



# Primerus

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## Corporate Client e-Newsletter Fall 2013

Greetings, and welcome to the Fall issue of the Primerus Corporate Client eNewsletter! We hope you will find these articles authored by Primerus lawyers about current developments, best practices, and legal trends around the world, to be useful and informative.

We also invite you to explore the many resources available to you on [primerus.com](http://primerus.com), simply by clicking on the links provided for your convenience.

Please feel free to share this eNewsletter with your colleagues. If you have suggestions for specific areas of law or topics that you would like to see in future issues, please feel free to contact me at [nkacher@primerus.com](mailto:nkacher@primerus.com).

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Sincerely,

Nick Kacher  
Sr. Vice President and General Counsel  
International Society of Primerus Law Firms

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## Alternative Dispute Resolution

USA

### Best Strategies in Mediating Cases

By: [Kelly A. Lavelle, Esq.](#)

*Thomas Paschos & Associates, P.C.*

*Haddonfield, New Jersey*

The first strategic step in any case is to decide when to mediate. Mediation has the greatest chance of success when the parties are prepared to engage in meaningful and informed discussions with the mediator. To use mediation effectively, the case must be appropriate for mediation, and the timing of the mediation needs to be deliberately chosen.

[Full Article](#)

## Business

USA

### The Business Skills Trust: Helping Younger Generations To Take A Leadership Role In The Family Business

By: [Jon J. Gallo, Esq.](#) and [Stefanie J. Lipson, Esq.](#)

*Greenberg Glusker*

*Los Angeles, California*

In high-net-worth estate planning, trusts are commonly used to transfer wealth from generation to generation. The rationale for using trusts is often tax savings, coupled with protection from creditors and claims of a divorcing spouse. However, this rationale ignores an extremely important - but underused - function that trusts can play in an estate plan: educating the next generation to manage their inheritance responsibly.

[Full Article](#)

### How To Win A "Bet-The-Company" Lawsuit

By: [Harvey Friedman, Esq.](#)

*Greenberg Glusker*

*Los Angeles, California*

A number of years ago, I represented an insurance company which sued a law firm for breach of fiduciary duty. The case was tried by a jury. The defendant was represented by a well-known, highly regarded law

firm. I thought that the defendant's lawyers did a professional, competent job at trial. After a short deliberation, the jury came in with a multi-million dollar verdict in favor of my client - despite the fact that it was an insurance company.

[Full Article](#)

## **Limit Your Company's Legal Risk By Negotiating Form Contracts**

**By: [Lee A. Dresie, Esq.](#)**

***Greenberg Glusker***

***Los Angeles, California***

Form contracts account for more than 80 percent of all agreements used to complete business transactions today. That percentage maybe even higher when it comes to commercial real estate transactions like the ones companies sign to acquire corporate headquarters or satellite offices.

[Full Article](#)

## **Common Mistakes Made by Small Business Owners**

**By: [Eric A. Cruz, Esq.](#)**

***Bivins & Hemenway, P. A.***

***Valrico, Florida***

From the time they formulate their first business idea, and often all the way through dissolution, small business owners throughout the United States often find themselves in situations that they are not familiar or comfortable with. Specifically, throughout the life of their businesses, business owners are faced with a number of situations in which their knowledge of the rules, laws, and regulations affecting their day-to-day business operations and decisions is put to the test.

[Full Article](#)

## **Technology in the Debt Collection Industry...A Dangerous New Frontier?**

**By: [Jason G. Wehrle, Esq.](#)**

***Grogan Graffam, P.C.***

***Pittsburgh, Pennsylvania***

With the almost daily advent of new technologies in the way people communicate, it has never been easier to contact consumers or obtain personal information for social or business purposes. This ease of access has created a whole new horizon for companies in the debt collection and data collection industries.

