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The Modern Business Law Practice

November 29, 2023

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Agenda

- 8:55 A.M.** **Welcome and Introduction**
Josh F. Brown, Program Chair
- 9:00 A.M. Corporate Transparency Act: Why every Business lawyer needs to know about this and its impact
Travis D. Lovett
- 9:45 A.M. Developments in Business Valuation / Appraisal Services
Edwin Mysogland
- 10:30 A.M.** **Coffee Break**
- 10:45 A.M. Introduction to Transactional Risk Insurance
David J. Bartoletti
- 11:30 A.M. Navigating Employment Law in the Era of Remote Work
Gregory W. Guevara
- 12:15 P.M. Lunch Break (*on your own*)
- 1:15 P.M. Modern Technology for Nimble, Robust, and Productive Law Firm Management
F. Anthony Paganelli
- 2:00 P.M. Transactional Real Estate Issues in M & A and Beyond
Aaron Aft
- 2:45 P.M.** **Refreshment Break**
- 3:00 P.M. Healthcare Strategic Transactions
Isaac M. Willett
- 3:45 P.M. AI & Other Technology Advancements to Embrace Going Forward
Mark Bradley
- 4:30 P.M. Adjourn

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Josh F. Brown, Taft Stettinius & Hollister LLP, Indianapolis

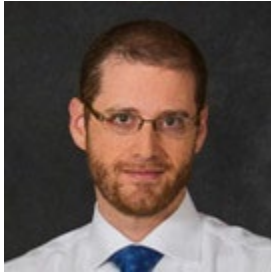


Josh Brown is chair of Taft's Franchise and Distribution group. He combines his legal experience, business background, and entrepreneurial skills to help clients grow their businesses with a particular focus on franchising and other licensing opportunities. He is passionate about helping entrepreneurs make smart franchise decisions and prepare for growth and expansion. Josh counsels franchisors through legal challenges and helps identify and pursue potential franchise opportunities.

In between private practice, Josh was a law clerk for the Honorable Nancy H. Vaidik of the Indiana Court of Appeals. Prior to that, Josh worked in business management, sales, marketing, and operations for several businesses, including two franchise systems. Clients partner with Josh because he understands the industry and the challenges with starting, managing, and growing a small business.

Josh is the creator and host of Franchise Euphoria, a top-rated podcast, and a frequent author and presenter on topics related to franchising. When not working, he enjoys spending time with his family, traveling, and playing golf.

Aaron Aft, Ice Miller LLP, Indianapolis



Aaron Aft helps clients grow their businesses, build on their successes and expand their opportunities. As a partner in the Real Estate practice group at Ice Miller LLP, Aaron works with investment firms, banks, developers, brokers, management companies, non-profits, public and private companies and entrepreneurs. He helps his clients navigate through the complex legal issues and challenges associated with acquisitions, dispositions, development, financing and leasing of real estate across the country. Aaron is committed to delivering excellent client service, working with and advising clients through their real estate transactions, always keeping their best interests at the forefront.

Aaron's diverse professional experiences enable him to understand what his clients need to achieve their goals. Since joining Ice Miller, Aaron has assisted clients large and small in transactions involving unimproved land, apartment complexes, office buildings and industrial property across the United States. Some of Aaron's work includes the acquisition, disposition and leasing of unimproved land, office buildings, office/industrial properties and retail shopping centers. He also worked on the unwinding of a nation-wide investment portfolio; acquisition of municipal water and sewer utilities; development of build-to-suit cold-storage facility; development of a grain storage and distribution hub; and construction and financing of public hospital and university research facilities. Aaron has also assisted clients in making donations of real estate assets to municipalities and non-profit organizations, and he has helped non-profit and community organizations in acquiring and leasing real estate.

Prior to joining Ice Miller, Aaron represented businesses and individuals in business and civil disputes in state and federal court. Aaron also worked as a civilian law clerk for the United States Air Force at Wright-Patterson Air Force Base, and as a legislative intern in the Capitol Hill office of Senator Joseph I. Lieberman. Aaron earned a juris doctor from the Indiana University Maurer School of Law (Bloomington) where he graduated *magna cum laude*, Order of the Coif, in 2011. Before attending law school, Aaron worked for a Washington D.C.-based law firm specializing in the representation of defense companies on Capitol Hill.

David J. Bartoletti, Taft Stettinius & Hollister LLP, Indianapolis



Dave Bartoletti draws on his experience as a deal lawyer and former Big Four accountant to advise companies, business owners, and investors on business and tax matters arising during key events in the life cycle of a business, including formation, joint ventures, capital raising transactions, and mergers and acquisitions.

Mergers, Acquisitions, and Restructurings

Dave advises companies and investors in the acquisition, sale, and restructuring of businesses. His deal experience includes representation of strategic buyers, family-owned businesses, and publicly traded clients across industries and capitalization in connection with the purchase (and sale) process. Dave has also advised private companies undertaking recapitalization transactions in order to adapt to changing market conditions, obtain new sources of financing, facilitate future purchases or sales business lines, and to better structure employee equity incentives.

In addition to representing clients who are parties to mergers and acquisitions transactions, Dave frequently assists underwriters in identifying and assessing risk in transactions in which the buyer or seller is seeking transaction insurance such as representations and warranties insurance and tax insurance policies.

Transactional Tax

Dave assists for-profit and tax-exempt entities and individuals across industries to ensure new businesses, ventures, acquisitions, and capital raising activities can achieve their business goals in the most tax efficient manner available. Representative transactions include serving as tax counsel for private funds, their sponsors, and investors in fund formation, structuring and wind-down transactions, and serving as tax counsel for strategic buyers and family-owned sellers undertaking tax-driven transactions such as tax-free reorganizations, spin-offs, investments in qualified small business stock and structuring deals to obtain qualified opportunity zone tax benefits. Dave advises private funds, multinational corporations, strategic buyers, and publicly traded clients in forming, maintaining, buying and selling, and investing in real estate investment trusts (REITs).

Mark Bradley, Taft Stettinius & Hollister LLP, Minneapolis



Mark Bradley serves as Taft's Chief Information Officer and is a key member of Taft's executive management team. As CIO, Mark provides leadership to the firm's information technology and security functions.

Prior to joining Taft, Mark was the Chief Innovation and Technology Officer for Robins Kaplan LLP, where he implemented initiatives across cross-functional department and practice areas with a focus on Intellectual Property and Business Litigation. While working at Robins Kaplan, Mark also coordinated, planned, and executed the IT transition plans to remote/hybrid work models in response to the Covid-19 pandemic.

Mark's experience also includes previous roles in information technology leadership for National law firms in Washington, D.C., Minneapolis and Oklahoma City. Mark earned his bachelor's degree in political science from Virginia Polytechnic Institute and State University.

Gregory W. Guevara, Bose McKinney & Evans LLP, Indianapolis



Greg Guevara is a partner in the Labor and Employment Group at Bose McKinney & Evans. As a highly responsive business advisor and employment litigator, Greg helps his clients by understanding their objectives and offering practical legal advice tailored to their unique situations and desired outcomes. He provides aggressive and ethical advocacy to a broad range of clients, including privately held businesses, non-profit organizations and national companies, as well as executives, physicians, and other professionals.

He concentrates his practice on labor and employment law and litigation, including:

- Non-competition, non-solicitation and confidentiality agreements
- Emergency injunctions
- Defense of discrimination/EEO claims
- Wage/hour compliance and litigation
- Disability/reasonable accommodation
- FMLA/leaves of absence
- Sexual harassment and workplace investigations
- Severance and executive employment agreements
- Personnel policies/employee handbooks
- Reductions-in-force
- Union avoidance, unfair labor practices and collective bargaining

Greg practices in the federal and state courts in Indiana and Ohio, federal and state agencies (EEOC, NLRB, ICRC, IOSHA, etc.), and other jurisdictions as needed.

He began his law career with Bose McKinney & Evans then practiced with the Columbus, Ohio office of Jones Day. Before returning to BME in August 2006, he spent seven years working as an executive for Reliant (formerly GCM), an international Christian mission organization based in Orlando, Florida. His experience in private practice, board governance and non-profit management gives him the ability to provide practical guidance and sound management advice to businesses dealing with a full range of employment-related issues.

Travis D. Lovett, Krieg DeVault LLP, Carmel



Mr. Lovett brings a depth of legal experience to Krieg DeVault, including assisting clients with economic development initiatives, and providing counsel relating to tribal and state government contracts, as well as governance initiatives for Indigenous communities, including tribal bylaws, election acts, and employment and housing policies.

Before joining Krieg DeVault, Mr. Lovett served as a Staff Attorney with Indiana's Legislative Services Agency where he collaborated with state legislators and lobbyists to draft legislation in the areas of business, tax, and economic development. While there, he served as lead counsel to the Indiana Senate Agriculture Committee and Indiana House Agricultural and Rural Development Committee. Mr. Lovett also served as a Tribal Attorney for Indigenous communities in Canada where he routinely negotiated with government officials to determine if natural resource projects infringed Indigenous lands and advised tribal leaders on corporate and governance matters.

Mr. Lovett is a graduate of Sandra Day O'Connor College of Law and earned his M.B.A. from Indiana University's Kelley School of Business. He holds membership in the Indianapolis Bar Association and the Venture Club of Indiana. Additionally, Mr. Lovett is a former World Champion Native American Powwow Dancer in the United States and Canada. In his free time, he enjoys spending time with family and attending live music and sporting events.

Edwin Mysogland, Indiana Business Advisors, Indianapolis



As its Managing Partner, *Ed Mysogland* guides the development of the organization, its knowledge strategy, and the IBA initiative, which is to continue to be Indiana's premier business brokerage by bringing investment banker caliber of transactional advisory services to small and mid-sized businesses. Over the last 29 years, Ed has been appraising and providing pre-sale consulting services for small and medium-size privately-held businesses as part of the brokerage process. He has worked with entrepreneurs of every pedigree and offers a unique insight in consulting with them to a successful outcome.

The development of his experience stems from appraising many types, sizes, and interests. He has valued businesses in 28 states over his career. He has saved buy-side clients millions and successfully defended the business value of his sell-side clients. He has served as an expert witness and has taught about business valuation and exit planning.

Ed is a graduate of the distinguished Stanley K. Lacy Leadership Series; chapter President of the Exit Planning Institute and has served several not-for-profit organizations.

F. Anthony Paganelli, Paganelli Law Group LLC, Indianapolis



As managing attorney at PLG, *Tony Paganelli* is responsible for the firm's business operations. He also practices in the areas of business litigation, mediation, and business law, and he frequently advises corporate officers, senior executives, and professionals on employment law matters.

Born and raised in Northwest Indiana, Tony was the first person in his family to go to college. He is a 1992 graduate of the University of Notre Dame. He then attended the Indiana University School of Law in Bloomington on scholarship, where he served as a Managing Editor of the Indiana Law Journal and graduated with honors in 1995.

Before founding PLG in 2013, Tony was a litigator at one of the largest law firms in the United States. He focused his practice on business litigation and developed a nationwide trial and injunction practice.

Tony was on the Indiana Rising Stars list (the top 2.5% of Indiana lawyers under 40) in 2009-2010, and has been recognized by Indiana Super Lawyers® (the top 5% of all Indiana lawyers) every year since 2010. He has also been included in every edition of The Best Lawyers in America© since 2013, most recently for both business litigation and mediation.

In 2012 he chaired the Litigation Section of the Indianapolis Bar Association. He has been an instructor since 2007, and co-chair since 2015, of the annual Indiana Trial Advocacy Skills College. Tony is also a board member and two-term chairman of the Children's Organ Transplant Association, a national charity that raises millions of dollars each year for children who need life-saving organ transplants.

Isaac M. Willett, Taft Stettinius & Hollister LLP, Indianapolis



Ike is an experienced transactional attorney focusing his practice on advising nonprofit and for-profit health systems, hospitals, medical groups, and other health care entities on pursuing their strategic growth initiatives. In his work with health care entities across the country, he has both led and been a key contributor to a wide array of complex transactions, including acquisitions, consolidations, joint ventures, and other forms of strategic affiliations. In addition to his transactional work, Ike advises health care companies on regulatory compliance matters, corporate governance issues, various commercial arrangements, and other day-to-day legal issues. He is dedicated to providing excellent responsiveness and service to his clients and values the opportunity to be a trusted adviser to the clients he serves.

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Section One

Corporate Transparency Act Why Every Business Lawyer Needs to Know About This and its Impact

Travis D. Lovett
Krieg DeVault LLP
Carmel, Indiana

Section One

Corporate Transparency Act Why Every Business Lawyer Needs to Know About This and its Impact..... Travis D. Lovett

Slide Presentation

Travis Lovett Biography

Travis Lovett is an attorney at Krieg DeVault LLP. He focuses his practice on corporate transactions, advising clients through complex mergers, acquisitions, restructurings, and advising closely-held and family-owned businesses on general corporate matters. Travis also advises clients on issues related to federal Indian law, such as tribal lending, and partnerships and agreements with Native American Indian Tribes. Travis's commitment to federal Indian law stems from his background as a competitive Fancy Dancer in Powwows across North America, where he was exposed to the ongoing issues facing Indigenous communities.

Travis earned his J.D. from the Sandra Day O'Connor College of Law at Arizona State University; L.L.M from the Faculty of Law at the University of Alberta; M.B.A from the Kelley School of Business at Indiana University; and B.S. in biology from the University of the Cumberland. Before joining Krieg DeVault, Travis practiced law in Canada where he represented Indigenous Nations in Saskatchewan and Manitoba on tribal governance and corporate matters.

Travis lives in Zionsville, Indiana with his wife and two daughters.

CORPORATE TRANSPARENCY ACT

Why every Business lawyer needs to know about this and its impact

a presentation by Travis D. Lovett

WHAT IS THE CORPORATE TRANSPARENCY ACT?

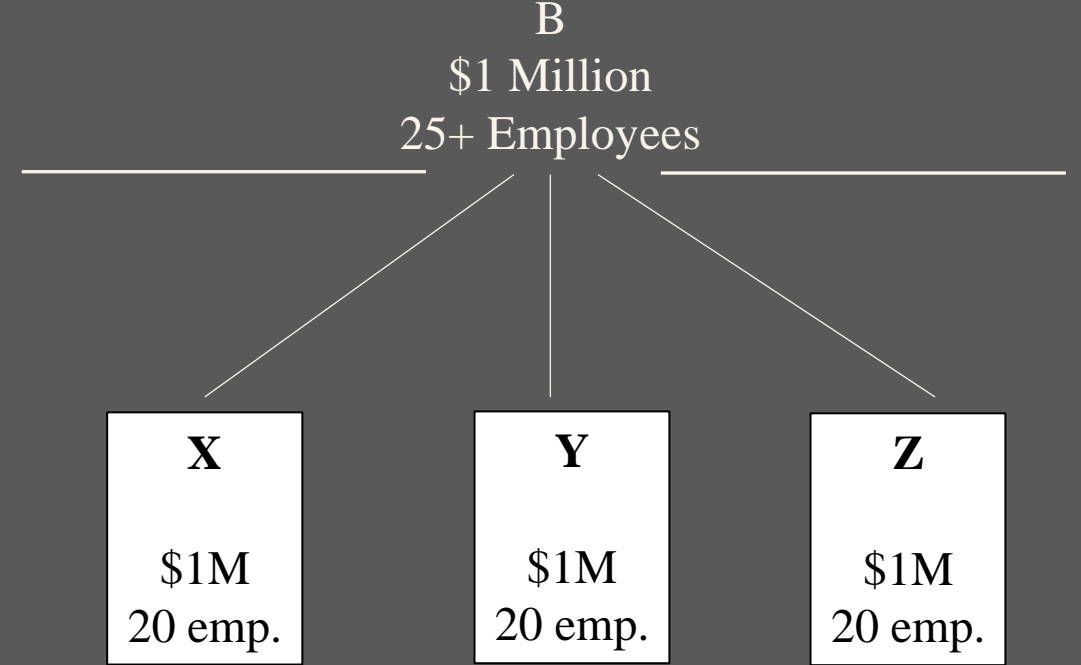
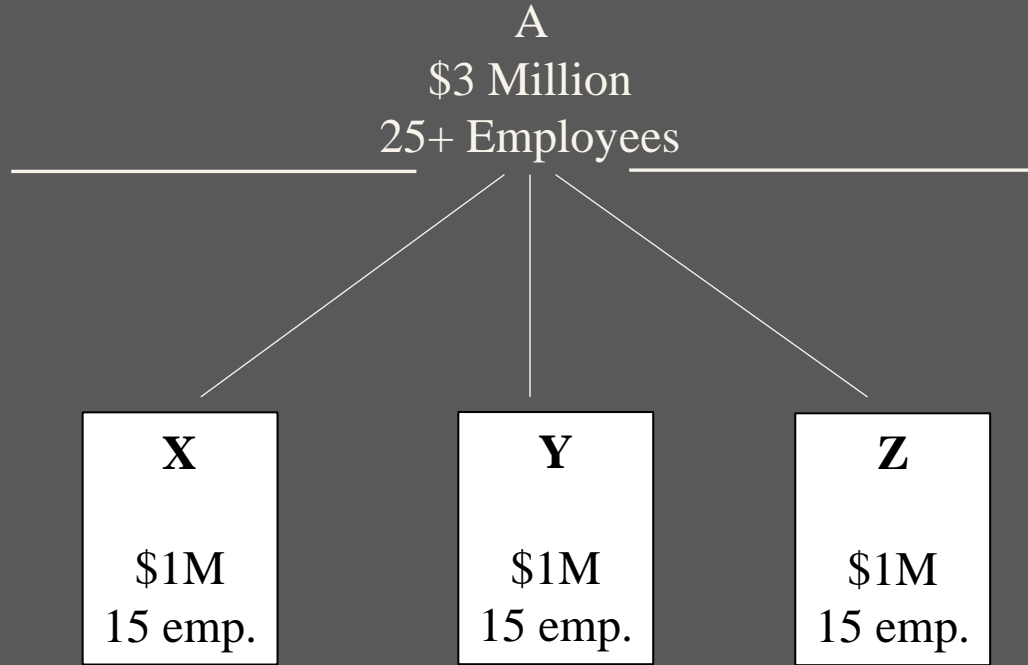
- A new federal law passed by Congress (as part of the Anti-Money Laundering Act of 2020) with the intent to combat unlawful and criminal activity that is carried out through corporate entities.
 - Malign actors seek to conceal their ownership of corporations, limited liability companies, or other similar entities in the United States to facilitate illicit activity, including money laundering, the financing of terrorism, proliferation financing, serious tax fraud, human and drug trafficking, counterfeiting, piracy, securities fraud, financial fraud, and acts of foreign corruption, harming the national security interests of the United States and allies of the United States.
- A **Reporting Company** must submit a **Beneficial Ownership Information Report** to report its **Beneficial Owners** and **Applicants** to the Financial Crimes Enforcement Network of the Department of the Treasury (**FinCEN**) through FinCEN's electronic database, the **Beneficial Ownership Secure System**.
- Reporting requirements start January 1, 2024.

