



PARTNERSHIP AND SHAREHOLDER DISPUTES

Internal disputes or diverging priorities between and among business owners and other principals can threaten the ongoing viability of an enterprise or put individual financial interests at risk. When that happens, the partnership and shareholder dispute attorneys of Burke, Warren, MacKay & Serritella, P.C. stand ready to help resolve such conflicts with pragmatic counsel and experienced advocacy.

Protecting clients, preventing conflicts, preserving relationships

Business owners face external challenges every day – from competitors, market conditions, and unforeseen disruptions. Sometimes, however, the threats to a company’s operations, growth, and continued viability arise from the inside. Years of close collaboration and shared personal and financial investment between partners, shareholders, and members suddenly devolve into entrenched disagreements, mistrust, or hostility. Claims of malfeasance, negligence, or betrayal can poison long-standing relationships and paralyze a business.

Led by co-chairs Fred Mendelsohn and Craig McCrohon, the attorneys in Burke Warren’s Business Partners and Shareholders Dispute Practice Group intimately understand how disruptive and costly these “business divorces” can be. We also recognize that protracted litigation rarely provides the optimal solution, even though it is sometimes the only viable option to protect and advance our clients’ interests. That is why we combine our considerable courtroom acumen with a pragmatic, realistic approach to business disputes.

While our seasoned and successful litigators are always ready to bring their powerful advocacy skills to bear on behalf of our clients, we seek solutions whenever possible that conclude with an amicable parting of ways and continuation of the business, rather than destructive conflict that leaves owners picking up the pieces of a once-lucrative endeavor.

PROFESSIONALS

Craig McCrohon

Frederic A. Mendelsohn

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**Early engagement and proactive approaches that can contain the fallout**

Disputes between owners, partners, shareholders, and other business constituencies can arise for a plethora of reasons and manifest themselves in countless ways, including:

- Actual or perceived misconduct, breaches of fiduciary duty, financial malfeasance, conflicts of interest, or self-dealing
- Divergent interests, governing approaches, or business strategies
- Disputes as to the purchase, sale, or valuation of ownership interests
- Disagreements as to compensation structures
- Inability to reach agreement as to dissolution of the company
- Shareholder derivative litigation

No matter the genesis of an ownership dispute, the challenges can be compounded by the lack of governing documents that define the rights and obligations of the parties or inadequate agreements that create more confusion than clarity.

When engaged during business formation, we can craft governing documents and other agreements that minimize the likelihood of disputes and establish efficient and effective mechanisms for addressing and resolving disagreements when they arise. Prior to the escalation of a brewing conflict, our attorneys can intercede to develop exit strategies and anticipatory dispute resolution approaches that provide an avenue for efficiently dealing with future difficulties. We can implement appropriate governance structures, buy-out procedures, and appraisal rights, as well as prepare agreements addressing these and related issues such as executive compensation, taxation issues, and intellectual property protection.

Strategic advocacy when disputes move from the boardroom to the courtroom

When litigation is inevitable or becomes the only viable means of resolving a dispute, the firm's business litigators leverage their broad experience and exceptional advocacy skills to protect our clients' interests while minimizing the emotional and financial damage that often accompanies these conflicts.

Burke Warren's litigators have an encyclopedic knowledge of the state, uniform, common law, and other principles that govern these disputes. We leverage that knowledge to develop and implement litigation strategies that can extricate owners from failing ventures and/or dysfunctional business relationships. Not only has the practice group earned a reputation for its mastery of the courtroom, its lawyers are also well versed in all aspects of alternative dispute resolution, including mediation, arbitration, valuation procedures, and mini-trials, and litigation in state and federal courts around the country.

At Burke Warren, our attorneys have the legal skill and vision to efficiently resolve matters in a way that insulates your business operations from these disputes and sets you and your company on a course to a steady, prosperous future.



