

HIGHLIGHTS

Highlights for the 2026 Edition include:

1. A new chapter on the Minnesota Consumer Fraud Act (new Chapter 35); and
2. A substantially rewritten chapter on federal antitrust law (revised Chapter 22).

In addition, all chapters have been updated and revised as appropriate, including the following:

- Chapter 7. Contracts. Updating 7:46. Statute of frauds; 7:74 (Exculpatory Provisions; Waivers and Releases); 7:154. Third-party beneficiaries.
- Chapter 8. Sales. Updating 8:87 (Gap-filling provisions); 8:102 (Express Warranties); 8:103 (Implied Warranty of Merchantability); 8:172 (Revocation of acceptance).
- Chapter 10. Secured Transactions. Updating 10:178 (Secured party's right to take possession after default; Breach of the peace).
- Chapter 11. Defining the Employment Relationship. Updating 11:11 (Applying tests for employment relationship under the Fair Labor Standards Act).
- Chapter 12. Employment Contracts. 12:9 & 12:10 (Noncompete clauses).
- Chapter 13. Employment Discrimination. Updating 13:4 (Minnesota Human Rights Act); 13:5. (Disparate treatment and disparate impact); 13:10 (Race discrimination); 13:11 (Gender discrimination); 13:19 (Disability discrimination); 13:30 (Religious discrimination).
- Chapter 14. Miscellaneous Employment Law Issues. Updating: 14:5 (Minnesota drug and alcohol testing; Cannabis testing); 14:9 (Medical cannabis program); 14:11 (Cannabis work rules); 14:76 to 14:81 (SOX whistleblower provisions).
- Chapter 15. Copyright. 15:2 (Copyrightable subject matter); 15:7 (Copyrightable subject matter—Audiovisual works); 15:12 (Non-copyrightable subject matter); 15:15 (Joint works); 15:35 (Idea-expression dichotomy); 15:63 (Copyright infringement—Access); 15:75 (Substantial similarity—Computer programs); 15:90 (Fair use); 15:98 (Other defenses to copyright infringement); 15:114 to 15:115 (Remedies); 15:120 to 15:121 (Contributory infringement; Vicarious infringement).
- Chapter 16. Federal Trademarks. Updating 16:10 (Genericness); 16:24 (Trade dress); 16:42 (Abbreviations, mis-

- spellings, and foreign words); 16:70 to 16:73 (Grounds for refusal to register mark); 16:85 (Oppositions).
- Chapter 16B. Internet law. Updating 16B:53 (DMCA—Copyright Management information); 16B:59. (DMCA—Anti-circumvention); 16B:67 to 16B:70 (CDA Immunity); 16B:80 (Online contracts); 16B:83 (Personal jurisdiction); 16B:119 (“Take it Down Act”); 16B:120 (Adult website age verification).
 - Chapter 17. Patents. Updating significant portions of this chapter, including 17:11 (Patentable subject matter); 17:13 (Novelty and § 102); 17:15 (disclosure requirements under § 112); 17:19 (Types of infringement); 17:20 (proving infringement); 17:25 (Doctrine of equivalents); 17:29 (Infringement of means-plus-function claims); 17:30 (Infringement of a design patent); 17:31 (Injunctions); 17:34. (Reasonable royalty); 17:36 (Enhanced damages); 17:37 (Attorney’s fees); 17:39 (Affirmative defenses); 17:41 (PTAB); 17:44 (IPR).
 - Chapter 18. Trade secrets. 18:51 (Examples of misappropriation under the Defend Trade Secrets Act (DTSA)).
 - Chapter 20. False advertising. Updating 20:26 (Commercial speech); 20:40 (Laches).
 - Chapter 21. Franchising and distribution law. Updating 21:50 (Minnesota Franchise Act); 21:52 (Definition of “franchise” – Franchise fee).
 - Chapter 22. Federal antitrust law (newly rewritten chapter).
 - Chapter 26. Federal securities law – Definition of “Security”. Updating 26:6 (Common enterprise element of “investment contracts”); 26:28 (LLC interests as securities—Fourth Circuit); 26:53 (Viatical settlements; Life settlements as securities); 26:55 (Real estate schemes as securities); 26:57 (Cryptocurrencies and digital tokens as securities).
 - Chapter 26C. Securities Act of 1933. Updating 26C:3 (Pleading Section 11 claims); 26C:4 (Claims that “sound in fraud”); 26C:11 (Tracing aftermarket purchases); 26C:18 (Falsity in Section 11 claims); 26C:24 to 26C:25 (Item 303 and Item 105); 26C:64 (Section 12(a)(2)); 26C:72 (Control-person liability).
 - Chapter 27. Securities Exchange Act of 1934. Updating 26D:35 (Item 103); 26D:36 (Item 105); 26D:89 (Disclosure requirements under Regulation S-K—Other Items).
 - Chapter 33. Negligence. Updating 33:11 (Determining whether a duty exists); 33:42 (Examples of misfeasance; Examples of nonfeasance); 33:80 (Duty of reasonable care for operators of motor vehicles); 33:137 (Defenses and Immunities—Common law official immunity—Examples of discretionary functions); 33:138 (Defenses and Immunities—Common law official immunity—Malice); 33:140 (De-

HIGHLIGHTS

fenses and Immunities—Statutory immunity—Generally); 33:142 (Statutory immunity—Examples of operational-level decision-making); 33:178 (Comparative fault); 33:201. (Vicarious liability and respondeat superior); 33:207 (Negligent selection of an independent contractor).

- Chapter 33B. Defamation. Updating 33B:67 (Actual malice); 33B:84 (Absolute privileges); 33:85 (Judicial and quasi-judicial immunity); 33B:89 (High-ranking officials); 33B:100 (Qualified privileges).
- Chapter 33C. Tortious interference. Updating 33C:72 (examples of actionable tortious interference claims); 33C:73 (examples of nonactionable claims).
- Chapter 33D. Infliction of emotional distress. Updating 33D:5 (examples of conduct that fell short of being extreme or outrageous.); 33D:14 (Intentional Infliction of emotional distress—Defenses—Statute of limitations).
- Chapter 33E. Misc. torts. Updating 33E:4 (Invasion of privacy—Publication of private matters).
- Chapter 34. Common law fraud. Updating 34:16 (Past/present fact); 34:97 (Examples of pleading with sufficient particularity).
- Chapter 35. Consumer Fraud Act (new chapter).
- Chapter 38. Collections. Updating all forms.