

Table of Contents

Chapter 1: Securities Litigation	1
1-1 INTRODUCTION.....	1
1-2 SECURITIES EXCHANGE ACT OF 1934—SECURITIES FRAUD.....	2
1-2:1 Section 10(b) and Rule 10b-5 Generally.....	2
1-2:2 Material Misrepresentation or Omission	3
1-2:2.1 Opinions	7
1-2:2.2 Materiality.....	8
1-2:2.3 Omission—Duty to Disclose.....	9
1-2:3 Scienter.....	10
1-2:3.1 Pleading with Particularity	11
1-2:3.2 Motive and Opportunity.....	13
1-2:3.3 Conscious Misbehavior or Recklessness	14
1-2:4 Purchase and Sale of Securities.....	17
1-2:5 Reliance or Transaction Causation	19
1-2:5.1 Generally	19
1-2:5.2 Fraud-on-the-Market.....	20
1-2:6 Loss Causation	21
1-2:7 Control Person Liability	22
1-2:8 Aiding and Abetting	23
1-2:9 Statute of Limitations.....	24
1-2:9.1 Generally	24
1-2:9.2 Inquiry Notice	24
1-2:10 Remedies	25
1-3 THE SECURITIES ACT OF 1933	27
1-3:1 Section 11	27
1-3:2 Section 12(a)(2).....	29
1-3:3 Section 11 and Section 12(a)(2) Liability.....	31
1-3:3.1 Section 13	33
1-3:4 Section 15	34
1-4 INVESTMENT COMPANY ACT OF 1940.....	34
1-4:1 Generally	34
1-4:2 Section 36(b)—Fiduciary Duty.....	36

Table of Contents

1-5	THE INVESTMENT ADVISERS ACT OF 1940.....	38
1-6	CONNECTICUT UNIFORM SECURITIES ACT	40
1-6:1	Generally	40
1-6:2	Liability	41
1-6:2.1	Generally	41
1-6:2.2	Statute of Limitations.....	42
1-6:3	Secondary Liability	42
1-6:3.1	Aider and Abettor Liability	42
1-6:3.2	Control Person Liability	43
1-6:4	Remedies	44
	Chapter 2: Director and Officer Liability	45
2-1	INTRODUCTION.....	45
2-2	FIDUCIARY RELATIONSHIP AND DUTIES	45
2-2:1	Fiduciary Status.....	45
2-2:2	Duties of a Fiduciary.....	46
2-3	USURPING BUSINESS OPPORTUNITIES.....	48
2-3:1	Diversion of Business Opportunity.....	48
2-3:1.1	Existence of Corporate Opportunity	49
2-3:1.2	Defenses	50
2-3:2	Other Improper Dealings.....	51
2-4	INDIVIDUAL DIRECTOR AND OFFICER LIABILITY	53
2-4:1	Business Judgment Rule.....	53
2-4:2	Unlawful Distribution.....	54
2-4:3	Tort.....	54
2-4:4	Indemnification.....	55
2-5	CORPORATE LIABILITY FOR ACTS OF DIRECTOR	57
2-6	PIERCING THE CORPORATE VEIL	58
2-6:1	Generally	58
2-6:2	Instrumentality Rule.....	59
2-6:3	Identity Rule.....	60
2-7	TYPES OF DIRECTOR AND OFFICER ACTIONS.....	61
2-7:1	Shareholder Derivative Suit	61
2-7:1.1	Standing	62
2-7:1.2	Demand.....	63
2-7:1.3	Demand Futility	63
2-7:1.4	Dismissal of Derivative Suit	64
2-7:2	Direct Actions	65
2-7:3	Class Actions	66
2-8	DIRECTOR AND OFFICER INSURANCE POLICIES	67
2-8:1	Policies Generally	67
2-8:2	Exclusions.....	67

