In fact, parties including major insurance carriers have fiercely argued over whether circumstances amounting to "force majeure", "impracticability", and "business loss" should be treated similarly as those following the 9/11 tragedy. By understanding the courts' views on these legal arguments among other current real estate leasing matters, leasing attorneys of all levels can better position themselves as the go-to counsel for selective corporate clients. The agenda for this program includes the following topics:

- Prevailing case law on breach allegations and pandemic-related defenses
- Current regulation on the duties of landlords to safely operate and clean buildings
- Understand casualty clause triggers
- Lingering impact of COVID-19 on leasing
- Analyze the common law on retail, medical and industrial leases
- Recent decisions on recovering attorneys' fees
- Tenant protocols and reporting requirements on medical waste and hazardous materials
- Learn to strategically draft dispute resolution clauses
- Rent deferral and abatement: contractual vs common law rights

Attorneys

Jack Fersko

- “Pop-up” occupancy in malls
- Key insurance coverage considerations
- Legal ethics in commercial leasing

Mr. Fersko will participate as a panelist in the following segment on Thursday, February 24 from 10:30am – 12:00pm:

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

- Government Action - State statutes/Executive Orders
- Impact of 2021 decision in *The Gap Inc. v. Ponte Gadea* on tenant breach and pandemic claims
- 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
- 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. He has successfully negotiated numerous real estate agreements involving complex environmental transactional issues and related insurance agreements.

Additional program information and registration on the PLI website.