



## In This Issue

[Latest News and Alerts](#)

[Upcoming Events](#)

[Honors](#)

Venable attorney [Scott Gluck](#) is now issuing weekly emails describing and analyzing key legislative and regulatory matters important to private and public funds. For a pdf of the February 4, 2013 *Private Fund Weekly Update*, please [click here](#). To sign up for these emails, please email Scott at [SGluck@Venable.com](mailto:SGluck@Venable.com).

## Please Join Us!

### Mezzanine Financing: Legal Considerations for Middle Market Deals Webinar

Evaluating and Structuring Financing for Acquisitions, LBOs, Expansions, Recapitalizations, and Management Buyouts

Thursday, February 28, 2013  
1:00 p.m. - 2:30 p.m. EST



[Click here to receive 50% off of event registration.](#)

A limited number of complimentary registrations are available for this webinar. Please [click here](#) to let us know you wish to participate.

## Honors and Awards



## Latest News and Alerts

Venable attorneys produce periodic alerts and newsletters covering a variety of topics and practice areas. For your convenience, we have assembled below a collection of the latest alerts and newsletters from January 2013. To view the full text of an article, please click on the title of the piece.

### [What You Need to Know About the Proposed Maryland Investment Tax Credit for Cybersecurity](#)

Maryland Governor Martin O'Malley proposed a budget for FY2014 that includes several provisions aimed at boosting the state's already robust cybersecurity industry, including a new \$3 million tax credit program.

**Authors:** [Anthony J. Rosso](#), [Michael J. Baader](#), [Dismas Locaria](#), [Marta D. Harting](#), [John R. Stierhoff](#), [Andrew E. Bigart](#)

### [Trade Secret Legislation May Increase Infringement Claims and Lead to a Private Right of Action](#)

Congress recently took new steps to protect trade secrets, which are generally defined as all forms or types of financial, business, scientific, technical, economic, or engineering information that the owner has taken reasonable measures to keep secret and which derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, the public.

**Authors:** [A.J. Zottola](#), [Robert F. Parr](#)

### [Faulkner v. ADT and the Landscape for CIPA Class Actions](#)

Recently the Ninth Circuit ruled on the issue of whether a business can be held liable under the California Invasion of Privacy Act.

**Authors:** [Thomas E. Gilbertsen](#), [Daniel S. Silverman](#), [Michael P. Bracken](#)

### [FDA Shifts Focus to Prevention with Publication of Proposed Food Safety Rules](#)

On January 4th, the U.S. Food and Drug Administration published two long-awaited proposed food safety rules aimed at preventing foodborne illness.

**Authors:** [Todd A. Harrison](#), [Ralph S. Tyler](#), [John G. Moore](#)

### [Federal Transportation Agencies Issue Interim NEPA Guidance](#)

On January 14, 2013, the Federal Highway Administration and Federal Transit Administration issued joint guidance for implementing Section 1319 of the new Transportation Bill to streamline the final steps in the National Environmental Policy Act process regarding producing a Final Environmental Impact Statement and issuing the Record of Decision.

**Authors:** [Margaret N. Strand](#), [Gregory S. Braker](#), [Megan M. Roberts-Satinsky](#)

### [IRS Releases Updated Retirement Plan Correction Procedures](#)

The IRS recently released the long-awaited updated version of the Employee Plans Compliance Resolution System (EPCRS), Revenue Procedure 2013-12. EPCRS allows the sponsor of a tax-deferred retirement plan to voluntarily correct plan qualification failures.

**Authors:** [Lisa A. Tavares](#), [Harry I. Atlas](#), [Jessica E. Kuester](#)

### [Lesson from Smith: Withdrawal from a Criminal Antitrust Conspiracy Must Be Affirmative](#)



James J. Hanks, Jr.



Corporate Governance Law - Baltimore

Charles J. Morton, Jr.



Venture Capital Law - Baltimore

In a narcotics case surprisingly relevant to the antitrust world, the United States Supreme Court recently addressed withdrawal from a criminal conspiracy.

**Authors:** William H. Devaney, Lisa Jose Fales, Paul Feinstein, Leonard L. Gordon

### Limited Relief for Employers under Health Care Reform's "Play-or-Pay" Rules

Proposed regulations issued by the Internal Revenue Service on December 28, 2012 provide some relief to large employers subject to the employer-sponsored coverage mandate under health care reform.