Table of Contents

Chapter 3: Limited Liability Company and Partnership Litigation	69
3-1 INTRODUCTION.....	69
3-2 THE LIMITED LIABILITY COMPANY	69
3-2:1 The Connecticut Limited Liability Company Act	69
3-2:2 The Connecticut Uniform Limited Liability Company Act	70
3-2:3 LLC Generally.....	71
3-2:4 Operating Agreement.....	72
3-2:5 Members.....	73
3-2:6 Managers.....	74
3-2:7 Duties of Members and Managers	75
3-2:7.1 Generally	75
3-2:7.2 Fiduciary Duties.....	75
3-2:7.2a CLLCA	76
3-2:7.2b CT ULLCA.....	76
3-3 LIABILITY OF MEMBERS AND MANAGERS OF LLC.....	78
3-3:1 Torts	79
3-3:2 Piercing the Corporate Veil	80
3-4 DISSOCIATION AND DISSOLUTION OF LLC.....	80
3-4:1 Dissociation.....	80
3-4:2 Dissolution and Winding Up.....	81
3-5 FOREIGN LLC.....	82
3-6 PARTNERSHIPS.....	83
3-6:1 Application of Uniform Partnership Law	84
3-6:2 The Uniform Partnership Act.....	85
3-6:3 The Uniform Limited Partnership Act.....	85
3-6:4 Limited Liability Partnerships	86
3-6:5 Partnership Agreement	86
3-7 DUTIES OF PARTNERS.....	87
3-7:1 Duty of Loyalty.....	87
3-7:2 Duty of Care	88
3-7:3 Duty of Good Faith and Fair Dealing.....	88
3-8 RIGHTS OF PARTNERS	88
3-8:1 Partnerships.....	88
3-8:2 Limited Partnerships	89
3-8:3 Limited Liability Partnerships	90
3-9 PARTNERSHIP LIABILITY	90
3-9:1 Individual Partner Liability	91
3-9:1.1 Generally	91
3-9:1.2 Partner Liability in an LLP.....	92
3-9:2 Partnership's Liability for the Acts of Its Partners	92

Table of Contents

3-9:3	Liability of a Purported Partner	93
3-9:4	Suits Among Partners	93
3-10	DISSOCIATION AND DISSOLUTION OF PARTNERSHIP	94
3-10:1	Dissociation	94
3-10:2	Dissolution and Winding Up	96
	Chapter 4: Antitrust Litigation	97
4-1	INTRODUCTION	97
4-2	ANTITRUST STANDING	98
4-2:1	Antitrust Injury	98
4-2:2	Proper Plaintiff	99
4-2:3	Government Enforcement	101
4-3	SHERMAN ACT LITIGATION	102
4-3:1	Section 1	102
4-3:1.1	Concerted Conduct	103
4-3:1.2	Rule of Reason Analysis and Per Se Violations	104
4-3:2	Section 2	106
4-3:2.1	Monopolization	106
4-3:2.1a	Monopoly Power	107
4-3:2.1b	Relevant Product Market	108
4-3:2.1c	Anticompetitive Conduct	108
4-3:2.2	Attempted Monopolization	110
4-4	CLAYTON ACT LITIGATION	110
4-4:1	Section 2—Robinson-Patman Antidiscrimination Act	111
4-4:2	Section 3	112
4-4:3	Section 7	113
4-5	AVAILABLE REMEDIES	113
4-5:1	Damages—Section 4 of the Clayton Act	113
4-5:2	Injunctive Relief—Section 16 of the Clayton Act	114
4-6	CONNECTICUT ANTITRUST ACT	115
4-6:1	Construction with Federal Law	115
4-6:2	Actions and Available Remedies	117
	Chapter 5: Business Torts	119
5-1	INTRODUCTION	119
5-2	TORTIOUS INTERFERENCE	119
5-2:1	Tortious Interference with Business Expectancies	121