Experience

- Successfully obtain temporary, preliminary and permanent injunctive relief for a multi-state staffing company, where the managers of the entity attempted to steal the business of the staffing company including trade secret theft. After filing suit, and asserting claims against counsel for the rouge managers, the staffing company not only reacquired its business in the remote location in which the rouge manager sought to steal its business, but obtained payment of damages including attorney's fees, such that the "coup" was not only put down but the client was made whole.
- Successful representation at trial of a minority corporate shareholder, establishing and recovering his share interest at fair value.
- Obtained expulsion of self-dealing LLC member/manager, recovering diverted funds as offset to the purchase of the rogue member's interest.
- Recently filed suit and resolved, at mediation, a business- break up that if not resolved could have destroyed the client's business. The underlying business was founded on key trade-secret technology, which was safely maintained as a result of the litigation initiated and key dispute resolution tactics that lead to a victorious outcome for the client.
- Successfully represented a shareholder who had been frozen out by his fifty percent partner, forcing a fair split of assets and business between partners and also recovered attorneys' fees for client.
- Obtained preliminary and permanent injunctive relief against a medical practice partner caught clandestinely soliciting patients before departing for another practice; negotiated division of all practice assets favorably for client.
- Successful arbitration of all claims of our client, a joint-venture partner, involving millions of dollars in damages. After a week-long hearing, arbitrators awarded the client all relief requested.
- Represented an original shareholder marginalized by partners prior to their selling the business to a larger entity. Employing dissenter's rights and obtaining an independent valuation of the client's net worth, we re-engineered the transaction to result in a more-than satisfactory buyout for client as well as waiver of non-competition covenants for his future operations and other non-monetary benefits.
- Obtained a multimillion-dollar judgment against and removal of a key man partner attempting to defraud his shareholder partner in a closely held business.
- Successfully resolved in arbitration dispute between former venture partners in multimillion-dollar vacation property ownership/management venture, resulting in a confidential settlement of disputes involving LLC, corporate and equitable accounting, and other legalities, while avoiding disclosure of client's sensitive financial information.
- Successfully mediated between various corporate partners in a complex structure of more than a dozen interrelated entities, arising out of claims of one partner's breach of fiduciary duty. After proving no breach or any other wrongdoing, following significant discovery and depositions, mediation exonerated the accused partner and allowed recovery of significant costs incurred.



- In a bitter, ongoing shareholder/partnership dispute between two siblings, successfully defeated a motion to appoint a receiver to take control of the key operating business and structured the litigation to effect a successful resolution of the dispute tied to the underlying corporate entity.
- Successfully restructured an LLC involving two corporate partners (one a subsidiary of a group of consolidated business corporations), arising from poor accounting advice. A successful suit against the accountants for professional negligence and a restructuring achieved the resolution of significant tax ramifications for both the restructured entity and the controlled group of related businesses.
- Effected a complete “business divorce” between two shareholder/partners, officers, and directors in several interrelated financial recovery businesses. Our client was released from all obligations, including those tied to existing bank loans and non-competition restrictions. Resolution included fair value payment to the separating partner for his ownership interest in each of the entities.
- Successfully resolved several partnership disputes, partner separations, and conclusions of business ventures, in a variety of businesses, whether by litigation, negotiation, and/or alternate dispute resolution, including the following business: an electrical wiring business; cosmetic surgery day spa; temporary staffing business; health aid computer programming operation; medical practices involving anesthesia, urology and internal medicine; a similar physical therapy practice: an orthotics and prosthetics practice; a thoracic surgery practice; and a mortgage brokerage business.
- Crafted comprehensive agreement resolving disputes between two joint-venture partners, relative to complex, international customs documents governed by treaty—avoiding litigation and effecting a contract preserving value of client’s business in perpetuity, creating other long-term commitments between the parties, and establishing governance formerly lacking in the partnership.
- Resolved litigation before the United States Tax Court arising out of disputes between a father and son formerly in professional practice together. After demonstrating son’s innocence of conversion and unfair competition, the matter was positioned to be successfully resolved between the parties.
- Resolved disputes between two family factions operating a myriad of entities to develop, own, and manage commercial real estate projects, arising from allegations that one faction had engaged in self-dealing, theft, and mismanagement. Through a series of derivative and direct lawsuits, all disputes were successfully resolved, including return of significant monies to the complaining faction and the reassignment of various operating partners relative to certain projects.

Insights

NEWS

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Season's Greetings and Best Wishes for a Happy New Year From Burke Warren! News, [December 6, 2022](#)

Christine Eduardo and Mathew Musipa, Participants in Burke Warren's Fall 2022 3L Minority Internship Program, Accept Offers to Join the Firm News, [December 5, 2022](#)

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Burke Warren 2022 3L Minority Internship Program Participant Mathew Musipa Quoted in U of I Blog
Article Entitled, "Immigration Law Clinic students win two asylum cases"
News, [September 15, 2022](#)

Burke Warren Selects Christine Eduardo and Mathew Musipa to Participate in the Burke Warren 2022
3L Minority Internship Program
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roadblocks to partnership persist"
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Firm
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Corporation with Racial Discrimination
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Burke Warren Welcomes Peter Ivancsits as Its Chief Financial Officer
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IT Employee Can Bring Down Your Company. Here's How to Stop Them"
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ALERTS

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When Shareholders Fight, Courts Can Take Control
Alert, [January 3, 2017](#)

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