

COMPLEX LITIGATION

Second Edition

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MATTHEW  BENDER

Dedications

Each author can think of many people to whom we might dedicate this text. We appreciate the support of all of those persons over many years and in particular recognize these:

ETS: To Leslie Black Sullivan.

CDF: To Barbara, with my appreciation for her support and encouragement.

RDF: To Louise, Courtney and Collin.

BGC: To Leon Goodrich, Thomas Kane, and Donald Engle, my principal mentors in the trenches of complex litigation.

Preface

Litigation always has been a complicated undertaking. In the current age of multi-party, multi-claim, and overlapping multi-jurisdiction cases, lawsuits have assumed even higher levels of complexity. This text introduces in a comprehensive but compact way both fundamental and cutting-edge aspects of complex litigation.

In contrast to traditional casebooks, *COMPLEX LITIGATION* relies on a limited number of leading cases, coupled with extensive text and note material reviewing existing doctrine and exploring unanswered legal and policy issues. The reliance on text and notes to develop underlying legal doctrine minimizes the need for students to search for the necessary background based on fragments or inferences from principal cases.

The text comprehensively treats all aspects of the complex litigation process — from CAFA to the ALI Principles of the Law of Aggregate Litigation, from Internet personal jurisdiction to electronic discovery, and more. The text devotes attention to important and often neglected structural issues, including personal and subject matter jurisdiction, choice of law, mechanisms for coordinating overlapping federal and state litigation, and preclusion. It discusses the real world conduct, management, and control of the pre-trial and discovery process that characterizes complex cases, as well as trends and emerging legal doctrine that have promoted and facilitated the disposition of complex cases without trial.

Despite its broad coverage, *COMPLEX LITIGATION* is concise as a result of its primary use of text and note material to develop the implications of leading cases. It may easily be adopted for use in a two- or three-unit course.

Careful readers will notice our adoption of certain conventions. For example, in excerpted cases, we have deleted without notation various footnotes and citations. We have retained, however, selected footnotes within excerpted cases for teaching purposes. Those bear both consecutive numbering and, in brackets, the original note number from the opinion. We mostly have not included parallel case cites within excerpted opinions even if the original opinion did so. We have tried to eliminate most instances of boldface type even if excerpted opinions contained boldface headings.

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