Table of Contents

5-2:2	Tortious Interference with Contractual Relations.....	122
5-2:3	Common Elements	123
5-2:3.1	Knowledge of Beneficial Relationship	123
5-2:3.2	Improper Interference.....	123
5-2:3.3	Actual Loss.....	125
5-2:4	Defenses	127
5-2:5	Damages.....	128
5-3	COMMERCIAL DISPARAGEMENT AND DEFAMATION	129
5-3:1	Generally	129
5-3:2	Liability	130
5-3:3	Defenses	132
5-3:3.1	Generally	132
5-3:3.2	Absolute Privilege.....	133
5-3:4	Damages	134
5-4	FRAUD.....	135
5-4:1	Fraudulent Misrepresentation.....	135
5-4:1.1	Fraudulent Nondisclosure	136
5-4:1.2	Defenses	138
5-4:1.3	Damages.....	138
5-4:2	Negligent Misrepresentation.....	139
5-4:2.1	Generally	139
5-4:2.2	Defenses	141
5-4:3	Innocent Misrepresentation	142
5-5	STATUTE OF LIMITATIONS	143
5-5:1	Generally	143
5-5:2	Fraudulent Concealment	145
Chapter 6: Connecticut Unfair Trade Practices Act.....		147
6-1	INTRODUCTION.....	147
6-2	GENERALLY	147
6-3	UNFAIR OR DECEPTIVE ACTS OR PRACTICES	148
6-3:1	Generally	148
6-3:2	Cigarette Rule.....	149
6-3:2.1	Deceptive Acts	151
6-3:2.2	Substantial Injury	152
6-4	TRADE OR COMMERCE	153
6-4:1	Intracorporate Disputes.....	154
6-4:2	Employment Relationships	155
6-4:3	Individual Officer Liability	155
6-4:4	Professional Services.....	157

Table of Contents

	6-4:4.1	Legal Profession	157
	6-4:4.2	Medical Profession	159
6-5		ASCERTAINABLE LOSS	159
	6-5:1	Generally	159
	6-5:2	Causation	161
6-6		DEFENSES	162
	6-6:1	Exemptions.....	163
	6-6:2	Contributory Negligence	165
6-7		STATUTE OF LIMITATIONS	166
6-8		REMEDIES	168
	6-8:1	Damages.....	168
	6-8:2	Equitable Relief	170
Chapter 7: Trade Secrets and Restrictive Covenant Litigation			171
7-1		INTRODUCTION.....	171
7-2		CONNECTICUT UNIFORM TRADE SECRETS ACT	171
	7-2:1	Generally	171
	7-2:2	Trade Secrets Defined	172
	7-2:2.1	Independent Economic Value and Not Readily Ascertainable	174
	7-2:2.2	Secrecy Afforded the Information.....	175
	7-2:2.3	Customer Lists as Trade Secrets.....	176
7-3		MISAPPROPRIATION OF TRADE SECRETS	177
	7-3:1	Generally	177
	7-3:2	Inevitable Disclosure Doctrine.....	178
7-4		DEFEND TRADE SECRETS ACT	178
	7-4:1	Generally	178
	7-4:2	Similarities Between DTSA and CUTSA.....	179
	7-4:3	Differences Between DTSA and CUTSA.....	180
7-5		RESTRICTIVE COVENANTS	181
	7-5:1	Non-Competition	182
	7-5:2	Non-Solicitation	182
	7-5:3	Non-Disclosure.....	182
7-6		ENFORCEABILITY OF RESTRICTIVE COVENANTS.....	183
	7-6:1	Reasonableness of Covenant	183
	7-6:1.1	Length of Time and Geographic Restrictions.....	184
	7-6:1.2	Fairness of Protection to Employer	185
	7-6:1.3	Employee's Ability to Pursue Occupation	186
	7-6:1.4	Interference with Public Interest	187

