

SLF Alert

- The Top Five Litigation Areas are: Intellectual Property; Regulatory Investigation; Contracts, Labor & Employment, and Electronic Discovery.
- The industries which more often initiate litigation are energy, health care, manufacturing and insurance

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Commercial litigation has rapidly evolved in the United States since the deregulatory movement in the 1970s. Today, it is an industry behemoth that impacts and shapes the socio-economic discourse of our society, resulting in applicable legal standards on safety regulations, negligence, commercial competition, antitrust, intellectual property, and bankruptcies, to name a few.

The recessionary environment has proven no less a growing market for litigation, where a 2010 survey taken of a broad swath of the legal industry – law firms and general counsels – points to an anticipated *rise* in litigation and business disputes in the next 12 months. Indeed, when a dispute arises, nearly 60% of the survey’s respondents choose litigation over other forms of dispute resolution such as arbitration. With a moribund and uncertain economy, companies and businesses are increasingly protective of their commercial and tactical advantages, leading to greater litigation involving complex corporate issues.

As a cornerstone of managing conflict in contemporary America, litigation will always remain a viable choice, albeit one of last resort. The recession merely shifted the focus of litigation. Here are top five trends that provide a general overview of litigation:

1. The Top Five Litigation Areas are: Intellectual Property; Regulatory Investigation; Contracts, Labor & Employment, and Electronic Discovery.
2. With the growing and standard use of electronic discovery as a tool in the arsenal of legal strategy, 80% of respondents agreed that the Rules of Civil Procedure should be modified to limit e-discovery in civil actions.
3. The industries which more often initiate litigation are energy, health care, manufacturing and insurance.
4. More companies are using alternative fee arrangements than 2009, including 61% of the largest Fortune 1000 companies.
5. The changing economy and the uncertain costs of litigation are compelling reasons to often reach an amicable settlement before going to trial.

With emerging industries such as renewable energy and infrastructure, social and digital media, mobile technology and biotechnology fast dominating the market as leaders of economic growth, novel legal issues and commercial disputes are increasingly finding themselves in the courtroom, an ominous forecast of litigation’s staying power.

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