REPORTING COMPANY

- Any entity that is created or registered to do business in the United States by the filing of a document with a Secretary of State or similar office under the law of a State or Indian Tribe.
- 23 Exemptions- generally heavily regulated industries (such as banks, public utility, investment companies), nonprofits, and large companies.
 - *Any entity that employs more than 20 employees on a full-time basis in the United States, filed in the previous year federal income tax returns more than \$5,000,000 in gross receipts or sales, and has an operating presence at a physical office within the United States.*
 - *A subsidiary of certain exempt entities.*

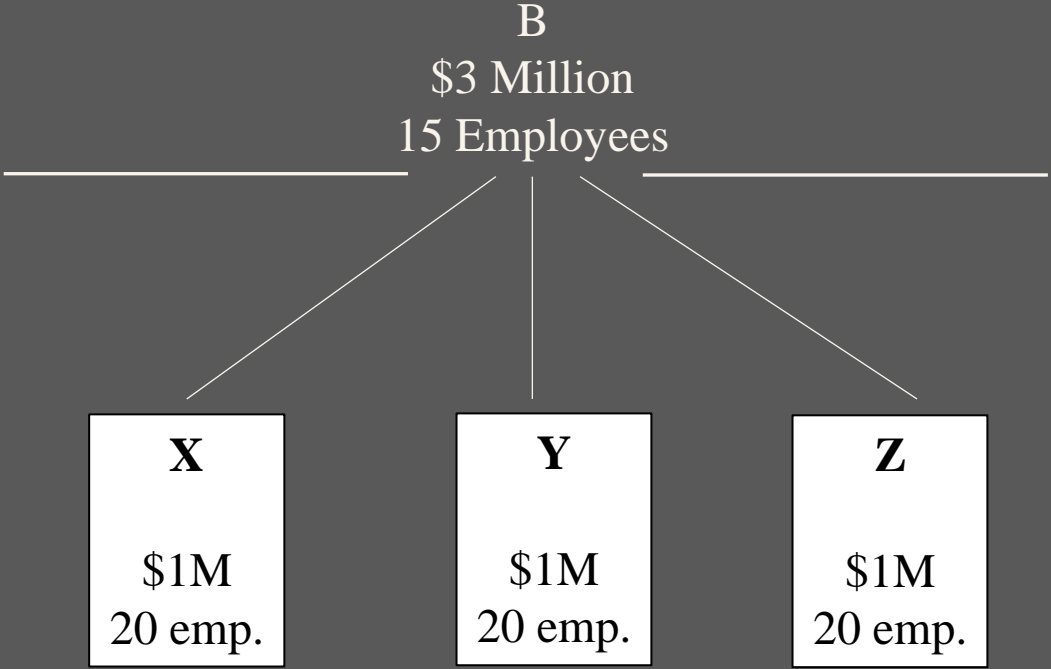
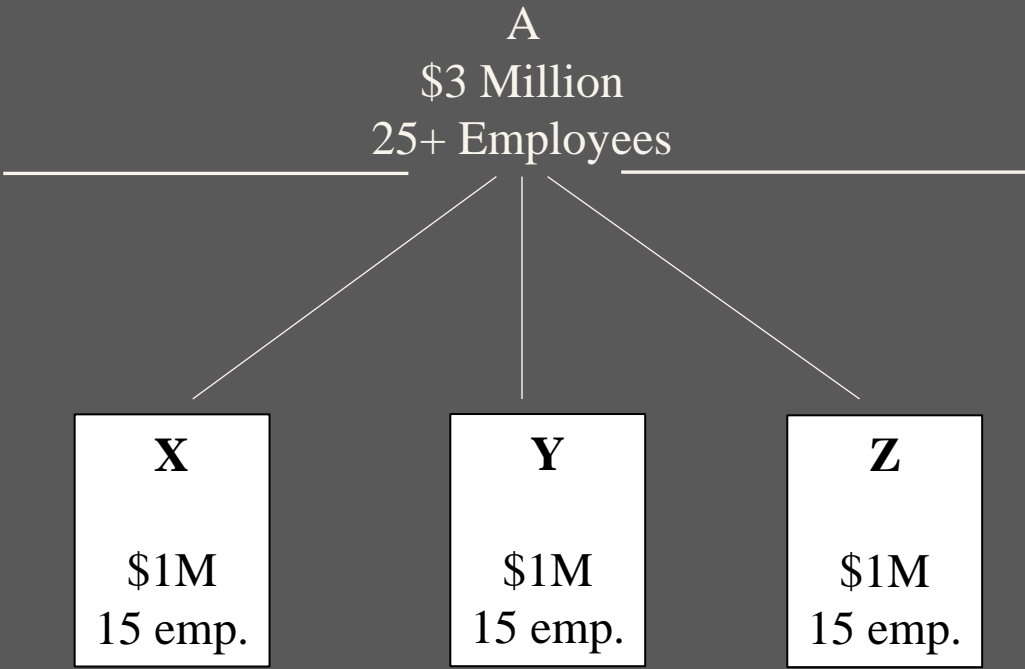
REPORTING COMPANY

EXAMPLE 1



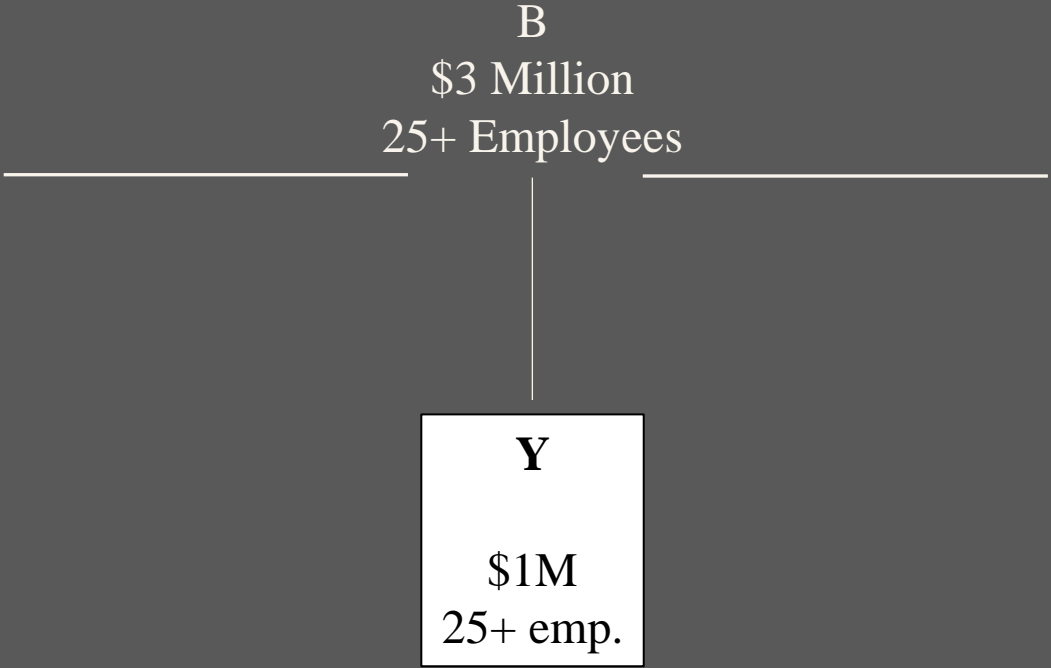
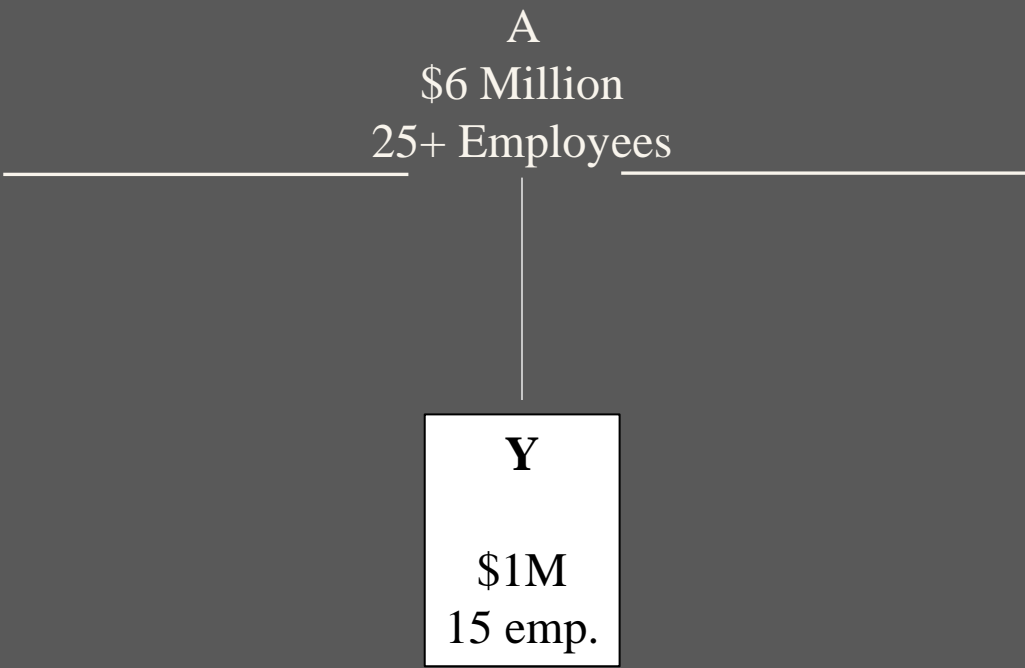
REPORTING COMPANY

EXAMPLE 2



REPORTING COMPANY

EXAMPLE 3



BENEFICIAL OWNER

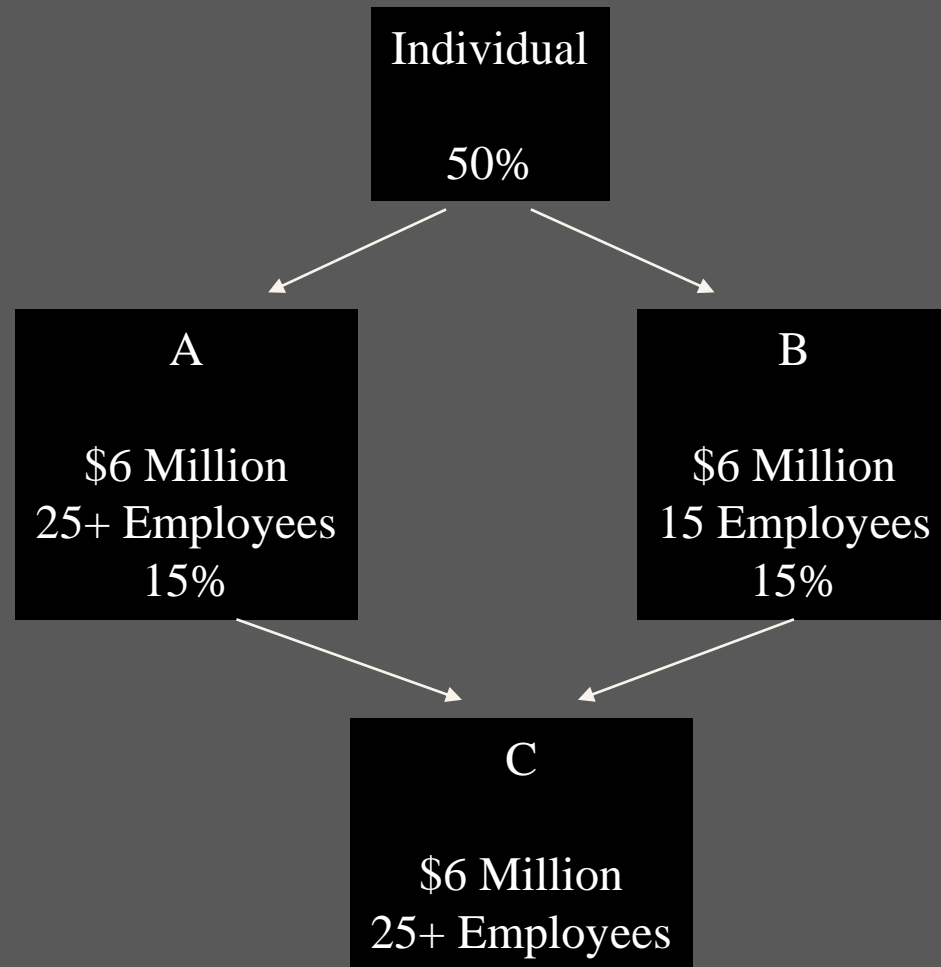
An individual who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise that:

- Exercises substantial control over the entity; or
- Owns or controls not less than 25 percent of the ownership interests of the entity.

Excludes:

- Minor
- Custodian or agent on behalf of an individual
- Employee and no other connection to Reporting Company
- An individual whose only interest in a corporation, limited liability company, or other similar entity is through a right of inheritance; or
- A creditor of a corporation, limited liability company, or other similar entity, unless the creditor meets the requirements of a “Beneficial Owner”.

BENEFICIAL OWNER EXAMPLES



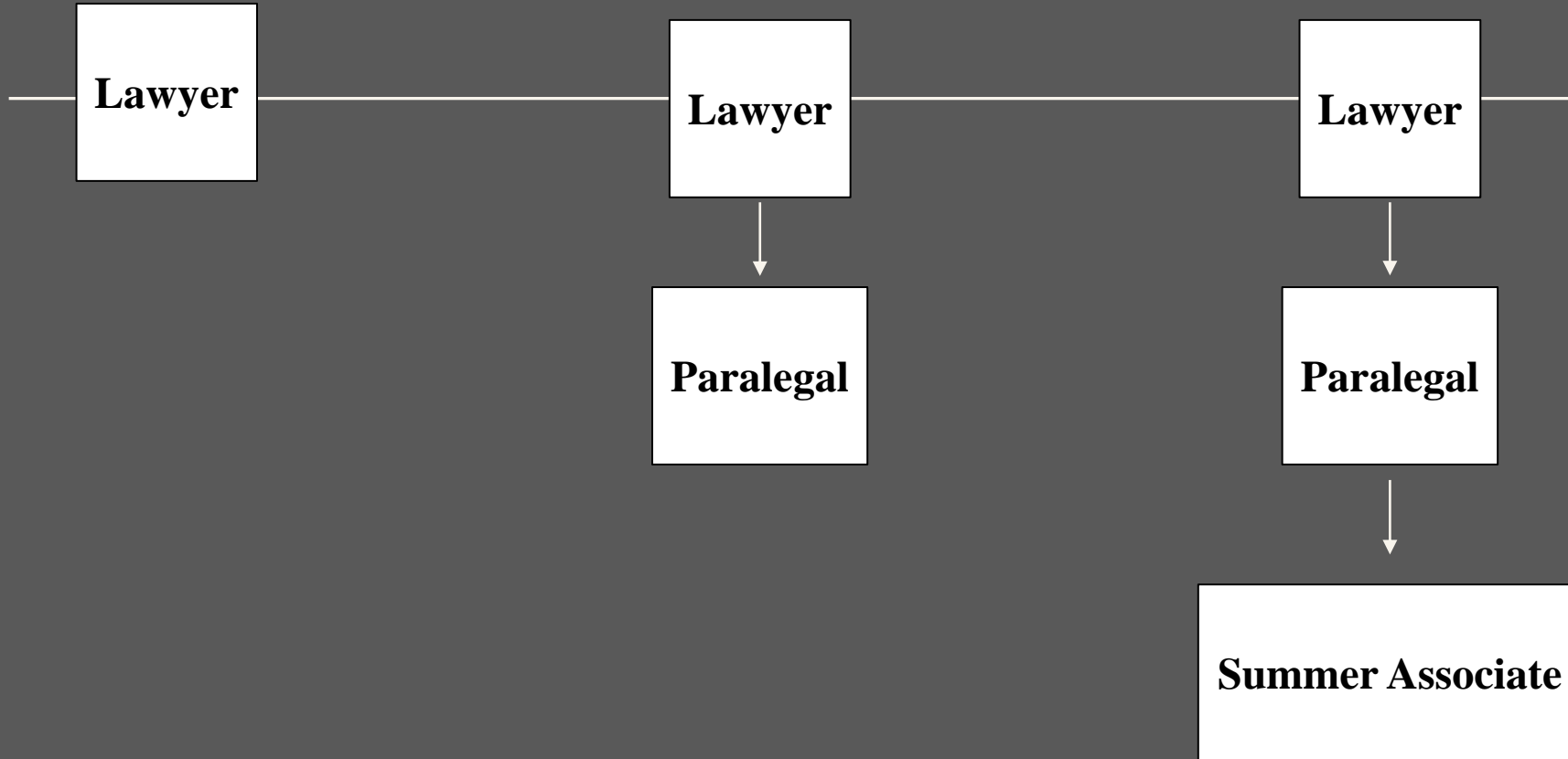
Substantial control if the individual meets any of four general criteria:

- (1) The individual is a senior officer;
- (2) The individual has authority to appoint or remove certain officers or a majority of directors of the reporting company;
- (3) The individual is an important decision-maker; or
- (4) The individual has any other form of substantial control over the reporting company.

APPLICANTS

- Individual who **directly** files or **primarily is responsible for directing or controlling** such filing of the application to create or register the Reporting Company to do business in the United States.
- Never more than 2 Applicants per Reporting Company.
- Only applies to Reporting Companies created or registered to do business in the United States on or after January 1, 2024.