Table of Contents

7-6:2	Blue-Pencil Doctrine.....	187
7-6:3	Consideration	188
7-7	AVAILABLE REMEDIES.....	189
7-7:1	Injunctive Relief	189
7-7:2	Damages.....	191
 Chapter 8: Intellectual Property Litigation		193
8-1	INTRODUCTION.....	193
8-2	THE LANHAM ACT	194
8-2:1	Trademarks.....	194
8-2:1.1	Generally	194
8-2:1.2	Trademark Infringement.....	196
8-2:1.2a	Entitlement to Protection.....	197
8-2:1.2b	Likelihood of Confusion	203
8-2:1.2c	Nominative Fair Use Doctrines.....	213
8-2:1.3	Connecticut Trademark Law	214
8-2:2	False Designation of Origin.....	216
8-2:2.1	Generally	216
8-2:2.2	Passing Off	217
8-2:3	False Advertising	218
8-2:3.1	Standing	218
8-2:3.2	Falsity.....	219
8-2:3.2a	Literal Falsity	220
8-2:3.2b	Implied Falsity.....	221
8-2:3.2c	Puffery	223
8-2:3.3	Materiality.....	224
8-2:3.4	Commercial Advertising or Promotion....	225
8-2:4	Trade Dress.....	225
8-2:5	Dilution	227
8-2:5.1	Dilution by Blurring	229
8-2:5.2	Dilution by Tarnishment.....	231
8-2:5.3	Exceptions	232
8-2:6	Anticybersquatting	233
8-2:7	Defenses	234
8-2:7.1	Fair Use.....	234
8-2:7.2	Laches	235
8-2:7.3	Acquiescence	236
8-2:7.4	Abandonment.....	236
8-2:7.5	Prior Use	238
8-2:7.6	Innocent Use	238
8-2:7.7	Functionality	238

Table of Contents

	8-2:7.7a	Utilitarian Functionality.....	238
	8-2:7.7b	Aesthetic Functionality.....	239
	8-2:7.8	Unclean Hands.....	240
8-2:8	Remedies.....		240
	8-2:8.1	Injunctive Relief.....	240
	8-2:8.2	Damages.....	241
8-3	THE COPYRIGHT ACT.....		243
8-3:1	Copyright Protection—Generally.....		243
8-3:2	Copyright Protection—Subject Matter.....		245
	8-3:2.1	Originality.....	247
	8-3:2.2	Idea/Expression Dichotomy.....	248
8-3:3	Copyright Infringement.....		249
	8-3:3.1	Ownership of a Valid Copyright.....	250
	8-3:3.1a	Generally.....	250
	8-3:3.1b	Work for Hire.....	252
	8-3:3.2	Unauthorized Copying.....	253
	8-3:3.2a	Actual Copying.....	254
	8-3:3.2b	Substantial Similarity.....	255
8-3:4	Defenses.....		257
	8-3:4.1	Fair Use.....	258
	8-3:4.2	First Sale Doctrine.....	259
	8-3:4.3	Statute of Limitations.....	260
	8-3:4.4	Estoppel.....	261
8-3:5	Remedies.....		261
	8-3:5.1	Damages.....	261
	8-3:5.1a	Actual Damages and Profits.....	262
	8-3:5.1b	Statutory Damages.....	263
	8-3:5.1c	Attorney’s Fees.....	265
	8-3:5.2	Injunctive Relief.....	267
	8-3:5.3	Impounding and Destruction of Infringing Materials.....	267
8-4	THE PATENT ACT.....		268
8-4:1	Generally.....		268
8-4:2	Leahy-Smith America Invents Act.....		270
	8-4:2.1	AIA Proceedings.....	271
8-4:3	Patentable Subject Matter.....		275
	8-4:3.1	Process.....	276
	8-4:3.2	Machine.....	277
	8-4:3.3	Manufacture.....	277
	8-4:3.4	Composition of Matter.....	277
	8-4:3.5	Exceptions.....	278

