

Negotiating Commercial Leases 2023

In-Person and Live Webinar
February 23-24, 2022

Event Sponsor: Practising Law Institute

Jack Fersko, Co-Chair of the firm's Real Estate Department, will be a panelist at the two-day program "Negotiating Commercial Leases 2023," to be hosted by the Practising Law Institute (PLI) on Thursday, February 23 and Friday, February 24, 2023, beginning at 9:00am each day. The program will be presented live at PLI New York, 1177 Avenue of the Americas, and will also be available for online viewing.

This annual two-day course was created as the Milton Friedman Lecture Series over 50 years ago and remains one of PLI's longest running, popular programs. Designed as an in-depth tutorial on drafting and negotiating essential provisions of commercial leases, this year's program will continue the tradition of teaching actual practical skills for attorneys of all levels. The faculty will dissect cases still winding through the court system while providing invaluable perspective drawn from their decades of combined experience. Attendees will gain a better understanding of dispute resolution, liability risk shifting, accounting terms, valuation, and cost allocation from the viewpoints of both landlords and tenants. Further we will provide comprehensive updates on emerging industries, such as cannabis, the ongoing impact of COVID, insurance coverage matters, financing needs, and hot topics in retail.

Mr. Fersko will be a panelist for the following segments on Thursday, February 23:

10:30am: "COVID-19 2023 Fast Forward - Evolution of Tenant Demands and Landlord Responses"

This segment will provide instructions on available landlord enforcement actions and tenant demands such as rent defaults, terminations, and attacks on leases. The agenda will address:

- State statutes and executive orders
- The impact of the 2021 decision in *The Gap Inc. v. Ponte Gadea* on tenant breach and pandemic claims

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- Rent abatement and deferral demands
- The use of collections vs. conditions of limitation in lease defaults
- Use taking as a remedy
- Arguing for or against forum transfer
- The current state of the common law on retail, medical and industrial leases
- Applicable provisions from the CARES and pending HEROES Act
- Recovering attorney fees

1:15pm: “Commercial Leases: Fundamentals of a Cannabis Lease Transaction”

This segment will discuss how to adapt leasing arrangements to the new cannabis industry. The agenda will address:

- The legal federal and state legal frameworks of medical and non-medical use
- Banking, bankruptcy and tax issues
- Evaluating site control, local licensing and land use concerns
- Reviewing initial considerations for landlords and tenants: due diligence, financing impacts, neighborhood concerns, title insurance issues
- Lease issues generally:
 - Commencement
 - Permitted use
 - Legal compliance
 - Alterations
 - Security
 - Utilities
 - Common area considerations
 - Default vs. termination
 - Abandonment provisions
 - Assignment and subletting
- Insurance issues

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,

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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. As Chair of the Cannabis Industry Practice Group, Mr. Fersko is prepared to meet the needs of both existing and future clients by providing counsel related to the business and legal impacts of a New Jersey-based cannabis industry.

Additional program information and in-person or online registration on the PLI website.