APPLICANT EXAMPLES



Penalties

- Willfully provide false or fraudulent information or fail to report or update.
- \$500 per day (capped at \$10,000) or imprisoned up to 2 years, or both.
- Safe Harbor

Beneficial Ownership Secure System

- Limited access and confidentiality

Resources

- BOI Small Entity Compliance Guide
- FinCEN website

OTHER STUFF YOU
SHOULD KNOW

WHAT YOU CAN/SHOULD DO

- Add/modify language to primary agreements
 - Bylaws and Operating Agreements
 - Shareholders Agreements
 - Purchase Agreements
 - Subscription Agreements
- Firm's internal filing and formation process
- Scope of Engagement

QUESTIONS?

a presentation by Travis D. Lovett

Section Two

Developments in Business Valuation

Edwin Mysogland
Indiana Business Advisors
Indianapolis, Indiana

Section Two

Developments in Business Valuation..... Edwin Mysogland

Slide Presentation

Developments in **BUSINESS VALUATION**



ED MYSOGLAND, CVA, CMEA, CM&AA, CVB, CEPA



Experience: 31 years

Designations: Business Valuation, Equipment Appraisal, Exit Planning, and M&A

Memberships:



OVERVIEW OF SESSION

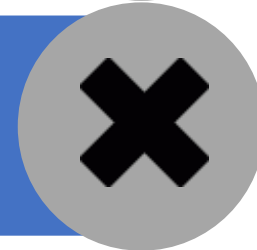
Daubert Update | Rule 702



Using a Business Valuation Expert



**Updates in Business Valuation
Multiples**



Daubert Update

Rule 702

DAUBERT V. MERREL DOW (1993)

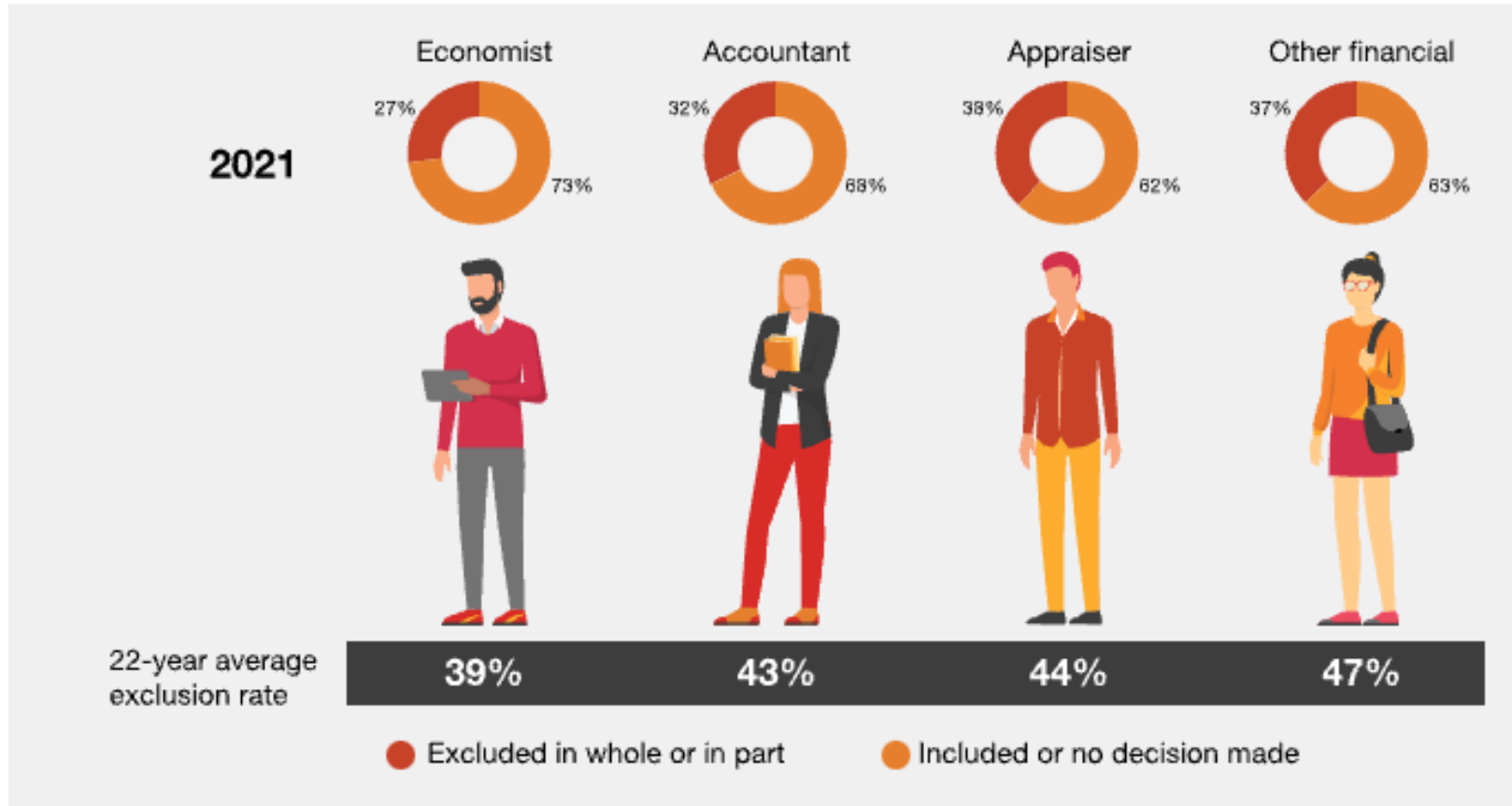
Evidentiary Standards Shift

- **Background:** 1993, Supreme Court revisited standards in Daubert v. Merrell Dow Pharmaceuticals, Inc.
- **Ruling:** Court held that Federal Rules of Evidence, particularly Rule 702, replaced Frye's "general acceptance" test

Federal Standard Explanation

- **Key Points:** Federal standard encompasses general acceptance but focuses on scientific validity and application
- **Judicial Role:** Trial judges act as "gatekeepers," making final calls on evidence admissibility and expert witness acceptance in their courtrooms

Note “Excluded Rate”



AMENDMENT TO RULE 702

Before

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

- (a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
- (b) the testimony is based on sufficient facts or data;
- (c) the testimony is the product of reliable principles and methods; and
- (d) the expert has reliably applied the principles and methods to the facts of the case.

After

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the **proponent demonstrates to the court that it is more likely than not that:**

- (a) The expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
- (b) The testimony is based on sufficient facts or data;
- (c) The testimony is the product of reliable principles and methods; and
- (d) The ~~expert has reliably applied~~ **expert's opinion reflects a reliable application** of the principles and methods to the facts of the case.

WHAT DOES THIS MEAN?

Preponderance of Evidence Standard:

- a) Emphasizes expert qualification based on meeting Rule 702 criteria by a "more likely than not" threshold.
- b) Courts previously misapplied the rule, prompting the update.
- c) Focuses on admissibility, not evidence weight, once the threshold is met.

Level of Helpfulness Required:

- a) The amended rule emphasizes an expert's role in aiding fact-finders.
- b) Rejects the notion of a higher standard than "helpfulness," deeming it unnecessarily strict.

Judicial Gatekeeping and Expert Boundaries:

- a) Emphasizes judicial oversight in limiting an expert's opinion to what's reliable from their methodology.
- b) It aims to prevent unsupported claims while not demanding perfection in expression.
- c) Recognizes jurors might lack specialized knowledge to assess scientific reliability or unsupported claims.

HOW TO SPOT AN INFERIOR BUSINESS VALUATION EXPERT

- ✓ Are methodologies generally accepted?
- ✓ Are methodologies correctly employed?
- ✓ Is the capitalization/discount rate supported and justified?
- ✓ Are there math errors in the report?
- ✓ Is the valuation computer-generated?
- ✓ Is the report balanced? Does the valuation present a fair, accurate, and balanced view of the company, or does it purposely omit or exclude specific facts or issues that might skew the value toward one party?
- ✓ Does the appraiser understand the company? How much is about the company vs. the boilerplate that came with the software?
- ✓ Is the expert subject to a potential conflict of interest?

Using a Business Valuation Expert

9333 N Meridian St, Ste 200, Indianapolis, IN 46260 | 317-573-2100 | indianabusinessadvisors.com



THE TOOLS FOR THE JOB

Tool



CLAW HAMMER

MOST POPULAR

The most popular hammer for general work. Mainly used to pull out nails.



CROSS PEIN HAMMER

CLASSIC

Mainly used for shaping metal. The pein can be used for starting panel pins and tacks.



BALL PEIN HAMMER

HEAVY DUTY

Usually used for shaping metal and closing rivets.



RUBBER HAMMER

CLASSIC

Used when a softer blow is needed.



METAL SHEET HAMMER

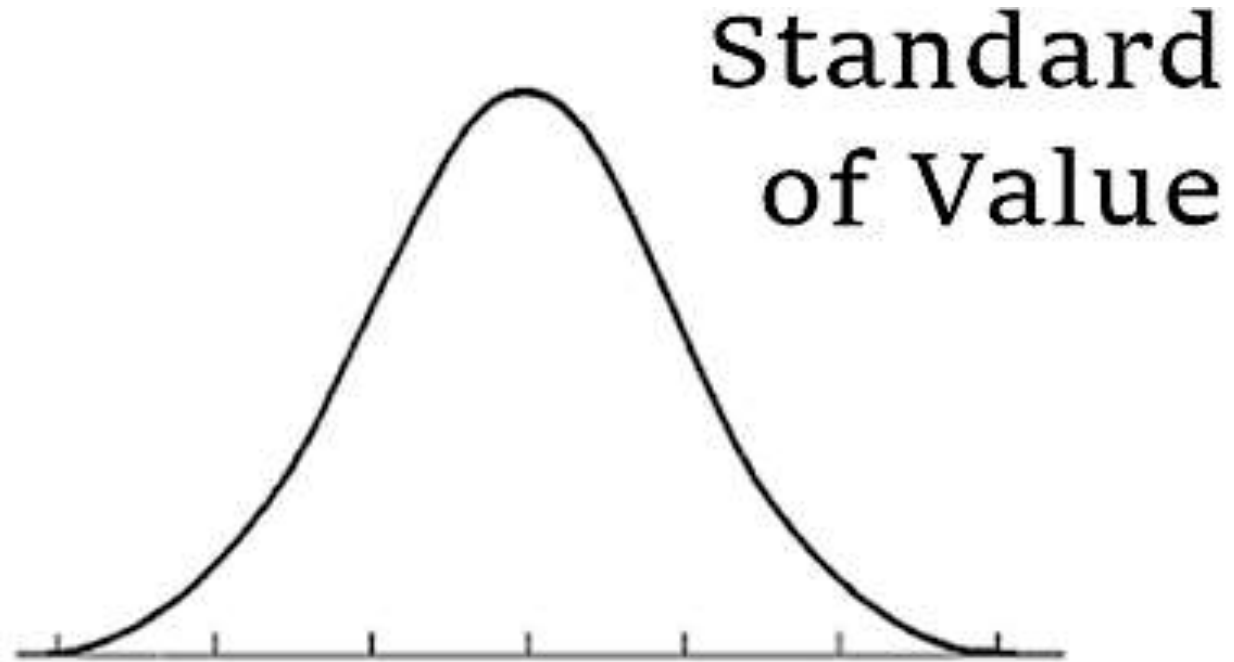
CLASSIC

For shaping sheet steel, hammering out dents, rounding off rivets and striking steel chisels and punches.

Appraiser

- Litigation
- Estate & Gift
- Divorce
- Sale
- IP & Trademarks
- Industry Specialists

HOW ATTORNEYS SELECT THE WRONG TOOL



CURRENT EVENTS

Trump's Own Witness in Fraud Trial Admits He Knows Nothing About Finances

Tori Otten

Fri, November 17, 2023 at 12:40 PM EST · 2 min read



1.2k



One of Donald Trump's expert witnesses in the New York business fraud trial admitted Friday that he is not, in fact, an expert.

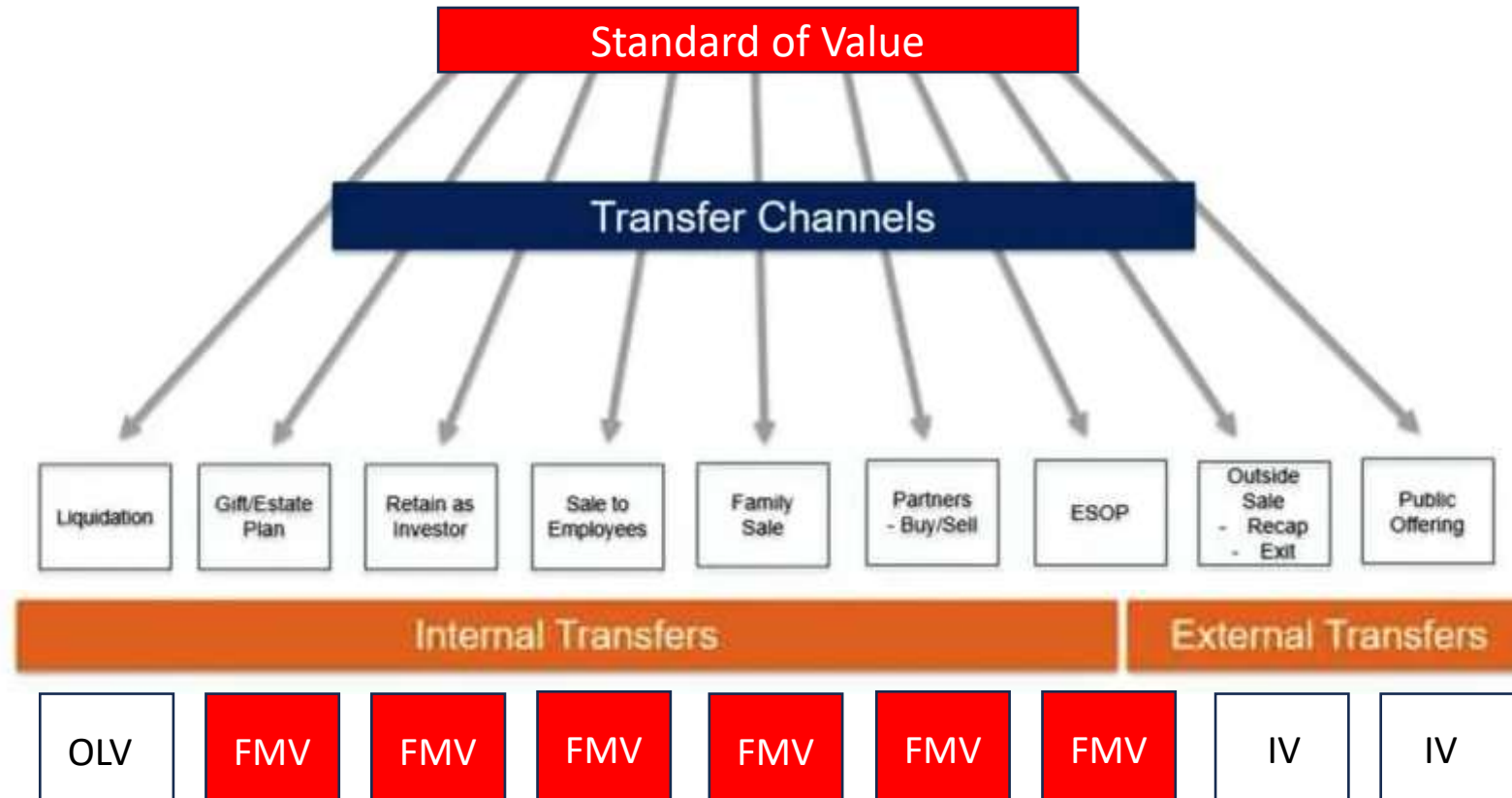
Steven Laposa first took the stand Thursday to discuss the valuation of Trump's real estate holdings. The New York attorney general has accused Trump and his allies of [fraudulently inflating](#) the value of their real estate assets to get more favorable terms on bank loans.

Laposa [said](#) the attorney general's approach to valuation was "flawed" because it relied on a market value analysis of Trump's properties. He argued it should have been based on the investment value, which takes into account the owner's investment requirements.

STANDARD OF VALUE

- In many situations, the standard of value is **legally mandated** by law or by legally binding contracts.
- In other cases, it is based on **the parties' wishes**.
- It addresses the questions: “value to whom?” and “under what circumstances?”
- The standard of value often helps determine what valuation methods are appropriate and what factors should or should not be considered.

STANDARD OF VALUE IN THE TRANSFER OF BUSINESS OWNERSHIP



STANDARD OF VALUE – MATCHING VALUATION PURPOSES WITH VALUATION STANDARDS

Purpose of Valuation	Applicable Standard of Value
Gift, estate, and inheritance taxes and charitable contributions	Fair market value
Purchase or sale	Investment value / Market Value
Marital dissolution	No statutory standards of value – case law dependent
Buy-sell agreements	Parties can do anything they want.
Dissenting stockholder actions	Fair value in almost all states
Minority oppression action	Fair value in those states that address it at all
Employee stock ownership plans	Fair market value
Ad valorem taxes	Generally, fair market value
Going private	Fair value in most states
Corporate or partnership dissolutions	Fair value under minority oppression statutes
Antitrust cases	Damages based on federal case law precedent
Other damage cases	Mostly governed by state statute and case law
Financial reporting	Fair value, as defined by FASB

CULPRIT: FAIR MARKET VALUE DEFINITION

“The price at which the property would change hands between a willing buyer and a willing seller when the former is not under any compulsion to buy and the latter is not under any compulsion to sell, both parties having reasonable knowledge of the relevant facts.”

Revenue Ruling 59-60

FAIR MARKET VALUE V. REAL WORLD

Market Participants

Fair Market Value

- Hypothetical
- Plentiful
- Acting on own self interest

Real World

- Real people or entities
- May be limited
- May or may not be rational in acting on their own behalf or the behalf of others

FAIR MARKET VALUE V. REAL WORLD

Arm's Length Transaction

Fair Market Value

- Buyer and seller are independent
- Both act accordingly

Real World

- Various elements of compulsion, duress, etc
- Exclusive knowledge giving a negotiated competitive advantage

FAIR MARKET VALUE V. REAL WORLD

Willing to Trade

Fair Market Value

- Buyer and seller are hypothetical
- Buyer and Seller are both willing to enter into a transaction
- Unwillingness for any reason is not a factor

Real World

- Either party can prevent a transaction for a variety of reasons.