Table of Contents

8-4:4	Conditions for Patentability.....	281
8-4:4.1	Utility	281
8-4:4.2	Novelty—Prior Art.....	282
8-4:4.2a	Pre-AIA Provisions.....	282
8-4:4.2b	AIA Provisions	283
8-4:4.2c	Anticipation.....	284
8-4:4.3	Nonobviousness.....	285
8-4:4.4	Specification	287
8-4:5	Patent Infringement	289
8-4:5.1	Claim Construction	290
8-4:5.2	Claim Infringement	295
8-4:5.2a	Direct Infringement	296
8-4:5.2b	Indirect Infringement.....	298
8-4:5.3	Jurisdiction	300
8-4:6	Defenses	300
8-4:7	Remedies	302
8-4:7.1	Damages.....	302
8-4:7.1a	Lost Profits	302
8-4:7.1b	Reasonable Royalty Damages	303
8-4:7.1c	Enhanced Damages	304
8-4:7.1d	Attorney’s Fees	305
8-4:7.2	Injunctive Relief	306

**Chapter 9: Information Technology, E-Commerce,
and Computer Litigation 307**

9-1	INTRODUCTION.....	307
9-2	INTERNET AS BASIS FOR PERSONAL JURISDICTION	308
9-2:1	Overview of Personal Jurisdiction	308
9-2:2	Use of the Internet.....	309
9-3	COMPUTER FRAUD AND ABUSE ACT	314
9-3:1	Generally	314
9-3:2	Civil Liability.....	314
9-3:2.1	Protected Computer.....	316
9-3:2.2	Without Authorization and Exceeds Authorized Access	316
9-3:2.3	Damage or Loss.....	319
9-4	ANTICYBERSQUATTING CONSUMER PROTECTION ACT	321
9-4:1	Generally	321
9-4:2	Liability	322