[Full Article](#)

## **Distribution Contracts - Formulating and Terminating the Agreement**

**By: [Stephen T. Sigler, Esq.](#)**

***Neil, Dymott, Frank, McFall & Trexler APLC***

***San Diego, California***

Too often the quality of a contract is defined by the problems that later arise as a result of poor drafting. Even the best laid plans, contractually, can devolve into a morass of litigation when unforeseen issues arise or relationships breakdown.

[Full Article](#)

## **Colorado's Economic Loss Rule, the "Independent Duty" Approach, and the Impact on Construction Defect Cases**

**By: [Anne K. McMichael, Esq.](#)**

***Zupkus & Angell, P.C.***

***Denver, Colorado***

In 2000, Colorado joined Illinois and South Carolina in adopting the "economic loss rule," a rule of law that defines the sometimes blurred lines between tort and contract law. Since 2000, Colorado courts have issued several opinions attempting to clarify this rule and Colorado's "independent duty" approach to the economic loss rule.

[Full Article](#)

## Employment and Labor

### India

#### **Law Relating to Sexual Harassment in India**

By: [S. Eshwar, Esq.](#)

*S Eshwar Consultants House of Corporate IPR Laws*

*Chennai, India*

Every now and then the business newspapers carry stories of sexual harassment, and when the accused is a high profile CEO, then it hits the front page. Recently, sexual harassment was front page news in India when a high profile CEO of an Indo-US company was sacked by the board.

[Full Article](#)

### USA

#### **Discrimination Claims Made at the Workplace**

By: [Alan B. Graves, Esq.](#)

*Neil, Dymott, Frank, McFall & Trexler APLC*

*San Diego, California*

An employee makes a claim to his or her employer of discrimination. The employer as rule of thumb needs to investigate the claim in order to address the claim and take appropriate action. However, what happens during the employer's investigation when other employees do not want to participate or refuse to cooperate.

[Full Article](#)

#### **There's No Such Thing As A Free....Intern**

By: [Robert J. Olson, Esq.](#)

*Neil, Dymott, Frank, McFall & Trexler APLC*

*San Diego, California*

A New York District Court recently held employers cannot use an internship program in order to avoid paying wages or paying less than minimum wage. The court separated and defined interns and employees and adopted the Department of Labor's (DOL) guidelines. If your company employs an internship program now would be a good time to review it.

[Full Article](#)

#### **Lucrative Government Program Funds Hospital Training of New Physicians**

By: [Kathleen Hatfield, Esq.](#)

*Law Offices of Stewart and Stewart*

*Washington, D.C.*

The United States faces a looming shortage of primary care physicians that will only be exacerbated next year when, under the Affordable Care Act (ACA), 32 million additional Americans gain access to health insurance.

[Full Article](#)

#### **Frequently Asked Questions Regarding Workplace Accommodations Requested By Pregnant Employees**

By: [Carol Schuler Harding, Esq.](#)

*Earp Cohn P.C.*

*Philadelphia, Pennsylvania*

##### **1. Is pregnancy deemed to be a disability under the original ADA?**

No. Neither pregnancy itself, nor common restrictions thereof, including avoidance of repetitive heavy lifting and of exposure to hazardous chemicals, have been deemed to be a disability requiring accommodation under the original ADA.[1] In rare circumstances, however, serious complications of pregnancy have been deemed to meet the definition of disability under the original ADA.

[Full Article](#)

## **Arbitration of Employment Disputes? Let's Have Another Look!**

**By: [Dennis J. Alessi, Esq.](#)**

***Mandelbaum Salsburg Lazris & Discenza, P.C.***

***West Orange, New Jersey***

Since the early 1990s, many of the more sophisticated employers have required that all their employees sign arbitration agreements for any disputes regarding their employment and termination.