FAIR MARKET VALUE V. REAL WORLD

Reasonable Knowledge

Fair Market Value

- Both parties are informed of the property
- Both parties are knowledgeable of alternate investments

Real World

- Either party may or may not have more knowledge concerning the property and/or the market

FAIR MARKET VALUE V. REAL WORLD

Absence of Compulsion

Fair Market Value

- If the price is right

Real World

- A variety of reasons for sale
 - Business planning and value enhancement
 - Retirement planning
 - Merger or Acquisition
 - Seeking outside investors
 - Getting a divorce
 - Entering bankruptcy
 - Planning for an IPO

FAIR MARKET VALUE V. REAL WORLD

Negotiating Skills

Fair Market Value

- Both parties have similar negotiating skills

Real World

- Parties and their advisors may or may not have superior negotiating skills

FAIR MARKET VALUE V. REAL WORLD

Economic Factors

Fair Market Value

- Based only on the merits of the “investment” in comparing “it” to alternative investments (ala “Principle of Substitution”)

Real World

- Sale may be influenced by:
 - Strategic Motivations
 - Synergistic Motivations
 - Emotional Motivations
 - Financial Motivations

FAIR MARKET VALUE V. REAL WORLD

Cash Equivalent Values

Fair Market Value

- Cash

Real World

- Cash or Cash Equivalents
 - Cash
 - Seller Notes
 - Buyer Stock
 - Conventional & Unconventional Debt Instruments
 - Earnouts
 - Non Competes
 - Consulting Agreements
 - Employment Agreements

FAIR MARKET VALUE V. REAL WORLD

Rational Markets

Fair Market Value

- Always Rational
- Always Consistent

Real World

- Markets experience times of euphoria and times of panic; both which may occur within short periods

THE MARKETPLACE AND VALUE RELATIVITY

The Marketplace follows a concept of:

Value Relativity

- The Owner's goals chooses the possible **Buyer Types** (Exit Channel)
- Different **Buyer Types** reward different **Value Drivers**
- A business value is **Relative** to each different **Buyer**

Therefore every private company has dozens of correct values at one point in time

Market Multiples

Seller's Discretionary Earnings & EBITDA

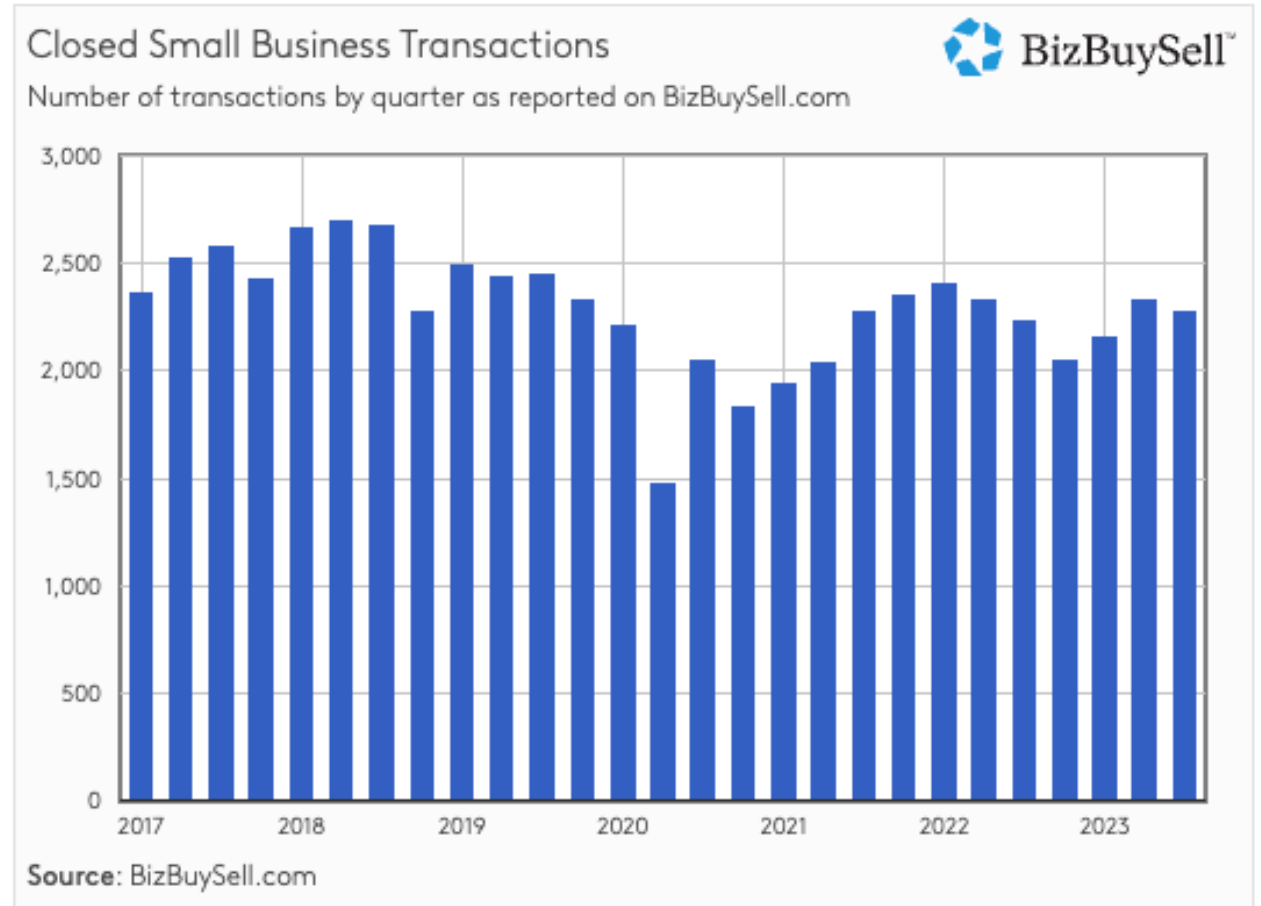
WHAT ATTORNEYS SHOULD KNOW ABOUT M&A BUSINESS VALUATION

- ❖ Buyer's Expected Earnings X Buyer's Multiple = Value
- ❖ Earnings Can Be Different Depending on the Buyer
- ❖ The buyer can have a different multiple based on his/her risk tolerance

BIZBUYSELL OVERVIEW



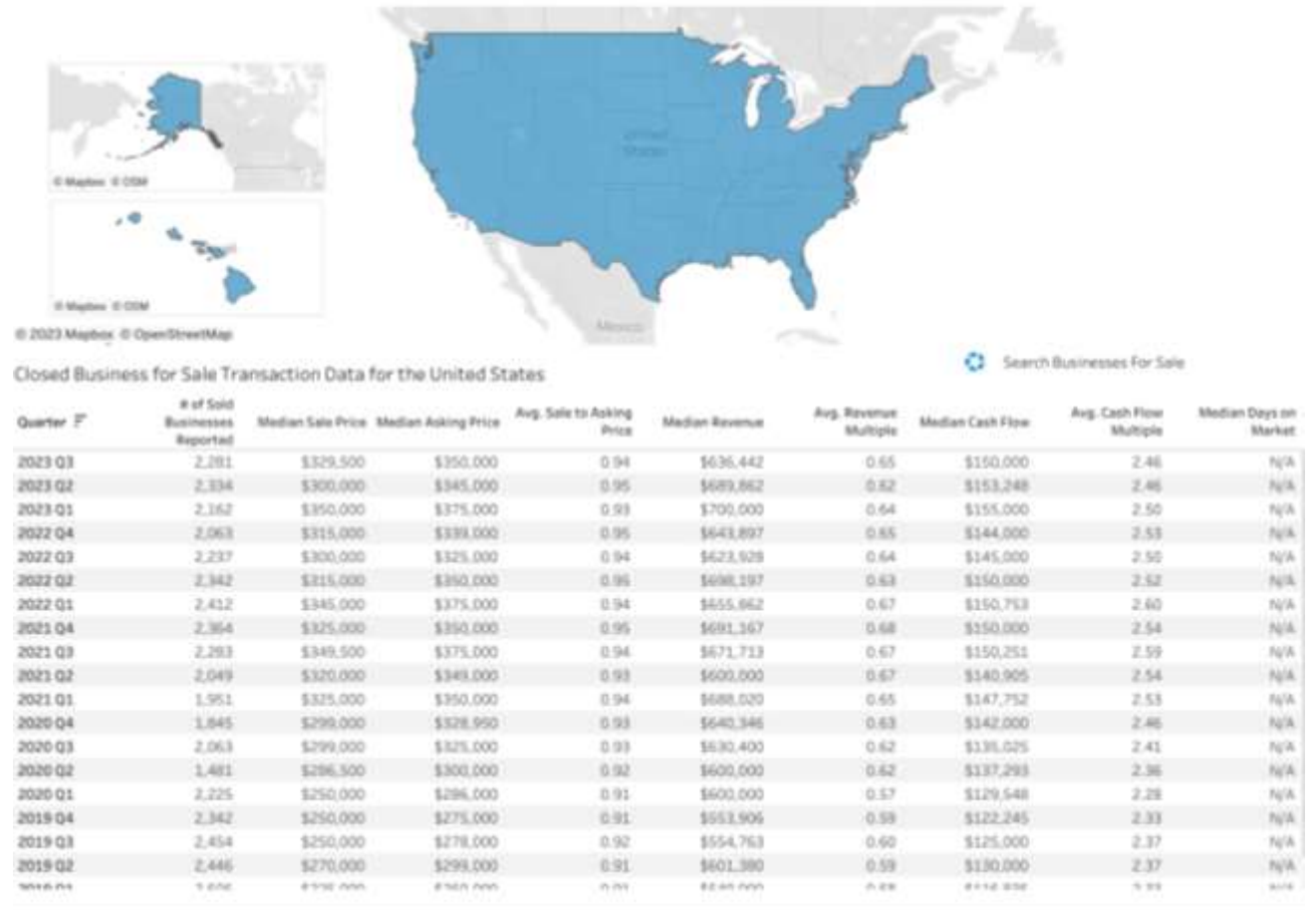
- Small business acquisitions experienced a 2% year-over-year growth in Q3 2023.
- Data sourced from BizBuySell's Insight Report, analyzing U.S. business-for-sale transactions and sentiments gathered from surveys of business owners, buyers, and brokers.
- The report documented 2,281 businesses sold on BizBuySell in Q3 2023.
- These transactions represented an enterprise value of approximately \$1.65 billion, reflecting a 4% increase compared to the \$1.59 billion reported during the same period last year.



BIZBUYSELL OVERVIEW



- Note the Avg Revenue Multiple and Average Avg Cash Flow Multiple
- Most businesses must have earnings in excess of \$100,000
- Multiples at this level are generally static, but there are outliers.

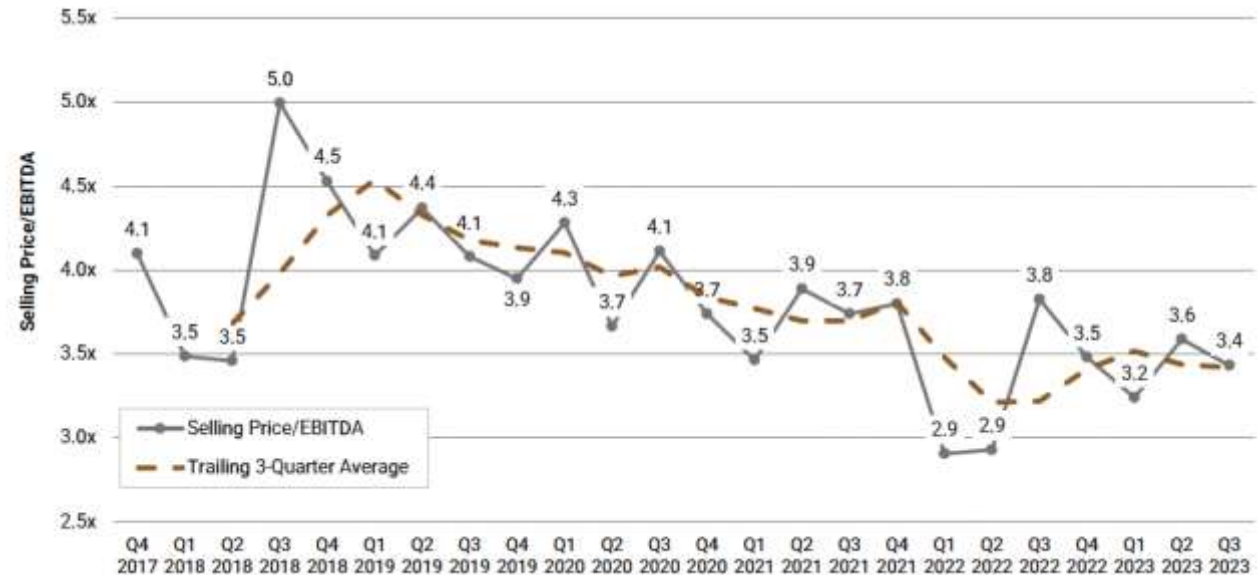


DEALSTATS OVERVIEW



- EBITDA multiples, across all industries, peaked at 5.0x in the third quarter of 2018.
- A downward trend persisted from this peak until the second quarter of 2022.
- Since then, EBITDA multiples have shown an upward trend, reaching 3.6x in Q2 2023.
- However, a slight decrease was observed in the third quarter of 2023, dipping to 3.4x.

EBITDA Multiples

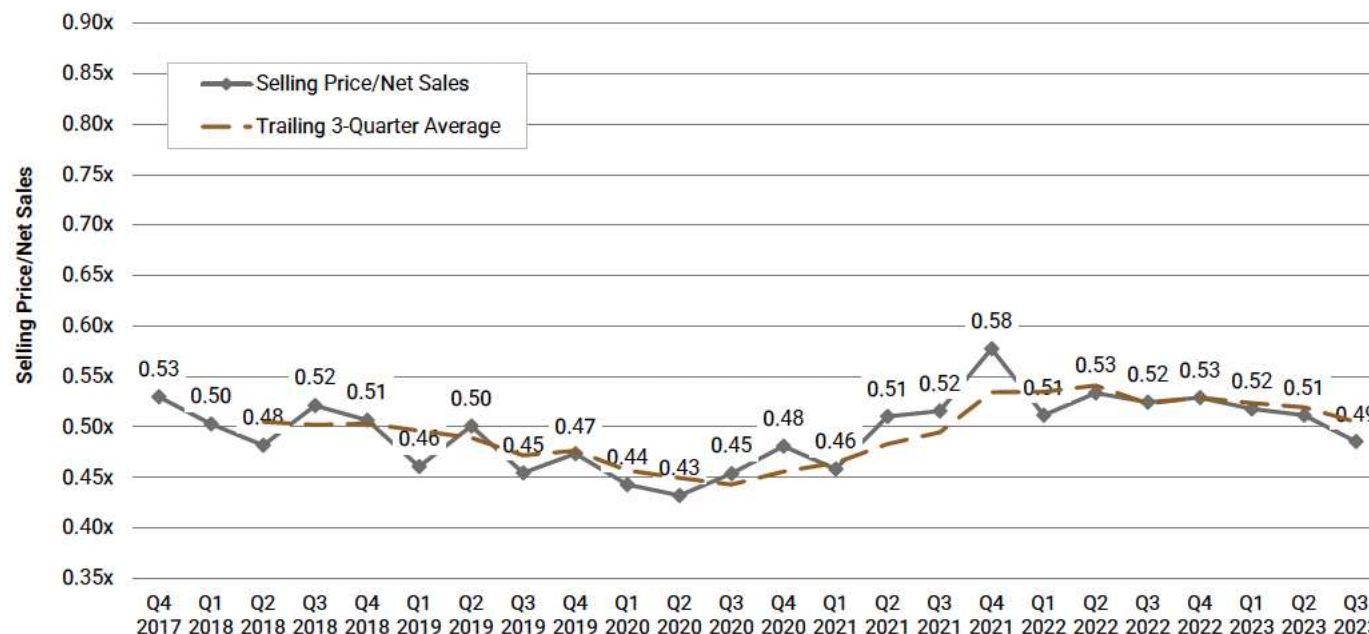


DEALSTATS OVERVIEW



- Net sales multiples reached their peak at 0.58x in the fourth quarter of 2021.
- Subsequently, there was a decrease to 0.49x in the third quarter of 2023.
- From the third quarter of 2020 onward, there has been a general upward trend in net sales multiples, according to the three-quarter trailing average.

Revenue Multiples

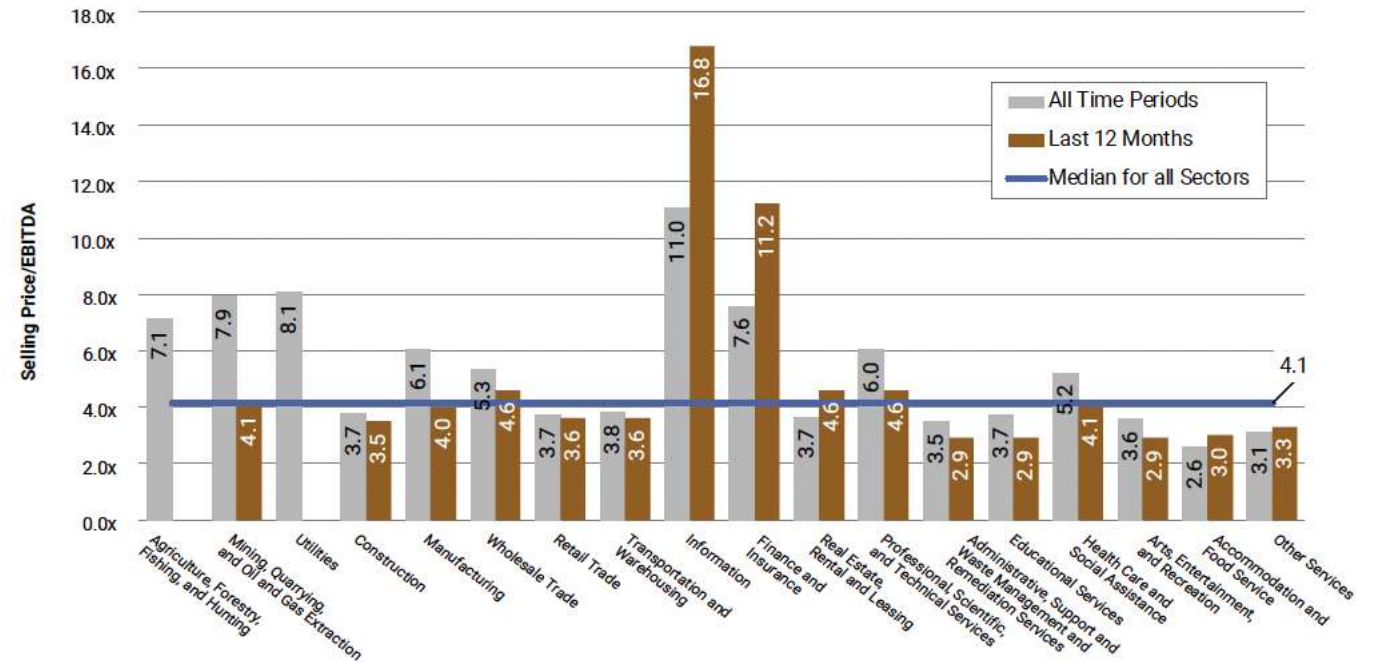


DEALSTATS OVERVIEW



- All-time highest EBITDA multiples:
 - Information Sector: 11.0x
 - Utilities Sector: 8.1x
- All-time lowest EBITDA multiples:
 - Accommodation and Food Services: 2.6x
 - Other Services Sectors: 3.1x
- Median EBITDA multiple across all industry sectors for all time periods: 4.1x