Table of Contents

9-4:2.1 Distinctive or Famous Mark 323

9-4:2.2 Confusingly Similar 324

9-4:2.3 Bad Faith Intent to Profit 326

9-4:3 Remedies 329

9-4:4 In Rem Jurisdiction..... 330

9-5 DIGITAL MILLENNIUM COPYRIGHT ACT OF 1998 330

9-5:1 Generally 330

9-5:2 Civil Liability 333

9-5:2.1 Anti-Circumvention..... 333

9-5:2.2 Anti-Trafficking 334

9-5:3 Remedies 335

9-6 CONNECTICUT COMPUTER CRIMES AND CIVIL ACTIONS 336

Chapter 10: Insurance Coverage Litigation 339

10-1 INTRODUCTION..... 339

10-2 INSURANCE POLICIES..... 339

10-2:1 Construction of Policy Language 339

10-2:1.1 Generally 339

10-2:1.2 Choice of Law 341

10-2:2 Timely Notice 342

10-2:3 Condition of Cooperation 344

10-3 DUTY TO DEFEND 345

10-4 DUTY TO INDEMNIFY..... 346

10-5 COVERAGE ACTIONS 348

10-5:1 Generally 348

10-5:2 Breach of Implied Covenant of Good Faith and Fair Dealing..... 348

10-5:3 Violation of CUIPA/CUTPA..... 350

10-5:4 Connecticut’s Direct Action Statute..... 352

10-6 REMEDIES 354

10-6:1 Damages..... 354

10-6:2 Punitive Damages 355

10-6:3 Attorney’s Fees 356

Chapter 11: ERISA Litigation 357

11-1 INTRODUCTION..... 357

11-1:1 Employee Welfare Benefit Plans..... 358

11-1:2 Employee Pension Plans 358

11-2 ERISA PREEMPTION 359

11-3 FIDUCIARY STATUS..... 362

Table of Contents

11-3:1	Definition of Fiduciary.....	363
11-3:2	Functional Fiduciary.....	363
11-3:3	Investment Advisor as a Fiduciary.....	365
11-4	DUTIES OF AN ERISA FIDUCIARY	368
11-4:1	Exclusive Purpose Requirement.....	368
11-4:2	Duty of Care—Prudent Man Standard.....	369
11-4:3	Duty of Loyalty.....	371
11-4:4	Duty to Diversify.....	372
11-4:5	Duty to Administer the Plan.....	373
11-4:6	Duty to Avoid Material Misrepresentations.....	373
11-4:6.1	Generally.....	373
11-4:6.2	Disclosure Requirements.....	375
11-4:7	Duty to Monitor.....	376
11-5	CO-FIDUCIARY LIABILITY	377
11-6	PROHIBITED TRANSACTIONS UNDER ERISA	377
11-7	ACTION FOR BREACH OF FIDUCIARY DUTY	379
11-7:1	Generally.....	379
11-7:2	Elements.....	380
11-7:3	Jurisdiction.....	380
11-7:4	Statute of Limitations.....	380
11-7:5	Available Remedies.....	381
11-7:5.1	Monetary Redress.....	382
11-7:5.1a	Restoration.....	382
11-7:5.1b	Disgorgement.....	383
11-7:5.1c	Punitive and Compensatory Damages.....	383
11-7:5.1d	Attorney’s Fees.....	384
11-7:5.1e	Prejudgment Interest.....	384
11-7:5.2	Equitable Relief.....	385
11-8	ADDITIONAL ENFORCEMENT AND AVAILABLE REMEDIES	386
11-8:1	Section 502 Civil Enforcement Provisions Generally.....	386
11-8:2	Action for Recovery of Benefits.....	386
11-8:2.1	Exhaustion Requirement.....	387
11-8:2.2	Arbitrary and Capricious Standard of Review.....	388
11-8:2.3	Statute of Limitations.....	389
11-8:2.4	Available Remedies.....	389
11-8:3	Section 510 Action Against Prohibited Discrimination.....	391
11-8:4	Action to Compel Disclosure.....	392

Table of Contents

Chapter 12: Anti-Racketeering and RICO395

- 12-1 INTRODUCTION..... 395
- 12-2 CIVIL RICO GENERALLY 395
- 12-3 COMMON ELEMENTS OF ALL RICO CLAIMS 397
 - 12-3:1 Defendant Is a Person..... 397
 - 12-3:2 Racketeering Activity..... 398
 - 12-3:2.1 Willfully or Knowingly 398
 - 12-3:2.2 Predicate Acts 399
 - 12-3:2.3 Pattern of Racketeering Activity..... 400
 - 12-3:2.3a Relatedness 401
 - 12-3:2.3b Continuity..... 403
 - 12-3:3 RICO Enterprise 405
 - 12-3:3.1 Generally 405
 - 12-3:3.2 Association-in-Fact..... 406
 - 12-3:4 Interstate Commerce..... 407
- 12-4 SECTION 1962(c)—CONDUCT OR PARTICIPATE
IN A RICO ENTERPRISE 408
 - 12-4:1 Generally 408
 - 12-4:2 Distinction Between Person and
Enterprise 408
 - 12-4:3 Operation or Management of
Enterprise 409
- 12-5 SECTION 1962(a)—INVESTMENT OF
RICO INCOME..... 410
- 12-6 SECTION 1962(b)—ACQUISITION OR CONTROL
OF RICO ENTERPRISE 411
- 12-7 SECTION 1962(d)—CONSPIRACY 412
- 12-8 STANDING..... 414
 - 12-8:1 Injury to Business or Property 414
 - 12-8:2 Causation 416
- 12-9 CIVIL ACTIONS..... 419
 - 12-9:1 Generally 419
 - 12-9:2 Statute of Limitations..... 419
 - 12-9:3 In Pari Delicto Defense..... 421
 - 12-9:4 Aiding and Abetting 422
 - 12-9:5 Rule 11 Considerations 422
- 12-10 REMEDIES 423
 - 12-10:1 Damages..... 423
 - 12-10:2 Equitable Relief 424
- 12-11 CONNECTICUT CORRUPT ORGANIZATIONS
AND RACKETEERING ACT 424