**Authors:** Thora A. Johnson, Harry I. Atlas, Gregory J. Ossi, Christopher E. Condeluci, Jennifer Spiegel Berman

### Ten Practical Counseling Tips for Joint Purchasing Without Violating the Antitrust Laws

This is a brief analysis of the STARS letter, along with best practices for entities looking to obtain the cost savings of a joint purchasing arrangement while minimizing the antitrust risk.

**Authors:** Lisa Jose Fales, Andrew E. Bigart

### The American Taxpayer Relief Act of 2012

In the early morning hours of New Year's Day, a deal was made that averted the crisis and made permanent the majority of the Bush-era tax cuts.

**Authors:** Luis A. Patiño, Taylor A. Perodeau, Laura A. Taylor

### The *Embarq* Decision

A federal appellate court in Denver recently upheld summary judgment for an Internet service provider defending class action allegations that it violated the Electronic Communications Privacy Act of 1986 by acquiring information about subscriber websurfing activities as part of a program to tailor online advertisements for its subscribers.

**Authors:** Thomas E. Gilbertsen, Edward P. Boyle, Stuart P. Ingis, Emilio W. Cividanes

### *White v. Hollister Co.* Illustrates Importance of Individual Questions in Class Certification

The California Court of Appeals January 3, 2013 decision in *White v. Hollister Co.* reversed and remanded the trial court's opinion denying class certification to a class of consumers who claimed that defendant Hollister Co. refused to honor gift cards that failed to include an expiration date on the face of the card.

**Authors:** Thomas E. Gilbertsen, Ari N. Rothman, Molly T. Cusson

### Advertising News & Analysis

#### • January 3, 2013 Edition

Highlights include a review of the FTC Appliance Labeling Rule, analysis of the "As Seen On TV" tagline, an article discussing color trademarks, a review of the Children's Online Privacy Protection Act, and a summary of actions the FTC may take regarding mobile apps for children.

#### • January 10, 2013 Edition

Highlights include analysis on FTC guidance regarding new technologies, a review of NAD rules, an article reviewing a recent Toys "R" Us settlement, a review of the *White v. Hollister Co.* case, and a review of a newly formed FTC enforcement policy on textiles.

#### • January 17, 2013 Edition

Highlights include a press release on new FTC commissioner Joshua D. Wright, an analysis of the *Natalini v. Import Motors* case, a review of the FDA's recent food safety rules, a summary of the differences between CARU and NAD, and a review of the dismissal of Apple's false claims act against Amazon.

#### • January 24, 2013 Edition

Highlights include an article detailing the FTC recommendation for the alcoholic beverage industry, a review of the decision against POM Wonderful for deception disease claims in advertising, a review of the *Embarq* decision, a review of a recent class certification denial for Beam Global Sprits & Wine, Inc., and a review of the decision in the *Faulkner v. ADT* case.

#### • January 31, 2013 Edition

Highlights include the FTC press release on the Robocall challenge, a review of advertising substantiation standards, a review of FTC's interest in 'Do Not Call' enforcement, an explanation of recent FTC and National Advertising Division decisions addressing the use of disclaimers, and a review of the *Reliable Money Order, Inc. v. McKnight Sales Co., Inc.* case.

### IP Buzz - January 2013

Highlights include a review of patent suits, a review of the first-to-file patent system, an overview of the Leahy-Smith America Invents Act, a review of *Exelixis, Inc. v. Kappos*, an article on advertising GI Bills, a review of patent assertion entities, a review of a trademark infringement, and a review of the

## Upcoming Events

We would also like to highlight upcoming Venable events that you may be interested in attending. Please click on the event title for additional information.

### [Is This the End of the Internal Audit Report as We Know It? - WMACCA Government Contractors Forum](#)

**February 7, 2013**  
**12:00 p.m. - 2:00 p.m. ET**

Please join us for an in-depth discussion of the maintenance and oversight of defense contractors' internal audit reports, as well as DCAA's access to such reports, in light of Section 832 of the National Defense Authorization Act, pressure from the GAO and recent federal case law.