Median EBITDA Multiples Across All Sectors



LOWER-MIDDLE MARKET SELLERS

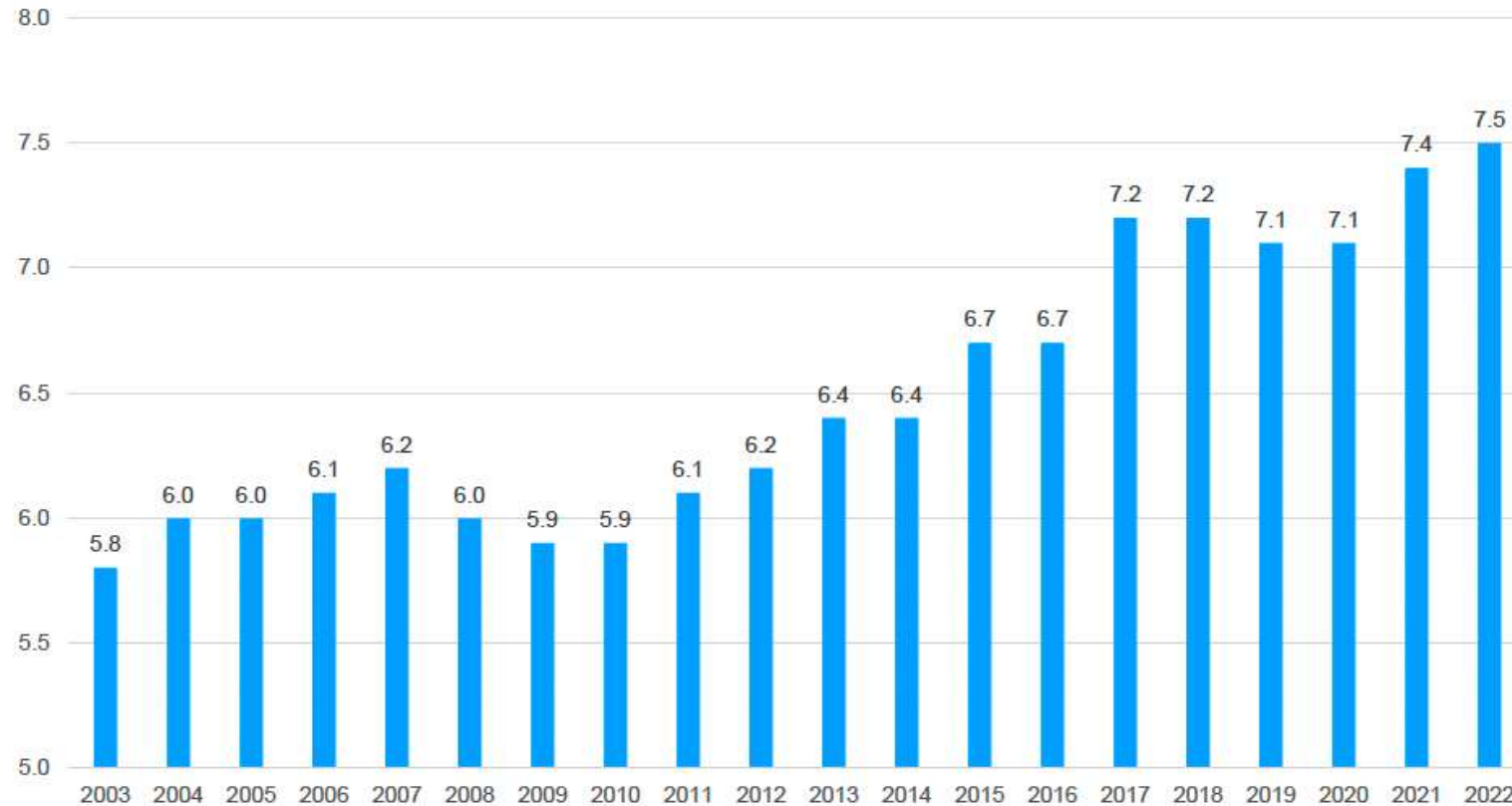
Seller activity:

- Baby Boomers (ages 57-72) make up most of owners.
- 92% of Non-Tech Companies owned by “Boomers”.
- 75% of Tech Companies owned by “Boomers”.
- Valuations are at all-time highs. (See buyer demand)

Issues holding back Sellers:

- Many owners are risk-averse and comfortable with a lifestyle business.
- Most owners have their net-worth tied up in their business.
- Safe investment returns won't replace business earnings.
- Distance from disruptive historical financials (EBITDA-C)

LOWER-MIDDLE MARKET EBITDA MULTIPLES



Source: GF Data Resources

TOTAL ENTERPRISE VALUE (TEV)/EBITDA

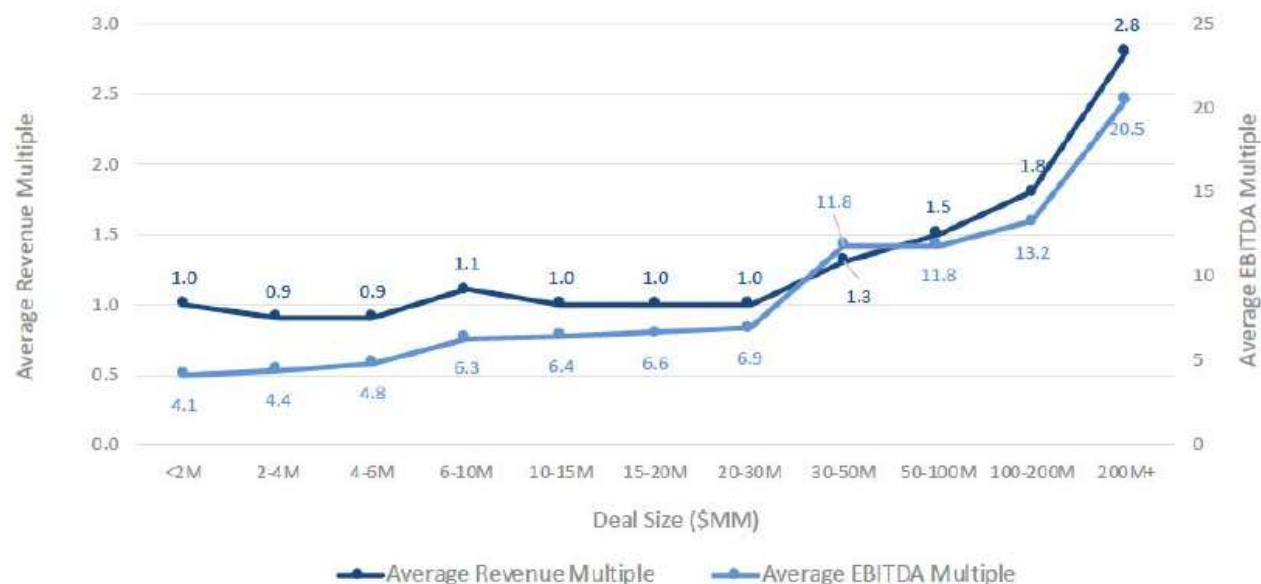
TEV	2003 -2018	2019	2020	2021	2022	YTD 2023	Total	N =
10-25	5.8	6.1	5.9	6.1	6.5	5.7	5.9	1848
25-50	6.5	7.0	6.7	7.2	7.1	7.1	6.7	1446
50-100	7.5	7.5	8.0	8.3	8.5	7.7	7.7	997
100-250	8.1	9.2	8.7	9.3	9.1	9.6	8.5	549
250 - 500	8.9	11.0	11.6	10.9	10.1	10.3	10.0	74
Total	6.6	7.1	7.0	7.6	7.6	7.2	6.8	
N =	3276	335	341	499	328	135		4914

Source: GF Data Resources

RELATIONSHIP BETWEEN MULTIPLES & DEAL SIZE

EBITDA multiples and revenue multiples had an inflection point increase above ~\$25M deals.

Revenue and EBITDA Multiple by Deal Size (Figure 3.3)



Source: AMAA Deal Survey



Thank you!
Questions? Comments?
Clarification?

Section Three

Introduction to Transactional Risk Insurance

David J. Bartoletti
Taft Stettinius & Hollister LLP
Indianapolis, Indiana

Section Three

**Introduction to
Transactional Risk Insurance..... David J. Bartoletti**

Slide Presentation

Introduction to Transactional Risk Insurance

David Bartoletti

Taft/

Agenda

- Learn how Transactional Risk Insurance can benefit your client.
- Understand the different Types of Transactional Risk Products Available and key industry terms that define scope of coverage.
- Understand the basic process of obtaining RWI and the path from engagement to obtaining coverage.
- Understand (from a high level) Transactional Risk product pricing

What is Transactional Risk Insurance

- Insuring risks arising in respect to transactions (i.e., deals).
- What deals? Any deal.
- What risks? Different products cover different risks:
 - Unknown (Latent) Liability - Representations and Warranties Insurance
 - Tax Audit and/or Assessment – Tax Insurance
 - Known Issues Developing into a Dollar Loss – Contingent Risk Insurance

Representations & Warranties Insurance

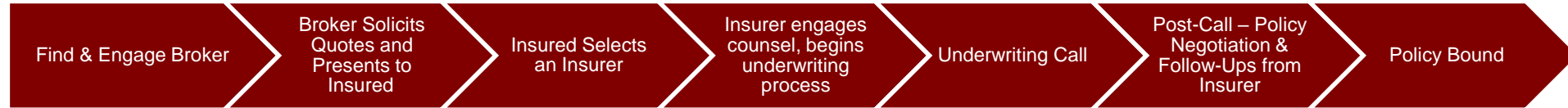
- Product Overview

- **Scope of Coverage:** Insurance against breaches of representations and warranties of Seller (and Company).
 - The Policy sits back-to-back with the purchase agreement and disclosure schedules
- **Insured:** Buyer or Seller
- **Coverage Period:** 6/7-years from Closing (or for additional premium, signing) for fundamental representations, tax and ERISA, 3-years for all other representations.
- **Retention (i.e., deductible):** Tied to a factor of EV (enterprise value)
- **Policy Limitations:** Certain matters may be removed from the scope of insurance either at the quote stage or in response to the underwriter's due diligence. Common forms of policy limitations include:
 - "Exclusions,"
 - Deemed re-writing of the representations and warranties subject to coverage (for purposes of the Policy only), or
 - Deemed inclusion of disclosures against the representations (for purposes of the Policy only).
- **Definition of Loss:** follows that of the agreement, so long as silent for punitive and exemplary damages, grants of diminution of value and lost profits
- **Subrogation:** For buy-side policies, is limited to fraud of the seller (not known to be exercised in fact)

Why Buy – Representations & Warranties Insurance

Benefits for the “Buyer”	Benefits for the “Seller”
Enables a clean exit	Improved certainty of payment due to insurer's superior credit rating
Easing of deadlocks and facilitation of an ongoing transactions	Protects investment and supports lending for the transaction
Immediate distribution of sales proceeds with a reduced need for escrows	Enhances the bid position and enables the transaction negotiations
A more attractive target	Increases Board transaction comfort
Potential for a higher valuation	Protects against future disputes involving target management
Specialist liability coverage	First party coverage
Covers unknown seller fraud	Carrier rights of subrogation “never” invoked

The RWI Process



- **How long does the process take?** As little as 1 week, most commonly 2-3 weeks.
- **Do I need a Broker?** Yes. Insurers are by law required to work through brokers. Brokers help:
 - Insurer select the right underwriter for the deal
 - Facilitate negotiations between insurer and insured
- **The Underwriting Process**
 - Insurer will request datasite access, “due diligence reports” or other documentation of buyer’s due diligence
 - Insurer and its legal and accounting counsel will review these reports and compile questions.
 - Questions will be provided in the form of an agenda to an underwriting call
 - Underwriting call takes between 1.5 and 2 hours, insurer asks questions of buyer and its advisors.
 - Following the call (within 24 hours), a draft of the insurance policy is provided for insured comment, together with questions arising from the call that will help insurer get more comfort with specific issues (and if favorable responses are received, expand scope of coverage from its initial draft which may contain exclusions from coverage).
 - Policies generally bind at signing. In a simultaneous sign and close, binding and inception are the same. In a delayed sign and close, policies can incept at signing for additional premium.

Normal Open Market Pricing into 2023

Normal Current Market Rates		
<u>Limit</u>	<u>Premium</u>	<u>ROL</u>
\$2,000,000	\$90,000	4.50%
\$3,000,000	\$100,000	3.00%
\$4,000,000	\$115,000	2.88%
\$5,000,000	\$135,000	2.70%
\$6,000,000	\$156,000	2.60%
\$7,000,000	\$170,000	2.43%
\$8,000,000	\$190,000	2.38%
\$9,000,000	\$210,000	2.33%
\$10,000,000	\$230,000	2.30%

- Rates are the lowest seen in years – driven by fewer deal opportunities for underwriters
- Underwriting fees remain between \$30,000 and \$40,000
- Average deal purchase between 10% and 15% of EV as the limit
- Carriers are managing limits – prefer to hold at \$20 million to \$25 million primary limit
- Excess rates are 70% to 80% of the underlying limit – sometimes more aggressive

Tax Insurance - Product Overview

- **Coverage:** Loss arising respect to a specified “known” tax risk.
 - “Loss” is defined generally as worst case scenario tax due, plus interest, penalties and defense costs.
- **Insured:** “Taxpayer” and potentially owner(s) affected by the taxpayer.
- **Limit of Liability:** Varies case-by-case, but ultimately up to the insured.
- **Duration of Coverage:** Generally through the statute of limitations for IRS assessment.
- **Common Questions:**
 - Q1: How much does it cost?
 - A1: 2-6% of the desired limit of liability, plus underwriting fee and broker fee.
 - Q2: Can defense costs be covered?
 - A2: Yes.
 - Q3: What if I am already under audit, can I get coverage?
 - A3: Yes, but you will need to prepare in your submission for quotes a good reason as to why you think you will prevail on audit.
 - Q4: What if I lose on audit, but still think I can win on appeal. Can I get coverage?
 - A4: Yes, but be prepared for higher premiums (and having a good explanation for why you can win).

Contingent Risk Insurance - Product Overview

- **Coverage:** Loss arising respect to a specified “known” tax risk.
 - “Loss” is defined generally as the worst case scenario of the known risk coming to fruition, including penalties, legal fees, etc.
- **Insured:** Specified persons adversely affected by the covered risk.
 - Coverage is with respect to a specified “known” risk.
 - “Loss” is defined generally as the worst case scenario of the known risk coming to fruition.
- **Limit of Liability:** Varies case-by-case, but ultimately up to the insured.
- **Duration of Coverage:** Varies case-by-case to match exposure duration (or less if desired by insured)
- **Pricing:** Variable (but defined as a percentage of the total liability), rates can vary widely given the broad scope of contingent risk coverage scenarios.
- **Questions:**
 - Can you give me some examples of a contingent risk product?
 - Target to prevail in litigation (insurance covers loss).
 - Target to prevail in appeal where target lost in district court (insurance covers loss)
 - Target to collect on specified accounts receivable
- **Defense Costs:** With additional premium, defense costs will be “advanced.”

Why Buy – Tax or Contingent Risk Insurance

Tax Insurance	Contingent Risk Insurance
“Locks in” Risk Exposure for financial purposes.	
Easing of deadlocks and facilitation of an ongoing transaction (e.g., sale transaction)	
Facilitates clean walk-away in tax credit transactions.	Limits downside risk in a transaction with high variability (e.g., lender-side coverage)
Can be used as a litigation funding mechanism (i.e., by advancing defense costs under the Policy)	Can be used as a litigation funding mechanism (i.e., by advancing defense costs under the Policy)

Key Terminology

- **Broker's Fee** – amount charged by broker for coverage.
- **Coverage Period** – the amount of time in which a claim can be made following binding of
- **Inception** – The date coverage begins, this can be different than the date the policy “binds” or closes.
- **Insured:**
 - Buyer – in a “Buy-Side RWI Policy”
 - Seller – in a “Sell-Side RWI Policy”
 - “Target” – in any other product (i.e., whomever has the risk subject to insurance)
- **Limit of Liability** – maximum amount payable by the insurer.
- **Loss** – varies by product, but generally speaking, the amount that needs to be paid out by insurer in the event of a claim.
- **Premium** – cost to buy insurance paid at binding.
- **Retention** – amount that must be paid by the insured before
- **RWI or R&W** – Representations & Warranties Insurance
- **Subrogation** – customary meaning, but focused on the target not buyer.
- **Underwriting Fee** – amount paid up-front to cover underwriter's expenses to conduct due diligence on the deal.

Section Four

Navigating Employment Law in the Era of Remote Work

Gregory W. Guevara
Bose McKinney & Evans LLP
Indianapolis, Indiana

Section Four

**Navigating Employment Law
in the Era of Remote Work..... Gregory W. Guevara**

Slide Presentation



Gregory Guevara

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Indianapolis

Profile

Greg Guevara is a partner in the Labor and Employment Group at Bose McKinney & Evans. As a highly responsive business advisor and employment litigator, Greg helps his clients by understanding their objectives and offering practical legal advice tailored to their unique situations and desired outcomes. He provides aggressive and ethical advocacy to a broad range of clients, including privately held businesses, non-profit organizations and national companies, as well as executives, physicians, and other professionals.

He concentrates his practice on labor and employment law and litigation, including:

- Non-competition, non-solicitation and confidentiality agreements
- Emergency injunctions
- Defense of discrimination/EEO claims
- Wage/hour compliance and litigation
- Disability/reasonable accommodation
- FMLA/leaves of absence
- Sexual harassment and workplace investigations
- Severance and executive employment agreements
- Personnel policies/employee handbooks
- Reductions-in-force
- Union avoidance, unfair labor practices and collective bargaining

Greg practices in the federal and state courts in Indiana and Ohio, federal and state agencies (EEOC, NLRB, ICRC, IOSHA, etc.), and other jurisdictions as needed.

He began his law career with Bose McKinney & Evans then practiced with the Columbus, Ohio office of Jones Day. Before returning to BME in August 2006, he spent seven years working as an executive for Reliant (formerly GCM), an international Christian mission organization based in Orlando, Florida. His experience in private practice, board governance and non-profit management gives him the ability to provide practical guidance and sound management advice to businesses dealing with a full range of employment-related issues.