Table of Contents

Chapter 13: Environmental Litigation	427
13-1 INTRODUCTION	427
13-2 COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT	428
13-2:1 Generally	428
13-2:2 Liability	431
13-2:2.1 Facility	432
13-2:2.2 Release or Threat of Release of Hazardous Substance	433
13-2:2.3 Recovery of Response Costs	434
13-2:2.3a Generally	434
13-2:2.3b Consistency with the National Contingency Plan	434
13-2:3 Defenses	435
13-2:4 Remedies	436
13-3 RESOURCE CONSERVATION AND RECOVERY ACT	437
13-3:1 Generally	437
13-3:2 Regulation of Hazardous Waste and Solid Waste	437
13-3:3 RCRA Enforcement and Remedies	439
13-3:3.1 Generally	439
13-3:3.2 Private Citizen Suits	439
13-4 THE CLEAN WATER ACT	441
13-4:1 Generally	441
13-4:2 Liability	442
13-4:3 Enforcement and Remedies	445
13-4:3.1 Generally	445
13-4:3.2 Private Citizen Suits	445
13-5 THE CLEAN AIR ACT	448
13-5:1 Generally	448
13-5:2 Statutory Framework	448
13-5:2.1 Generally	448
13-5:2.2 State Implementation Plan	449
13-5:3 Enforcement and Remedies	450
13-6 STATE ENVIRONMENTAL LAWS	451
13-6:1 Connecticut Environmental Protection Act	451
13-6:1.1 Generally	451
13-6:1.2 Standing	452

Table of Contents

	13-6:1.3	Liability	453
	13-6:1.4	Available Relief	455
13-6:2		The Connecticut Transfer Act	456
	13-6:2.1	Generally	456
	13-6:2.2	Liability	457
	13-6:2.3	Available Remedies	458
13-6:3		Statutory Reimbursement for Containment or Removal Costs	458
13-7		COMMON LAW ENVIRONMENTAL CLAIMS	459
13-7:1		Trespass	459
13-7:2		Nuisance	460
	13-7:2.1	Public Nuisance	460
	13-7:2.2	Private Nuisance	461
13-7:3		Negligence	462
	13-7:3.1	Generally	462
	13-7:3.2	Comparative Negligence	463
	13-7:3.3	Negligence Per Se	463
13-7:4		Strict Liability	464
	13-7:4.1	Generally	464
	13-7:4.2	Ultrahazardous Activity	464
		Chapter 14: Franchise Litigation	467
14-1		INTRODUCTION	467
14-2		CONNECTICUT FRANCHISE ACT GENERALLY	467
14-3		EXISTENCE OF A FRANCHISE	469
	14-3:1	Right to Engage in Business Pursuant to Prescribed Marketing Plan	471
		14-3:1.1 Right to Offer, Sell, or Distribute Goods or Services	472
		14-3:1.2 Substantially Prescribed Marketing Plan	474
	14-3:2	Substantial Association with Franchisor's Mark	476
14-4		TERMINATION OF FRANCHISE	479
	14-4:1	Good Cause	479
		14-4:1.1 Generally	479
		14-4:1.2 Nonrenewal of Franchise	481
	14-4:2	Constructive Termination	481
14-5		REMEDIES	482
	14-5:1	Damages	482
	14-5:2	Injunctive Relief	484

Table of Contents

Chapter 15: Arbitration 485

15-1 INTRODUCTION..... 485

 15-1:1 Potential Advantages 486

 15-1:2 Potential Disadvantages..... 486

15-2 THE FEDERAL ARBITRATION ACT 488

 15-2:1 Generally 488

 15-2:2 Preemption 488

 15-2:3 Application of the FAA 489

 15-2:4 Enforceability Under the FAA 490

 15-2:5 Confirmation and Review of Awards..... 493

15-3 ARBITRATION UNDER CONNECTICUT LAW 494

15-4 ARBITRATION AGREEMENTS MADE
BEFORE OCTOBER 1, 2018 496

 15-4:1 Enforceability 496

 15-4:2 Arbitration Awards..... 497

 15-4:2.1 Generally 497

 15-4:2.2 Enforcement of Awards 498

 15-4:2.3 Vacating Awards 499

 15-4:2.4 Appeal of Awards 501

 15-4:2.5 Order Pendente Lite..... 502

15-5 ARBITRATION AGREEMENTS MADE ON OR
AFTER OCTOBER 1, 2018..... 502

Table of Cases..... 507

Index 579

