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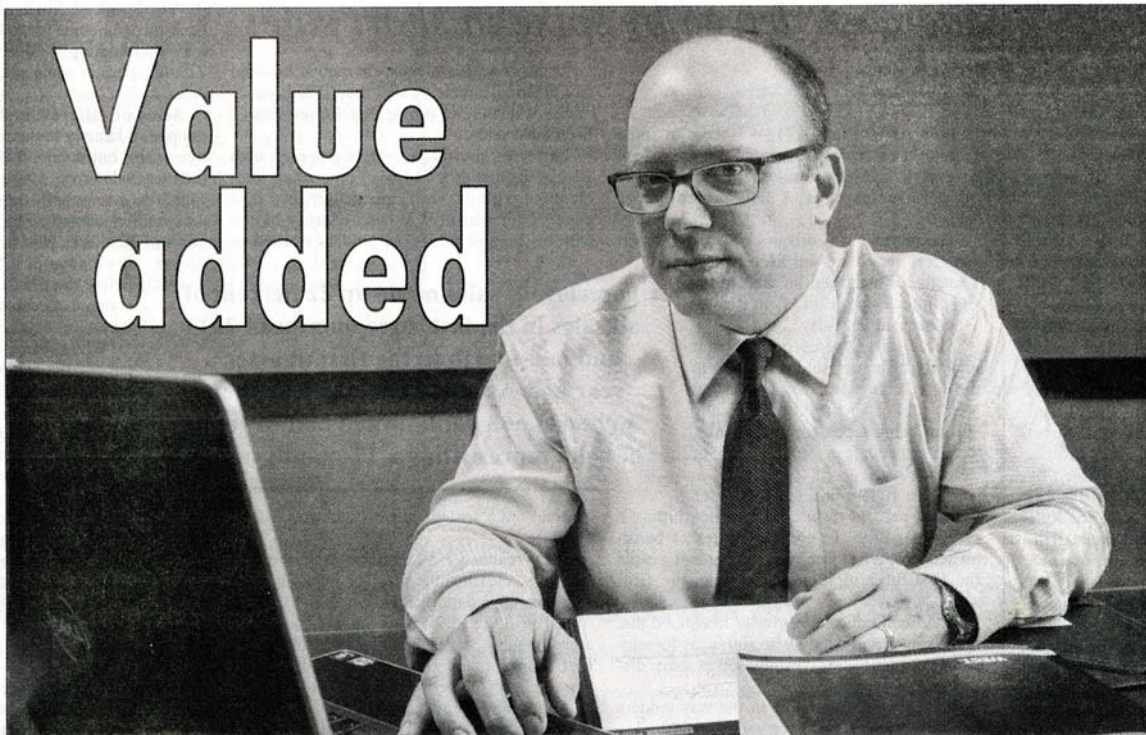


Photo by Robert Chase

An alumnus of the University of Notre Dame School of Law, Brian Nettleingham clerked for Judge Joel Hoekstra of the Michigan Court of Appeals following graduation.

Attorney relishes complexities of commercial litigation

BY SHEILA PURSGLOVE
Legal News

Electronic discovery has transformed the workplace, according to Brian Nettleingham, a shareholder in Maddin, Hauser, Wartell, Roth & Heller's Commercial Litigation Group.

"You can no longer simply visit a client's office and quickly gather all the relevant physical files," he says. "We now have to consider servers, e-mail accounts, individual machines, cloud-based storage, and everywhere else relevant data might be stored."

Nettleingham is intrigued at how technology is changing law and the role of lawyers.

"At a certain level, law is information. What we, as lawyers, try to do is understand that information on an expert level and use that expertise to provide our clients with value," he says. "Current information technology has created the possibility of helping our clients leverage technology so that, if they choose, they can do more for themselves and rely on their lawyers for assistance in areas where greater expertise is required."

Most commercial litigation activity is now information system-based — for example, a mortgage servicing company may acquire a large loan portfolio; and the data that accompanies these loans — payment histories, col-

lection efforts, etc. — has to be ported to the purchaser's system.

"If the transfer isn't done properly, a variety of problems can emerge," he says. "So understanding those systems and where those problems can arise — not just in the mortgage lending industry, but in any industry that is heavily information system dependent — presents exciting challenges and opportunities to help clients."

Rigorous protocols must be in place to make sure electronically stored information is properly preserved at the outset of a lawsuit; otherwise, significant problems could emerge down the road. And attorneys must not only understand how clients are gathering, storing and using information but also how information systems can actually shape the information. For example, in some industries, much of the stored information is heavily regulated, and much of the information becomes a target for discovery in litigation.

"Knowing how to get to the information efficiently and identify what should be produced can be a huge cost in any litigation," Nettleingham says. "We can help clients design systems that anticipate some of these challenges before any litigation, avoid some of these costs."

He recalls a case involving a dispute

between competing investment companies over software-based algorithms used to analyze and understand the value of collateralized mortgage loan portfolios.

"The case provided an interesting insight into what was going to happen when market began to tumble, especially when it became more readily apparent that institutions had difficulty actually valuing these collateralized mortgage portfolios," Nettleingham says.

These intellectual challenges are a driving force behind Nettleingham's choice of career.

"I like to argue and test propositions," he says. "I like the challenge of finding creative and successful solutions to difficult legal problems. I enjoy the process of understanding a problem, gathering the relevant evidence and data, and fashioning a solution that will ultimately persuade a court."

He also relishes the relative complexity of issues and helping a wide variety of clients navigate the litigation process, making sure they understand how it relates to their desire for particular objectives.

"It's tremendously rewarding to help a company that comes to you with a problem — a general sense that it's been wronged — by framing the issue and putting in motion litigation to solve that problem."

See **VALUE**, Page 5

VALUE:

Litigation volume remains high

From Page 1

One of the biggest challenges, he adds, is making sure the attorney's service continues to add value and help the client balance the costs of the litigation against the benefits of success.

He was a member of the Distressed Real Estate Asset Group, which advised clients impacted by the Emergency Economic Stabilization Act and related legislation.

The group — formed when TARP legislation was passed, in order to understand the impact in the financial services industry — is now part of the firm's more comprehensive Real Property and Mortgage Dispute Resolution Group.

"There remains a significant volume of litigation, especially regarding residential and commercial mortgage transactions," he says. "Most of these loans originated during a boom economy, and they're now being scrutinized in great detail. We've had the opportunity, and it's been tremendously rewarding, to work with a number of the organiza-

tions and lenders, both locally and nationally, to create solutions for some of these issues."

After earning a bachelor's degree in pre-law from Cedarville University, with minors in religion and philosophy, Nettleingham spent two years studying philosophy at Miami University's Graduate School. He earned his J.D. from the University of Notre Dame School of Law, where he was a member of the Appellate Moot Court Team, worked with the Legal Aid and Immigration Law Clinics, and won the Annual Client Counseling Competition.

Nettleingham spent most of his youth in New Orleans. After finishing law school, he and his wife, Sandra, moved to Grand Rapids for a couple of years, before making the Detroit area their home, where he serves on the board at Cornerstone Presbyterian Church. His 13-year-old daughter, Paige, is on her school's volleyball and basketball teams, while 11-year-old Ainslee loves to participate in community and school theater productions.