Education

University of Michigan Law School (J.D., *cum laude*, 1992)

University of Michigan (B.A. with high honors and high distinction in political science, 1989); Member, *Phi Beta Kappa*

Honors / Awards

Best Lawyers® 2023 Indianapolis Labor Law – Management Lawyer of the Year; *Best Lawyers*® 2021 Indianapolis Employment Law – Management Lawyer of the Year; *Best Lawyers*® 2020 Indianapolis Litigation – Labor and Employment Lawyer of the Year; *The Best Lawyers in America*® 2011-2024; *Chambers USA* 2010-2020 (Labor and Employment-Indiana); *Indiana Super Lawyers*® 2013-2017 (Employment Litigation: Defense, 2019-2020; Employment and Labor Law, 2013-2017)

Representative Matters

- Successfully defended three-year, multi-city union organizing campaign by national service employees union against Indianapolis-based commercial cleaning contractor (featured in *The Devil at Our Doorstep*, by David A. Bego).
- Won \$3.5 million judgment on breach of contract claim on behalf of regional orthopedic device distributor.
- Secured seven-figure judgment against former CEO of credit union for fraud on a financial institution.
- Obtained preliminary injunction and six-figure monetary recovery against former employees of regional company who left to work for competitor in violation of their non-compete agreements.
- Secured permanent injunction against former account executive of national automotive manufacturing distributor for breach of non-compete agreement.
- Won non-compete/trade secret case against key employee for theft and competitive use of critical business information.
- Won preliminary injunction hearing in non-compete case on behalf of former executive of national company sued for breach of contract and unfair competition.
- Successfully defended injunction lawsuit seeking to shut down former franchisee of national home-based senior care franchise.
- Successfully opposed motion for conditional certification in FLSA collective action lawsuit filed by seven former employees of regional financial services company.
- Won summary judgment in class action wage claim under Indiana law.
- Prevailed in collective bargaining negotiations resulting in union abandoning the bargaining unit.
- Represented Indianapolis-area church in multi-fatality bus crash incident.
- Prevailed in multiple federal and state discrimination lawsuits through summary judgment.
- Represented multiple employers in defense of wage/hour audits by the U.S. Department of Labor.
- Secured dismissal of unfair labor practice case involving alleged unlawful refusal to hire 16 union “salts.”

Appointments / Memberships

Chairman, **GCC Foundation** (2017-present)

Elder and Chairman of Governing Board, **Grace Church** (2011-2015)

Chairman and Director, **Reliant** (formerly Great Commission Ministries), Orlando, Florida (2007-2014)

Director, Neighborhood Christian Legal Clinic, Indianapolis, Indiana (2009-2010)

Advisory Board Member, Safe Families of Indiana, Indianapolis, Indiana (2007-2008)

Admissions

Indiana, Ohio

Areas of Emphasis

**Affirmative Action / Employee Handbooks and Policies / Employment Litigation / Food and Beverage Law /
Fraternity and Sorority Law / Labor and Employment / Litigation / Management Training / Transportation /
Union Avoidance**

Indiana Continuing Legal Education Forum

Navigating Employment Law in the Era of Remote Work

Presented by Greg Guevara

Bose McKinney & Evans LLP

(317) 684-5257

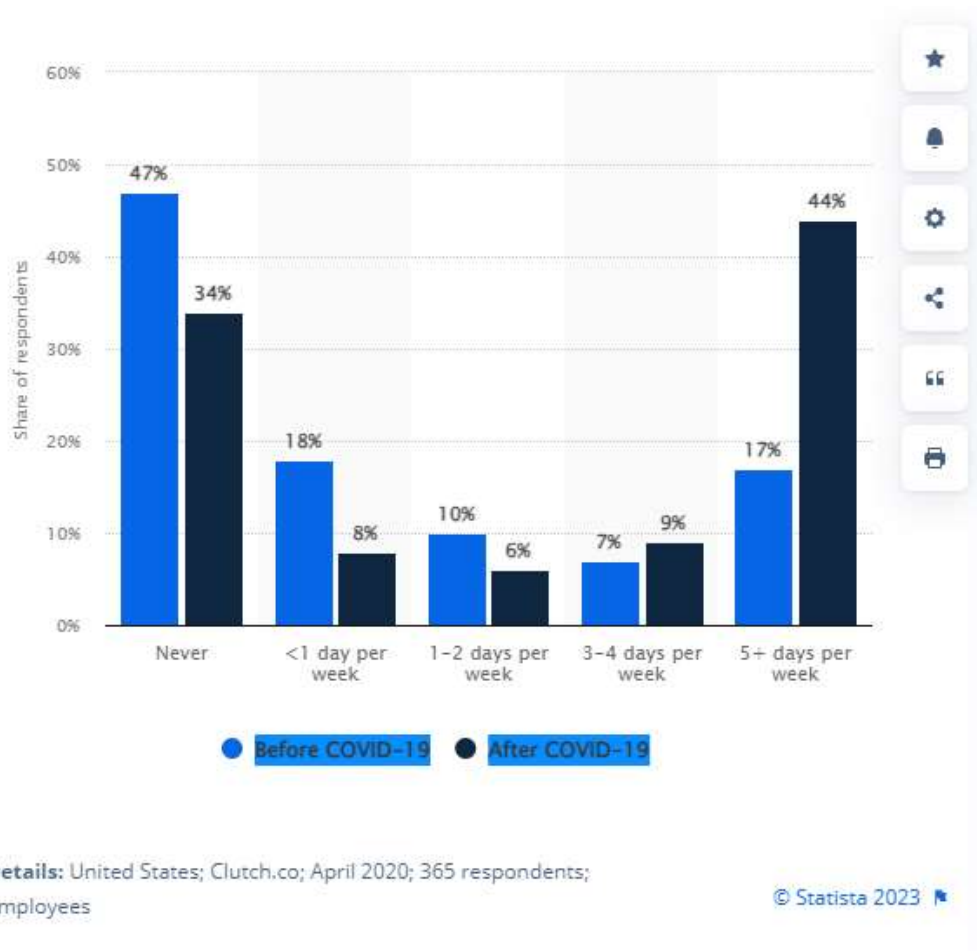
gguevara@boselaw.com

November 29, 2023

COVID-19 Changed the Landscape for Remote Work

- Before Covid, many employers required employees to be present in the workplace as a condition of employment
- In many industries, employees must be present at the company's place of business to do their jobs, such as manufacturing, construction, logistics/shipping, retail stores/restaurants, hospitals/health care, etc.
- Exceptions were often driven by market demands, such as companies with a distributed sales force who worked remotely to be closer to customers
- With Covid, suddenly “white collar” workers began primarily working from home

COVID-19 Changed the Landscape for Remote Work



COVID-19 Changed the Landscape for Remote Work

- Since Covid, a large percentage of American white collar workers continued to work remotely in many industries:
 - Sales
 - Financial services/insurance
 - Professional services (legal, accounting, etc.)
 - IT
 - Business executives
 - Administrative support personnel (finance, HR, etc.)
 - Public sector
 - Medicine/tele-health

Benefits of Remote Work for Business

- Greater flexibility for employees
 - Work hours
 - Meal/break periods
 - Commute time
- Cost savings associated with commercial office space
 - Rent savings
 - Office equipment/supplies
- Ability to recruit workers from broader geographical area
 - No longer bound by commuting distance
- Potential for improved employee morale

Challenges of Remote Work for Business

- Managing employee productivity
 - Monitoring employee activity (e.g., “mouse movers”)
 - Measuring employee production
 - Impact on employee availability
- Lack of control over work environment
 - Distractions in the home work environment (e.g., kids, noise, dirty laundry, etc.)
 - Employee safety
 - Employee equipment/supplies
 - Technology challenges (e.g., internet access, remote IT access)

Challenges of Remote Work for Business

- Data security
- Employee connectivity/relationships
 - Onboarding of remote workers
 - Loss of face-to-face connections with coworkers
 - Loss of face-to-face connections with customers, suppliers
 - Potential negative impact on employee morale
- Inconsistent work-at-home practices
 - By type of business/industry
 - By type of job

Compliance with Federal Wage/ Hour Laws (FLSA)

- Non-exempt workers must be paid at least minimum wage for all hours worked, including overtime (1.5 times) for hours over 40 per workweek
- Employees must be compensated for hours worked outside of regular work hours (e.g., answering emails, phone calls, work texts, etc.)
- Employees must be paid for breaks (except meal periods of at least 20-30 minutes where employee is completely relieved of duty)
- Employers are required to keep accurate records of hours worked by non-exempt employees

Compliance with State Laws

- Employers must also comply with state/local employment laws where the employee lives/works
- State law wage payment and wage/hour laws
 - Different minimum wage/overtime rules
 - Different wage payment timing obligations
 - Pay upon termination rules
 - Wage deduction rules
- State worker's compensation, unemployment compensation
- State family/medical leave laws
- Registration/licensing rules

I-9 Verification

- All employed workers must complete I-9 employment eligibility verification by the third day of employment
- I-9 verification process includes the physical examination of documents by the employer
- Remote examination of documents is permissible only if the employer is enrolled in the E-Verify program

Compliance with International Laws

- Employment of foreign workers
 - Employment laws
 - Tax laws
 - Privacy regulations such as European Union General Data Protection Regulation (GDPR)

Americans with Disabilities Act (ADA) Considerations

- In general, employers may require employees to report to company work location as a condition of employment
- Working from home may be a “reasonable accommodation” for an employee who has a “disability” if it enables the worker to perform his or her “essential job functions”
 - Disability limitations may be physical (e.g., mobility restrictions, sensory limitations, etc.) or mental (e.g., emotional health)
- Employers must provide such accommodation unless doing so would create an “undue hardship” on the employer
 - Proliferation of remote work makes it harder to argue undue hardship

Equal Employment Opportunity Considerations

- Remote work practices also create risks of discrimination claims
- Remote work opportunities must be provided based upon legitimate, nondiscriminatory considerations
- Employers who pick and choose who may work remotely or who favor some employees in allowing remote work may be subjected to claims of discrimination on the basis of race, gender, age, etc.

Protection of Intellectual Property/ Confidential Information

- Remote workers often have access to highly confidential business information, such as:
 - Customer names, contact information, demands/ specifications
 - Financial reports
 - Cost/pricing data
 - Business plans, strategy, etc.
- “Trade Secrets” – employer must take reasonable steps to protect secrecy of information

Protection of Intellectual Property/ Confidential Information

- Remotely maintained data is much more difficult to secure
 - Company-owned devices are less accessible to the employer
 - Remote access to company devices may be more challenging
 - Confidential information maintained on personal devices (home desktops, laptops, smart phones, external drives, etc.) is particularly at risk

Restrictive Covenant Agreements

- State law provides limited protection to employers with respect to confidential information and post-termination competitive activity
 - Common law property rights
 - Trade secrets laws
- Absent enforceable restrictive covenants agreement, employees are generally free to compete when they leave employment

Restrictive Covenant Agreements

- Law governing restrictive covenants vary widely by state depending on type of restriction
 - Confidentiality/non-disclosure agreements
 - Covenants against soliciting/servicing customers
 - Covenants against soliciting/hiring employees
 - Covenants against competition (i.e., “non-competes”)
- Employers should ensure:
 - Narrowly tailored covenants that comply with applicable law
 - State specific agreements or state specific addenda
 - Choice of law/choice of venue provisions

Restrictive Covenant Agreements

- Agreement should also include return of property/deletion of data/remote access provision
- Company should have a specific mechanism in place for retrieving data from remote employees upon termination

FTC Proposed Non-Compete Rule (January 2023)

- Federal Trade Commission announced proposed rule that would invalidate employment-based non-compete agreements as an unfair method of competition
 - The proposed rule does not apply to restrictions on soliciting/servicing customers, on employee no-solicit/no-hire provisions, or to confidentiality agreements
 - Notice comment period has closed, but FTC has deferred further action until 2024

NLRB Non-Compete Memorandum

- GC-23-08 (May 30, 2023)
 - NLRB General Counsel memo announced that employment-based non-compete agreements violate the NLRA because they have the effect of chilling employees' exercise of Section 7 rights
 - Such agreements are unlawful when they “could be reasonably construed by employees to deny them the ability to quit or change jobs by cutting off their access to other employment opportunities”
 - This pronouncement would not apply to “supervisors,” who are exempt from Section 7 protections
 - There are no NLRB decisions yet on this position

Social Media Usage by Employees

- Risks associated with employee use of social media may be heightened by remote work force
- Social media policies should require employees to follow employment policies while using social media (e.g., not using discriminatory/harassing language, not disclosing confidential information, etc.)
- Employers must be cautious in enforcing social media rules relating to criticism of the company or management due to NLRA protections (i.e., protected concerted activity)

Drug Free Workplace Policies

- Many employers have rules prohibiting employees from reporting to work under the influence of alcohol or drugs
- In many states, the medicinal or recreational use of marijuana has been decriminalized, making it easier for employees to access marijuana
- Under federal law, and in most states even where marijuana use is legal, employees who test positive for marijuana are not protected from disciplinary action or even termination
- Employers should check state and local laws before taking action against employees based on marijuana use

Remote Work Best Practices

- Develop/publish customized, comprehensive remote work policies
- Ensure that policies are applied in a uniform, non-discriminatory manner
- Review state/local laws in each jurisdiction where employees live/work to ensure compliance
- Prepare state law handbook addenda to comply with each state's law where employees work
- Review/update restrictive covenant agreements for all remote workers

Remote Work Best Practices

- Require employees to utilize company-owned equipment for all data management
- If employees use personal electronic equipment, utilize proprietary software to remote access/control data management
- Consider enrollment in E-Verify to facilitate remote completion of I-9 process
- Provide management training regarding supervision and oversight of remote workers

Thank You!

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BOSE MEANS BUSINESSSM

Section

Five

Modern Technology for Nimble, Robust, and Productive Law Firm Management

F. Anthony Paganelli
Paganelli Law Group LLC
Indianapolis, Indiana

Section Five

**Modern Technology for Nimble, Robust,
and Productive Law Firm Management..... F. Anthony Paganelli**

Section Six

Transactional Real Estate Issues in M&A and Beyond

Aaron Aft
Ice Miller LLP
Indianapolis, Indiana

Section Six

**Transactional Real Estate Issues
in M&A and Beyond..... Aaron Aft**

Slide Presentation

Transactional Real Estate Issues in M&A and Beyond

November 29, 2023

icemiller.com

IceMiller

Transactional Real Estate Issues

- 1) Thinking about real estate
- 2) Legal considerations
- 3) Q&A

Why should I care?



Real Estate:

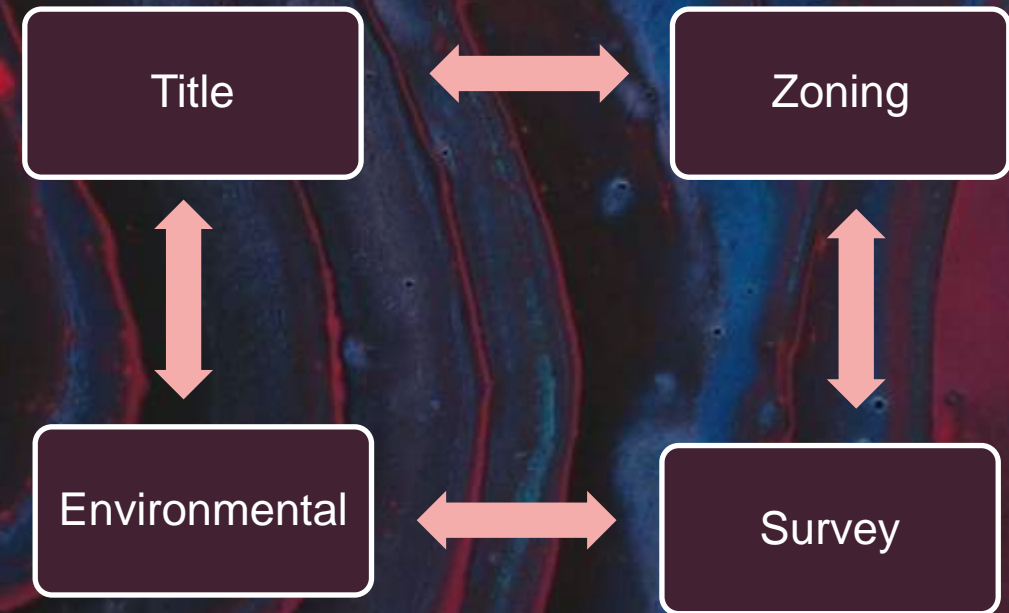
- ❖ Determines how the business interacts with place and people
- ❖ Can be an opportunity or constraint
- ❖ Can be held in different ways

Legal Considerations



- ❖ Due diligence in M&A
 - What do I do and when?
- ❖ Managing Risk
 - Reps and warranties and more.
- ❖ Leases
 - What really matters?

Due Diligence



Managing Risk



- Major risk of real estate
- How to mitigate
 - Title Insurance / Diligence
 - Reps and Warranties

Leases



- What should I review?
- How do I prioritize??
- What am I missing???

Questions?



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IceMiller

About Ice Miller LLP

Built on a foundation of legal service more than a century long, Ice Miller LLP is committed to helping our clients stay ahead in a changing world.

Our diverse client base ranges from start-ups to Fortune 500 companies and from governmental entities to educational organizations and pension funds. With offices in Baltimore, Chicago, Columbus, DuPage County, Indianapolis, New York, Philadelphia and Washington D.C., our 350 lawyers are dedicated to developing a deep understanding of each client's needs in order to help them build, grow and protect their most valued assets.

Ice Miller works collaboratively with clients to help them achieve their goals, offering our greatest strength: our people. Ice Miller is a talent mosaic with the flexibility to bring the particular legal skills needed to bear for each project—from the routine to the novel and complex. Every professional at Ice Miller is committed to providing sophisticated legal services at cost-effective pricing.

Aaron Aft



Aaron helps clients grow their businesses, build on their successes and expand their opportunities. As a partner in the Real Estate practice group at Ice Miller LLP, Aaron works with investment firms, developers, brokers, management companies, banks, non-profits, public and private companies and entrepreneurs. He is committed to delivering excellent client service, working with and advising clients through their real estate transactions, always keeping their goals and best interests at the forefront.