**[Full Article](#)**

## **Rocky Mountain High: What the Legalization of Marijuana Means for Employers**

**By: [Muliha A. Khan, Esq.](#)**

***Zupkus & Angell, P.C.***

***Denver, Colorado***

Was John Denver's "Rocky Mountain High" an innocent tribute to the beauty of the Colorado mountains or a premonition regarding the state's future legalization of marijuana? While some believe the tune was about nature and only nature, Colorado's recent legalization of marijuana gives a whole new meaning to the 1973 song, now ironically one of the two official state songs.

**[Full Article](#)**

**The Netherlands**

## **Employee Participation the Dutch Way**

**[Russell Advocaten B.V.](#)**

***Amsterdam, The Netherlands***

The Netherlands is located in Northwest Europe. It borders the North Sea, Belgium and Germany. The Netherlands owes its name to its low-lying geography, with a great part of its land area (the polders), lying below the sea level. The country is also referred to as Holland after the most important region in the Netherlands.

**[Full Article](#)**

## **Healthcare**

**USA**

## **Obamacare: The Patient Protection and Affordable Care Act**

**[Kubasiak, Fylstra, Thorpe & Rotunno, P.C.](#)**

***Chicago, Illinois***

The Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (to be codified in scattered sections of 42 U.S.C.) (the "Act"), was signed into law and became effective on March 23, 2010. The Act is the most significant regulatory overhaul of the country's health care system since the passage of Medicaid and Medicare in 1965.

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## **International Business**

**Canada**

## **Doing Business in Ontario?**

**[Houser Henry & Syron LLP](#)**

***Toronto, Ontario***

**[Full Article](#)**

**Colombia**

## **The Real Estate Sector in Colombia**

**By:**

**[Santiago Concha, Esq.](#)**

***Pinilla González & Prieto Abogados***

***Bogota, Colombia***

Colombia is a democratic Nation that bases its real estate sector activity under the principle of respect for property rights and justly acquired rights, which are limited in accordance with the Constitution and the law, only by the so-called social and ecological purpose of Property and the prevalence of the general interest or the common good.

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**[India](#)**

## **Domain Name Dispute Resolution**

**By: [N V Saisunder, Esq.](#)**

***S Eshwar Consultants House of Corporate & IPR Laws***

***Chennai, India***

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**[Mexico](#)**

## **CCN Mexico Report (TM)**

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***Mexico City, Mexico***

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**[Panama](#)**

## **Doing Business in Panama**

**By: [Marcela Virzi Martinelli, Esq.](#)**

***Quijano & Associates***

***Panama City, Rep. of Panama***

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**[Switzerland](#)**

## **The Advantages of Switzerland as an IP Management Location**

**By: [Andreas Glarner, LL.M.](#)**

***MME Partners***

***Zurich, Switzerland***

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## **Switzerland - On its Way to Become an Online Gambling Hotspot?**

**[MME Partners](#)**

***Zurich, Switzerland***

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## **Miscellaneous**

**[USA](#)**

## **Enforcing Civility In An Uncivilized World**

**By: [Donald J. Winder, Esq.](#)**

***Winder & Counsel, PC***

***Salt Lake City, Utah***

We have all seen the entertainment industry's impressions of the legal profession. Fired up attorneys in court yelling at witnesses, belittling their opponents, and battling the judge

hammer and tong over every perceived slight or unfavorable ruling.

[Full Article](#)

## Developing the Sophisticated Intermediary/Purchaser Defense

By:

[Jeffrey Kaufman, Esq.](#),

[John R. Brydon, Esq.](#), and

[James C. Parker, Esq.](#)

*Brydon Hugo & Parker*

*San Francisco, California*

I. Introduction

Failure to warn is a principle theory of products liability. In many cases the defendants include upstream raw material or component suppliers who sell to a manufacturer and have no contact with or opportunity to warn the end user. These defendants could still be liable unless they warned the intermediary or took reasonable steps to see that the end user received notice.

[Full Article](#)

## Paradigm Magazine

To View the Latest Issue of the Paradigm Magazine, [click here](#).



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