**Speakers:** [William L. Walsh, Jr.](#), [John M. Farenish](#)

### [The Top Ten Federal Grant and Contract Pitfalls for Nonprofits](#)

**February 12, 2013**  
**12:00 p.m. - 2:00 p.m. ET**

Working with the federal government can seem intimidating, and it can be. However, there are several simple steps a nonprofit can take to better understand its obligations and avoid allegations of non-compliance, or worse yet, fraud. Join us for a discussion of ten of the most common pitfalls that nonprofits experience when serving as a grant recipient or contractor on behalf of the federal government.

**Speakers:** [Jeffrey S. Tenenbaum](#), [Dismas Locaria](#)

### [Are You Ready for the New Mortgage Landscape?](#)

**February 13, 2013**  
**2:00 p.m. – 4:00 p.m. EST**

**February 27, 2013**  
**2:00 p.m. – 4:00 p.m. EST**

Our event will focus on the new mortgage servicing requirements released at the CFPB's January 17 Atlanta field hearing.

**Speaker:** [Suzanne Fay Garwood](#)

### [Distressed Acquisitions: Finding the Opportunities in 2013 and Avoiding the Pitfalls of Distressed Investing](#)

**February 20, 2013**  
**6:00 p.m. - 8:00 p.m. EST**

Our panel of professionals will discuss why they focus on distressed assets, the outlook and opportunities for distressed investing in 2013 and will highlight the pitfalls to avoid.

**Speaker:** [Carollynn H.G. Callari](#)

### [Mezzanine Financing: Legal Considerations for Middle Market Deals: Evaluating and Structuring Financing for Acquisitions, LBOs, Expansions, Recapitalizations, and Management Buyouts](#)

**February 28, 2013**  
**1:00 p.m. - 2:30 p.m. EST**

This CLE webinar will prepare commercial finance counsel to understand mezzanine financing as a financing alternative in the evolving credit market, identify when this method is viable, and explain structuring such transactions in light of the wide range of choices available.

**Speaker:** [Charles J. Morton, Jr.](#)

# Honors and Awards

## Southern California edition of *Super Lawyers 2013* honors 11 Venable attorneys

*Super Lawyers* recognized 11 Venable attorneys including [Bradford S. Cohen](#) from our [Corporate Group](#).

[Bryan Rakes](#), a partner in the [Corporate Group](#), has been selected as a member of the 2013 Greater Baltimore Committee LEADERShip Class. The LEADERShip was created in 1983 to identify and prepare emerging leaders by introducing them to the complex problems of the Baltimore region and spurring dialogue about how to address them.

An *American Lawyer* 100 law firm, Venable serves corporate, institutional, governmental, nonprofit and individual clients throughout the U.S. and around the world. Headquartered in Washington, DC, with offices in California, Maryland, New York and Virginia, Venable LLP lawyers and legislative advisors serve the needs of our domestic and global clients in all areas of corporate and business law, complex litigation, intellectual property, regulatory, and government affairs. To learn more about Venable's capabilities, please see our complete list of [practice areas](#).



*Chambers USA* recognized fourteen of Venable's [Corporate Group](#) attorneys in national and regional categories in their 2012 rankings.



Two Venable [Corporate Group](#) partners were ranked in the 2012 edition of *Chambers Global*.



*Legal 500* recognized fourteen attorneys from the [Corporate Practice Group](#) in 2012. Two Corporate Group attorneys, [Charles Morton](#) (M&A: Middle-Market (Sub-\$500m)) and [William Russell](#) (Technology: Transactions) were also singled out as Leading Lawyers. Venable was also nationally recognized in M&A: Middle-Market (Sub-\$500m), Real Estate Investment Trusts (REITs), Technology: Outsourcing, and Technology: Transactions.



Sixteen of Venable's [Corporate Group](#) attorneys were selected by their peers for inclusion in *The Best Lawyers in America® 2012*. Venable was top rated nationally in Mergers & Acquisitions Law and Technology Law, and received national second tier ranking in Corporate Law, Private Equity Law, and Venture Capital Law.



[James J. Hanks, Jr.](#), a Partner in Venable's [Corporate Practice Group](#), was named the *Best Lawyers* 2013 Baltimore Corporate Governance Lawyer of the Year.



[Charles Morton](#), Co-Chair of Venable's [Corporate Practice Group](#), was named the *Best Lawyers* 2012 Baltimore Venture Capital Lawyer of the Year.

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