Full bio: <https://www.icemiller.com/people/aaron-b-aft/>

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Phone: (317) 236-2217



Section Seven

Health Care Strategic Transactions

Isaac M. Willett
Taft Stettinius & Hollister LLP
Indianapolis, Indiana

Section Seven

Health Care Strategic Transactions..... Isaac M. Willett

Slide Presentation

Health Care Strategic Transactions

Presented by:
Isaac Willett
Partner, Taft



November 29, 2023

Agenda

1. Introduction and Practical First Steps
2. Acquisition Structures
3. Affiliation Structures
4. Key Considerations

1. Introduction

- Health care strategic transactions is a very broad subject area – we won't be able to cover everything there is to know in 45 minutes.
- I will provide a high level overview of some of the transaction structures health care systems, facilities and providers may elect to pursue.
- My overview will also touch on some of the key legal issues that can arise in health care transactions.
- There are many topics I will not address, including purchase price provisions, earn-outs, adjustment mechanisms, valuation, tax and tax-exempt issues and pre-merger approval requirements, among others.

Practical First Steps

- The strategic aim of many health care transactions, particularly those involving health systems, tends to develop gradually over the course of several months or even longer.
- Given the wide variety of structures the parties to a transaction may elect to pursue, it's critical to understand what a proposed transaction is intended to achieve.
- The more you can learn up front, the better positioned you'll be to advise your client on what transaction structures may make the most sense in light of their objectives.
- Don't assume that the parties will have a fully formed understanding of how a particular transaction will need to work.

2. Acquisition Structures

- **Asset Purchase Transaction:** The buyer acquires some or all of the assets of the target entity. In many cases, asset purchase agreements are “cash out” deals that permit the target entity to distribute cash to its owners, and to eventually wind-up operations and dissolve.
 - **Pros:** The buyer is able to acquire specific assets and often times assume only selected liabilities.
 - **Cons:** CMS regulations may effectively force the buyer to assume responsibility for previously existing regulatory liabilities; the parties may incur additional costs related to taxes; asset purchases may be more labor-intensive than other structures due to the need to obtain consents and create asset schedules.

Acquisition Structures

- **Equity Purchase Transaction:** A stock sale does not involve the direct transfer of assets. Rather, the shares of the target entity are transferred to the buyer.
 - **Pros:** Stock purchases can minimize tax consequences, particularly to the target entity's shareholders, and they often require less documentation and fewer contractual consents.
 - **Cons:** Stock sales can also be significantly complicated by the presence of dissenting shareholders.

Acquisition Structures

- **Merger:** Two entities legally combine into a single surviving business that owns the assets, and is responsible for both the pre- and post-transaction liabilities of both entities.
 - **Pros:** Because all assets and liabilities of both entities are involved, a merger may be more straightforward to execute.
 - **Cons:** Liability considerations may require significant due diligence; the combined entity theoretically has unlimited exposure for pre-transaction liabilities.

Acquisition Structures

- **Member Substitutions:** The buyer normally becomes the sole member of the target entity, with the power to appoint some or all of the members of the target entity's board of directors.
 - Many health systems are organized as non-profit corporations. Non-profit corporations do not issue equity so a traditional equity purchase transaction is not a viable option when one non-profit entity wants to acquire another non-profit entity.
 - Results in needing to amend the charter and bylaws of all entities directly impacted by the member substitution.
- **Pros:** Member substitutions may minimize the number of approvals needed, as well as the need to create asset and liability schedules.
- **Cons:** Unless there's a surviving community foundation of the target entity, there may be little recourse available to the buyer for exposure to pre-transaction liabilities.

Acquisition Structures

- **Management Services Organization Acquisitions:** The buyer (typically a private equity sponsored health care management company) acquires all the non-clinical assets of the seller (typically a physician practice) and enters into a long term management services agreement to manage all the non-clinical aspects of the seller's practice.
 - **Pros:** Allows sellers to effectively liquidate their equity in their practice and provides dependable management services fee revenues for buyers.
 - **Cons:** Selling providers may struggle with the concept of working for someone other than themselves and buyers may struggle to improve the financial performance of the practices they manage.

3. Affiliation Structures

- **Clinical Service Line Joint Ventures:** Two or more health systems enter into a contractual arrangement, or create a joint venture entity, to manage or develop one or more clinical service lines to provide services to patients of certain target hospitals.
 - **Fees:** The fees paid to the participating health systems or the joint venture entity need to be documented to be commercially reasonable and fair market value for the services rendered to the target hospitals.
 - **Clinical service line joint venture components:**
 - Provision of specialist physicians needed by the target hospitals
 - Assistance in recruiting physicians to a target hospital's geographic area
 - Implementing new technologies, procedures, protocols and diagnostic and therapeutic capabilities
 - Staffing services, billing, equipment leasing, supplied acquisition, scheduling, compliance services, financial management, marketing, technology maintenance and development and risk management services
 - Co-branding opportunities
 - Exclusivity terms giving JV participant the first right to participate in certain future clinical service line joint ventures

Affiliation Structures

- **Clinical Service Line Co-Management Arrangements:** health system enters into a contractual arrangement, or creates a joint venture, with a physician group to manage one or more of the health system's clinical operations.
 - **Fees:** The fees paid to the physician group or the joint venture would need to be documented to be commercially reasonable and fair market value for the management services rendered to the health system.
 - **Clinical service line joint venture components:**
 - Provision of medical director and other administrative services related to management of service line
 - Assistance in recruiting physicians to the service line
 - Implementing new technologies, procedures, protocols and diagnostic and therapeutic capabilities

Affiliation Structures

- **Management Services Agreements:** Management company, which may be affiliated with a health system or health plan, contracts a hospital, other health facility or physician group to perform management and administrative services. The management services must fulfill a legitimate business need and the compensation paid to the management company must be documented as commercially reasonable and fair market value.

Affiliation Structures

- **Professional Services Agreements:** A health system or a physician group enters into an agreement with a hospital/health system for the provision of professional health care services to the hospital's/health system's patients.
 - Either the party providing the professional services or the party receiving the professional services can bill for the services provided pursuant to the PSA.
 - If the party receiving the professional services bills for the services, the party providing the services needs to be paid fair market value for the services.
 - FMV compensation can be based upon an hourly rate of compensation, a flat annual fee, a percentage-based compensation methodology or some other set-in-advance formula.
 - In addition to direct patient care, the professional services may include on-call coverage and administrative services.
 - Arrangement can be exclusive or non-exclusive.

Affiliation Structures

- **Value Based Arrangements:** Under some of the newer parts of the Stark Law regulations, health systems can make payments to physicians and groups designed to achieve “value-based purposes” with respect to targeted patient populations. Value-based purposes include:
 - coordinating and managing care;
 - improving the quality of care;
 - appropriately reducing the costs (or growth in expenditures) of payors without reducing the quality of care; and
 - transitioning from volume-based payment mechanisms to mechanisms based on the quality of care and control of costs of care.
- Payments under a value based arrangement may be in addition to any other payments made for professional and/or administrative services (e.g., under a PSA), are not subject to fair market value requirements under the Stark Law, but are subject to commercial reasonability requirements unless the physicians agree to forego a portion of the payments (at least 10%) if the purposes of the value based arrangement are not achieved. Examples might include payments to independent physicians for implementing certain clinical protocols, for referring patients to lower-cost settings or services, or for achieving defined quality objectives.

Affiliation Structures

- **Clinically Integrated Network:** A CIN is a voluntary collaboration among physicians, often in conjunction with a hospital or health system, to develop ongoing clinical initiatives focused on delivering quality, efficiency and value to ensure patients receive coordinated care across specialties and sites. If structured properly, the network may engage in joint managed care contracting, though higher reimbursement should not be the motivation for establishing the CIN.
 - **FTC 3-Part Test.** (1) A network of physicians willing to demonstrate a high degree of interdependence and cooperation through (2) a program of initiatives designed to control costs and ensure quality, which is (3) supported by an infrastructure that allows the physicians to evaluate and modify the physicians' ways of practicing.
 - **Examples of Clinical Integration Elements**

• Formal/stringent medical management program	• Cooperative delivery of high-quality, cost-effective health care
• Protocol development and implementation	• EHR integrated with a database of cost-effective practice protocols
• Performance reporting	• Aggressive management of high-cost, high-risk patients
• Procedures for corrective action	• Programs for Chronic disease management, post-acute care, pharmacy

Affiliation Structures

- **Co-Branding and Licensing Arrangements:** A health system grants a target hospital the opportunity to co-brand its programs and services with the health systems' logo and trademark subject to the terms of a Co-Branding and Licensing Agreement. The conditions for the target hospital's use of the health system's logo and trademark could include:
 - Agreement to subject the use of the logo and trademark to the health system's prior review;
 - Maintaining baseline performance on jointly selected quality and safety metrics;
 - Adoption of the health system's risk management program; and
 - Collaboration with the health system to improve quality, safety, patient satisfaction and service.

Affiliation Structures

- **Innovation Collective:** two or more health systems form an innovation collective aimed at identifying affiliation opportunities.
 - Innovation collectives typically do not include significant legal structure or commitments.
 - Do not have dedicated infrastructure of staff.
 - Members of the collective contribute personnel to a governing board and/or committees that identify opportunities for collaboration and oversee their development.
 - Costs are typically limited to contributing to legal, branding and outside consulting costs required to support the collaborative efforts of the members.

4. Key Considerations

- Due diligence
- Exposure to liabilities for pre-transaction activities of the target
- Pre-merger notice requirements
- Certificate of need and licensure laws
- Payor issues
- Third-party consents
- Special considerations for non-profits

Thank You!

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Taft/

Section Eight

AI and Legal

Mark Bradley
Chief Information Officer
Taft Stettinius & Hollister LLP
Minneapolis, Minnesota

Section Eight

AI and Legal..... Mark Bradley

Slide Presentation

AI and Legal

Taft/

Agenda

- Artificial Intelligence Landscape
- Technology Revolutions
- AI in Action
- Practical Use Cases
- Risks

A lot can happen in a year...



ChatGPT

Nov 2022

DALL-E 3

Oct 2023



Mar 2023



Nov 7, 2023

- OpenAI announces release of “GPT App Store”
- 92% of the Fortune 500 using AI products
- Over 100 million ChatGPT daily users
- \$80B – \$90B Market Valuation

*A.I.'s Threat to Jobs Prompts Question
of Who Protects Workers*

These 20 jobs are the most "exposed" to AI,

**300 million jobs could be affected by latest
wave of AI, says Goldman Sachs**

8 Risks and Dangers of Artificial Intelligence to Know

ChatGPT may be coming for our jobs.

The Impact of Artificial Intelligence - Widespread Job Losses

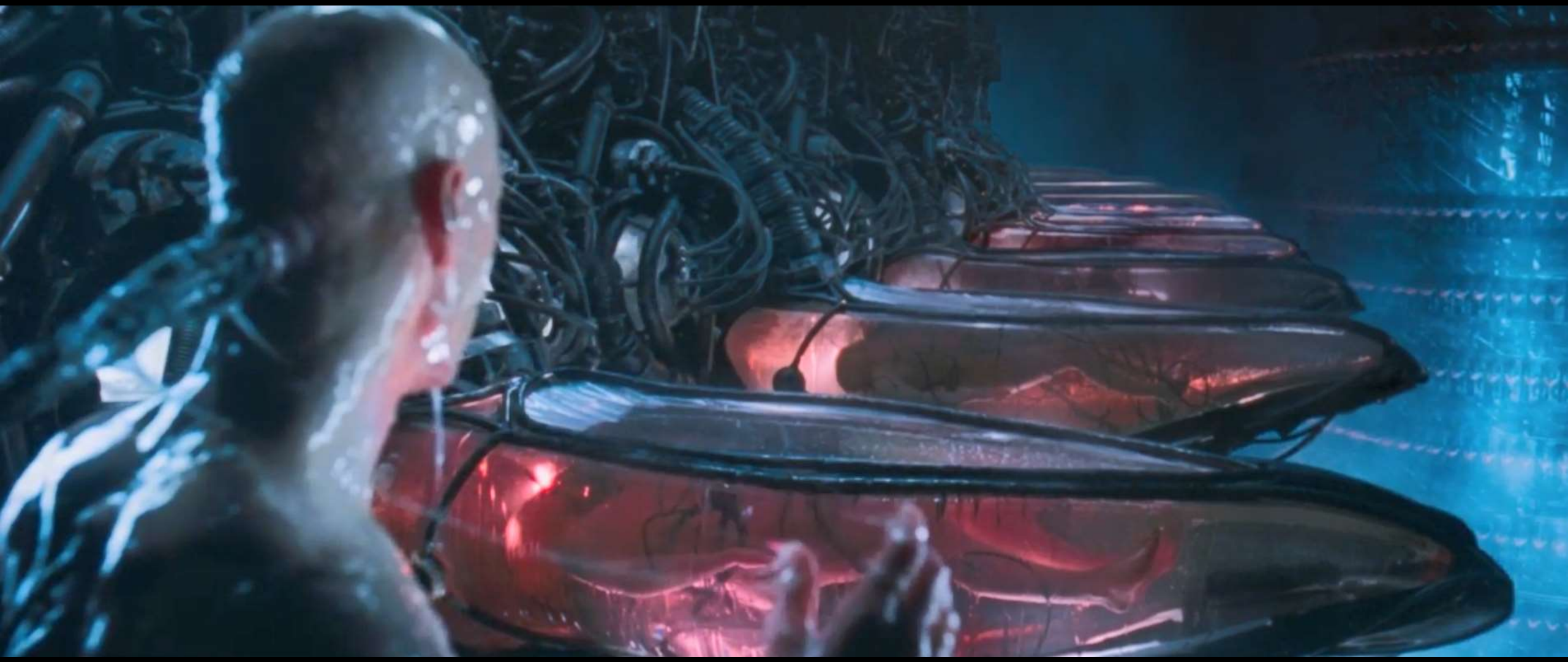
**US experts warn AI likely to kill off
jobs - and widen wealth inequality**

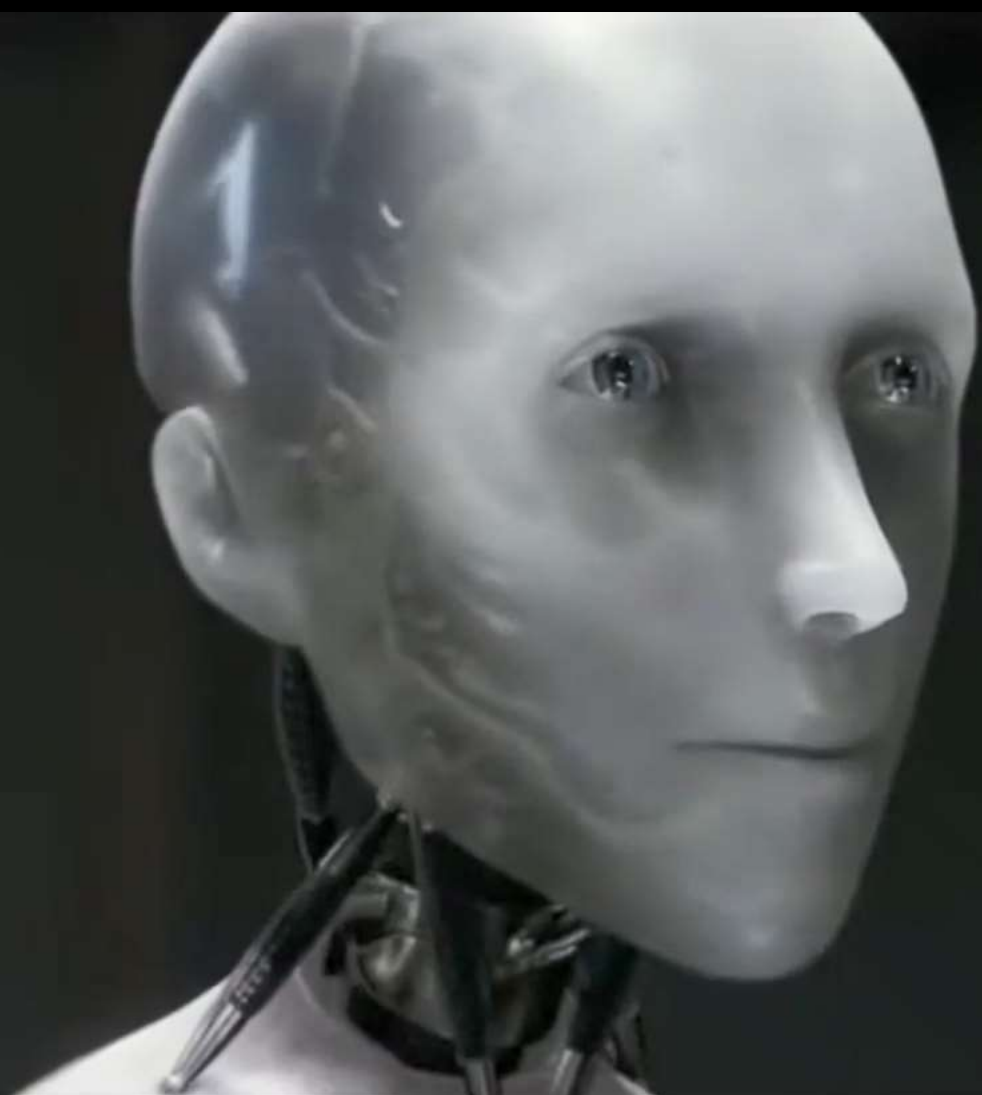
Is AI coming for your job? ChatGPT renews fears
















I'm sorry, Dave
I'm afraid I can't do that.



THEY TOOK OUR JOBS!

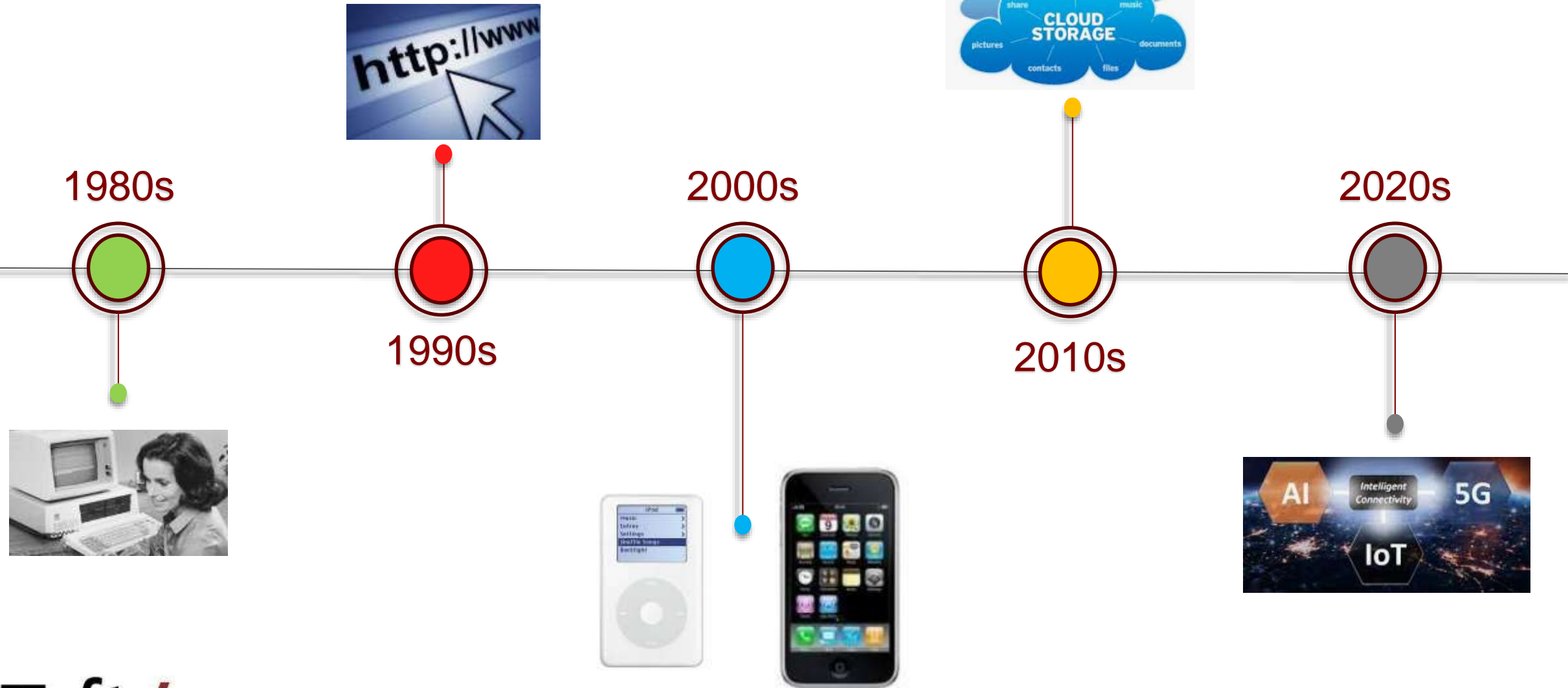
“Inaction breeds doubt and fear. Action breeds confidence and courage. If you want to conquer fear, do not sit home and think about it. Go out and get busy.”

-Dale Carnegie

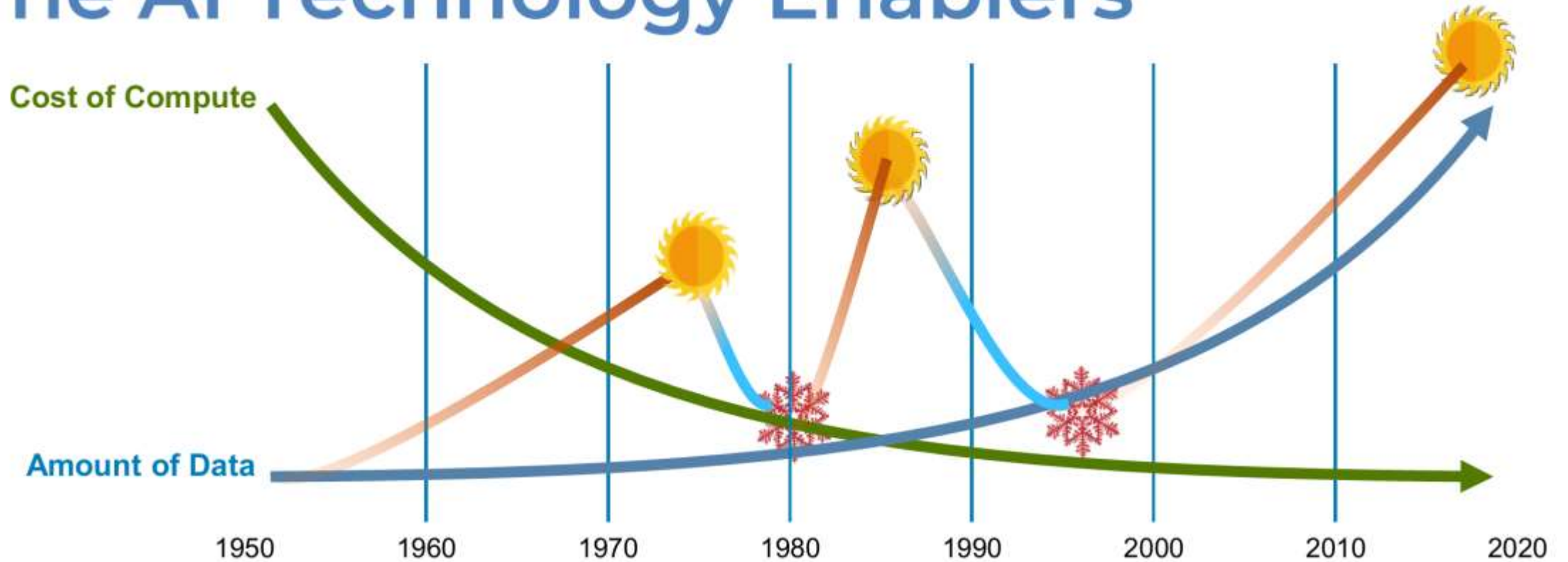
“Fear is the path to the Dark Side. Fear leads to anger, anger leads to hate, hate leads to suffering.

-Yoda

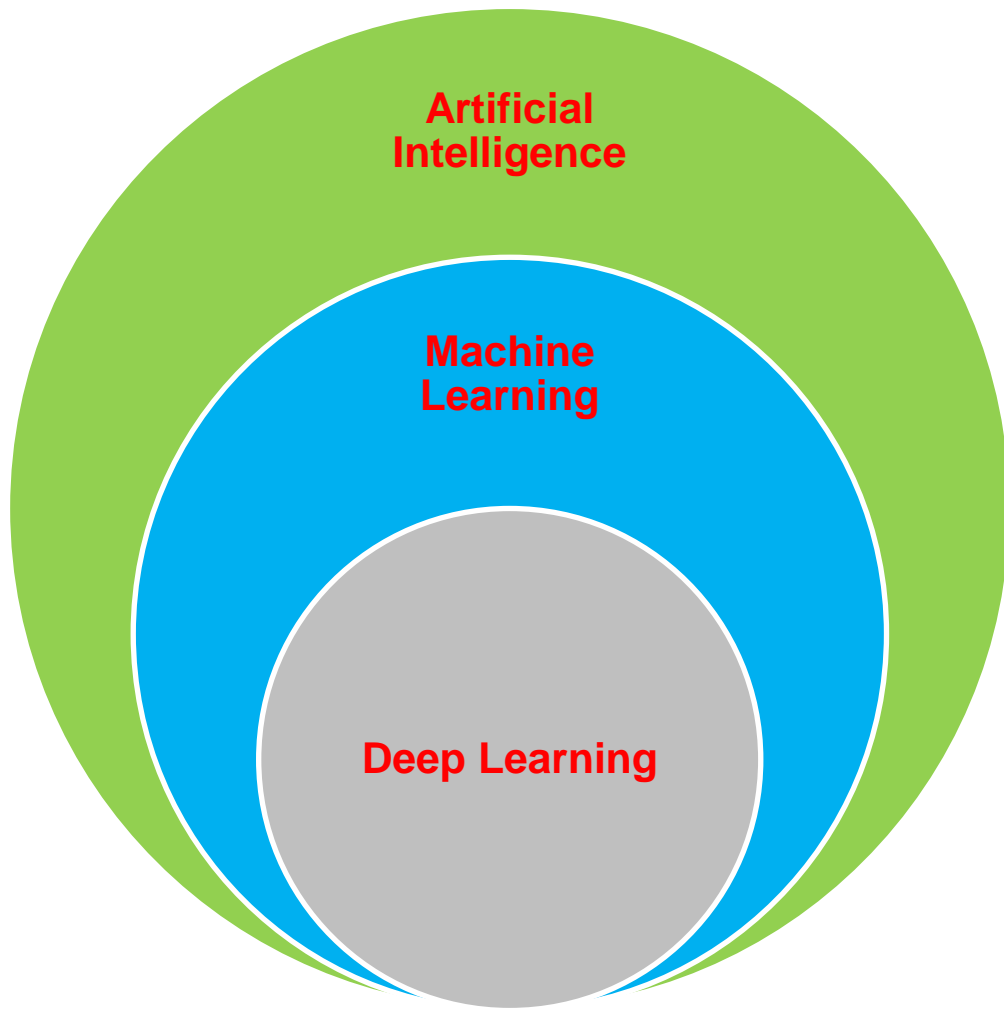
Modern Technology Revolutions



The AI Technology Enablers



**90% of the worlds data was created within the last 3 years
-IBM**



Artificial Intelligence (AI) is human intelligence **mimicked** by machine algorithms, examples: Chess, Go, Facial Recognition

Machine Learning (ML) is a subset of AI algorithms to parse data, learn from data, and then make a determination or **prediction**. Examples: SPAM detection, preventative maintenance

Deep Learning (DL) is a subset of machine algorithms that leverage artificial neural networks to **develop relationships** among the data. Examples: Driverless cars, Cyber-Security, Generative AI.

AI Terms

AI in Action



- Input > Output
- Uses ALL THREE of these
 - Artificial Intelligence
 - Machine Learning
 - Deep Learning
- Be careful to add privacy screens

AI in Action

- Input:



Tell me a really funny joke about lawyers to say in a speech to a large audience



Sure, here is a funny joke about lawyers that you can say in a speech to a large audience:

How many lawyers does it take to change a light bulb?

None. A light bulb is a perfect sphere. There is no handle to hold onto.

AI in Action

- Input:



That one is too technical, do you have another one?



Here is another one:

What do you call a lawyer with an IQ of 70?

Your honor.

I hope you enjoyed these jokes!

AI in Action--Research

- Input:



how much money has Microsoft and Google invested in generative AI in The Last 5 Years

✦ Microsoft and Google have invested a significant amount of money in generative AI in the last 5 years.

- In 2019, Microsoft invested \$1 billion in OpenAI, a non-profit research company that is developing and promoting safe and beneficial artificial general intelligence. This investment gave Microsoft a minority stake in OpenAI and access to its generative AI technology.
- In 2020, Google invested \$1 billion in DeepMind, a British artificial intelligence company that is known for its work on generative AI. This investment gave Google a majority stake in DeepMind and access to its generative AI technology.
- In 2021, Microsoft announced that it would be investing \$1 billion in AI research over the next 5 years. This investment will be used to develop new generative AI technologies, as well as to train and support AI researchers.
- In 2022, Google announced that it would be investing \$10 billion in AI research over the next 5 years. This investment will be used to develop new generative AI technologies, as well as to train and support AI researchers.

The total amount of money that Microsoft and Google have invested in generative AI in the last 5 years is approximately \$22 billion. This investment is a clear indication of the importance that these companies place on generative AI. Generative AI is a rapidly developing field with the potential to revolutionize many industries. By investing in generative AI, Microsoft and Google are positioning themselves to be at the forefront of this revolution.

In addition to their direct investments in generative AI, Microsoft and Google are also supporting the development of generative AI through their research partnerships with universities and other organizations. For example, Microsoft has research partnerships with the University of Washington, the University of California, Berkeley, and the Allen Institute for Artificial Intelligence. Google has research partnerships with Stanford University, the University of California, San Francisco, and the University of Toronto.

The research partnerships between Microsoft, Google, and other organizations are helping to accelerate the development of generative AI. These partnerships are also helping to ensure that generative AI is developed in a responsible and ethical way.

- 2019, Microsoft investing 1B in OpenAI
- 2020, Google invested 1B in DeepMind
- 2021, Microsoft investing another 1B
- 2022, Google investing 10B over next 5 yrs

AI in Action—Talking with a robot

- Input:



In the context of Generative AI, what does this mean: Issue: Re-Identification of Aggregated Data

✦ Re-identification of aggregated data is a privacy concern that arises when generative AI models are used to create synthetic data that is similar to real-world data. This can be a problem because it can be used to identify individuals who were part of the original dataset, even if the data was originally anonymized.

For example, a generative AI model could be used to create synthetic medical records that are similar to real-world medical records. This synthetic data could then be used to identify patients who were part of the original dataset, even if the data was originally anonymized.

There are a number of ways to mitigate the risk of re-identification of aggregated data. One way is to use differential privacy, which is a technique that adds noise to data in order to make it more difficult to identify individuals. Another way is to use cryptography to encrypt data so that it cannot be easily read.

It is important to be aware of the risk of re-identification of aggregated data when using generative AI models. By taking steps to mitigate this risk, you can help to protect the privacy of individuals.

Here are some additional things to consider when using generative AI models:

- **Use a privacy-preserving model:** There are a number of generative AI models that have been designed with privacy in mind. These models use techniques such as differential privacy and cryptography to make it more difficult to identify individuals.
- **Aggregate data carefully:** When aggregating data, it is important to remove any personally identifiable information (PII). This includes things like names, addresses, and phone numbers.
- **Monitor your models:** Once you start using generative AI models, it is important to monitor them closely for any signs of re-identification. If you see any concerns, you should take steps to mitigate the risk.

By taking these steps, you can help to protect the privacy of individuals when using generative AI models.



Can you give me another real world example of this?

✦ Sure. Here is another real-world example of re-identification of aggregated data:

In 2017, a team of researchers at the University of California, Berkeley, used a generative AI model to create synthetic medical records that were similar to real-world medical records. The researchers then used this synthetic data to train a machine learning model to predict the risk of heart disease.

The researchers found that the machine learning model that was trained on the synthetic data was just as accurate as a model that was trained on real-world medical records. This suggests that it is possible to use generative AI models to create synthetic data that is just as valuable as real-world data.

However, the researchers also found that it was possible to identify individuals who were part of the original dataset, even though the data was originally anonymized. This is because the synthetic data contained enough information to identify individuals, such as their age, gender, and medical history.

This example shows that it is important to be aware of the risk of re-identification of aggregated data when using generative AI models. By taking steps to mitigate this risk, you can help to protect the privacy of individuals.

AI in Action—Business Development

- Input:



who are the top 10 companies in the Minneapolis market who specialize in Tech Consulting services. Organize into a table, sorted by the companies who've had the most employment lawsuits filed against them



Here are the top 10 companies in the Minneapolis market who specialize in Tech Consulting services, organized by the number of employment lawsuits filed against them:

Company	Number of Employment Lawsuits
Accenture	10
Booz Allen Hamilton	8
Catalyst	7
Deloitte	6
Everis	5
IBM	4
Infosys	3
KPMG	2
PwC	2
Synopsys	1

It is important to note that the number of employment lawsuits filed against a company does not necessarily indicate that the company is a bad place to work. However, it is something to consider when making a decision about where to work.

Here are some factors that can contribute to a high number of employment lawsuits:

- The size of the company: Larger companies tend to have more employees, which means there is a greater chance of employment disputes.
- The industry: Some industries, such as technology and healthcare, are more prone to employment disputes than others.
- The company's culture: A company with a poor work culture is more likely to have employees who file lawsuits.

If you are considering working for a company that has a high number of employment lawsuits, it is important to do your research and talk to current and former employees to get a sense of the company culture. You should also be prepared to advocate for yourself if you experience any problems at work.

AI in Action—Contract Analysis

- Input:



Our PM left the job and they have not had anyone available to do our work. Does any clause in this contract allow me to get out?



It is not clear whether the force majeure clause in the lease order form would allow you to get out of the contract. The clause states that neither party shall be liable for any delay or failure in performance hereunder to the extent caused by any event beyond such party's reasonable control, including, but not limited to, acts of God, war, terrorism, civil unrest, strikes, lockouts, embargoes, government orders, or other causes beyond such party's reasonable control.

It is not clear whether your PM's departure would qualify as an event beyond ESENTIO's reasonable control. This is because the clause does not specifically mention employee departures. However, it is possible that a court would find that employee departures can be considered force majeure events, depending on the specific circumstances.

If you want to be sure, you should consult with an attorney. They will be able to advise you on whether your PM's departure would qualify as a force majeure event under the lease order form and, if so, what your options are.

Here are some questions that you may want to ask your attorney:

- Does the force majeure clause in the lease order form specifically mention employee departures?
- If not, would a court likely find that employee departures can be considered force majeure events?
- If my PM's departure does qualify as a force majeure event, what are my options?

I hope this helps!

In addition to the force majeure clause, there may be other clauses in the lease order form that could allow you to get out of the contract. For example, if the contract contains a termination clause, you may be able to terminate the contract if ESENTIO fails to provide the services that you have contracted for.

If you are considering terminating the lease order form, you should carefully review the contract and consult with an attorney to discuss your options.

- Force Majeure does not cover departures
- Termination clause may apply if the company fails to provide a services in the contract
- You should consult with an attorney

Other Practical Uses on the Horizon

- Legal Research
- Transcription
- “Busy” work
 - Virtual Assistant
 - Summarize meetings, emails, documents
- Work Evaluation: Are you efficient?
- Outside Counsel Guidelines + Time Entry
- Time Analysis
- Document Review
- Conflicts
- CRM and Relationship Intelligence
- Microsoft Office...



Microsoft 365 Copilot

Built on Microsoft's **comprehensive** approach



Security



Compliance



Privacy



Responsible AI

 Relativity®

Google™

 Lex Machina®

THOMSON REUTERS®
HighQ

Zoom


iManage



Bloomberg

intapp™



Microsoft

Aderant


tableau

THOMSON REUTERS
WESTLAW™

 LexisNexis®

onit

Taft/

 Kira part of the
LITERA family.

 introhive

Question:

What happens when the machines start acting more human?







Risks

- Sharing personal and/or client data

ChatGPT resumes service in Italy after adding privacy disclosures and controls

- The data is not always correct (yet)

ChatGPT Is Scarily Good At Answering Legal Questions

- What do our clients want?

Privacy and Data Security



Surveillance



Anonymity



**Cultured
Advertising**



Regulations



Deep Fakes

Privacy and Data Security

Issue

- Re-Identification of Aggregated Data

Issue

- Co-Mingled Information

Issue

- Confidential Information

?

- Who is the arbiter of truth?

Summary

- Artificial Intelligence is already upon us
- Unlimited potential
- Do **NOT** ignore the RISKS
 - There are many
 - Be Careful

Thank you!