

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

SHEET METAL WORKERS LOCAL 32	)	No. 3:09-cv-02083-RNC
PENSION FUND, Individually and on Behalf	)	( <b>Consolidated</b> )
of All Others Similarly Situated,	)	
	)	<u>CLASS ACTION</u>
Plaintiff,	)	
	)	DECLARATION OF JON P. WHITCOMB
vs.	)	FILED ON BEHALF OF DISERIO MARTIN
	)	O'CONNOR & CASTIGLIONI LLP IN
TEREX CORPORATION, et al.,	)	SUPPORT OF APPLICATION FOR
	)	AWARD OF ATTORNEYS' FEES AND
Defendants.	)	EXPENSES
	)	
	)	

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I, JON P. WHITCOMB, declare as follows:

1. I am a member of the firm of Diserio Martin O'Connor & Castiglioni LLP ("Diserio Martin"). I am submitting this declaration in support of my firm's application for an award of attorneys' fees and expenses/charges ("expenses") in connection with services rendered in the above-entitled action.

2. This firm is Lead counsel of record for plaintiffs Sheet Metal Workers Local 32 Pension Fund and Ironworkers St. Louis District Council Pension Fund and Sheet Metal Workers Local #218(S) Pension Fund.

3. The information in this declaration regarding the firm's time and expenses is taken from time and expense printouts and supporting documentation prepared and/or maintained by the firm in the ordinary course of business. I am the partner who oversaw and/or conducted the day-to-day activities in the litigation and I reviewed these printouts (and backup documentation where necessary or appropriate) in connection with the preparation of this declaration. The purpose of this review was to confirm both the accuracy of the entries on the printouts as well as the necessity for, and reasonableness of, the time and expenses committed to the litigation. As a result of this review, reductions were made to both time and expenses in the exercise of billing judgment. As a result of this review and the adjustments made, I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought as set forth in this declaration are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the litigation. In addition, I believe that the expenses are all of a type that would normally be charged to a fee-paying client in the private legal marketplace.

4. After the reductions referred to above, the number of hours spent on this litigation by my firm is 91.7. A breakdown of the lodestar is provided in Exhibit A. The lodestar amount for attorney/paralegal (or attorney/paraprofessional) time based on the firm's current rates is \$51,835.

The hourly rates shown in Exhibit A are the usual and customary rates set by the firm for each individual.

5. My firm seeks an award of \$1,452.72 in expenses and charges in connection with the prosecution of the litigation. Those expenses and charges are summarized by category in Exhibit B.

6. The following is additional information regarding certain of these expenses:

(a) Filing, Witness and Other Fees: \$1,088.39. These expenses have been paid to the Court and marshal for filing fees. The vendors who were paid for these services are set forth in Exhibit C.

(b) Transportation, Hotels & Meals: \$28.60. In connection with the prosecution of this case, the firm has paid \$28.60 for travel expenses to the Court on December 29, 2009.

(c) Photocopies: \$274.00. In connection with this case, the firm made \$274.00 in photocopies. A breakdown of these charges by date and vendor is set forth in Exhibit D.

(d) Online Legal and Financial Research: \$26.02. These resources were used to obtain access to the docket, filings and briefs. This expense represents the expense incurred by Diserio Martin for use of these services in connection with this litigation.

7. The expenses pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from receipts, expense vouchers, check records and other documents and are an accurate record of the expenses.

8. The identification and background of my firm and its partners is attached hereto as Exhibit E.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 10th day of June, 2019, at Stamford, Connecticut.

A handwritten signature in black ink, appearing to read "J. Whitcomb", is written over a horizontal line.

Jon P. Whitcomb

# **EXHIBIT A**

**EXHIBIT A**

*Sheet Metal Workers Local 32 Pension Fund v. Terex Corporation, et al.,*  
No. 3:09-cv-02083-RNC

**Diserio Martin O'Connor & Castiglioni LLP**  
**Inception through June 10, 2019**

<i>NAME</i>		<i>HOURS</i>	<i>RATE</i>	<i>LODESTAR</i>
Jon P. Whitcomb	(P)	54.4	\$650	\$35,360
Jon J. Kelson	(P)	26	\$500	\$13,000
Associates	(A)	8.1	\$350	\$2,835
Paralegals		3.2	\$200	\$640
<b><i>TOTAL</i></b>		<b><i>91.7</i></b>		<b><i>\$51,835</i></b>

(P) Partner

(A) Associate

# **EXHIBIT B**

**EXHIBIT B**

*Sheet Metal Workers Local 32 Pension Fund v. Terex Corporation, et al.*,  
No. 3:09-cv-02083-RNC

**Diserio Martin O'Connor & Castiglioni LLP**  
**Inception through June 10, 2019**

<b><i>CATEGORY</i></b>	<b><i>AMOUNT</i></b>
Filing, Witness and Other Fees	\$1,088.39
Transportation, Hotels & Meals	\$28.60
Telephone, Facsimile	\$.84
Postage	\$34.87
Photocopies	\$274
Online Legal and Financial Research	\$26.02
<b><i>TOTAL</i></b>	<b><i>\$1,452.72</i></b>

# **EXHIBIT C**

**EXHIBIT C**

*Sheet Metal Workers Local 32 Pension Fund v. Terex Corporation, et al.,*  
No. 3:09-cv-02083-RNC

**Diserio Martin O'Connor & Castiglioni LLP**

Filing, Witness and Other Fees: \$1,088.39

<b><i>DATE</i></b>	<b><i>VENDOR</i></b>	<b><i>PURPOSE</i></b>
12/23/2009	Clerk U.S. District Court	Filing Fee
1/5/2010	Marshal	Marshal Fee
2/5/2010	Clerk U.S. District Court	Filing Fee

# **EXHIBIT D**

**EXHIBIT D**

*Sheet Metal Workers Local 32 Pension Fund v. Terex Corporation, et al.,*  
No. 3:09-cv-02083-RNC

**Diserio Martin O'Connor & Castiglioni LLP**

Photocopies: \$274.00

<b><i>DATE</i></b>	<b><i>VENDOR</i></b>	<b><i>PURPOSE</i></b>
12/28/2009	Firm	Photocopies
12/28/2009	Firm	Photocopies
12/31/2009	Firm	Photocopies
2/4/2010	Firm	Photocopies
2/4/2010	Firm	Photocopies
2/4/2010	Firm	Photocopies
2/8/2010	Firm	Photocopies
3/23/2010	Firm	Photocopies
3/25/2010	Firm	Photocopies
3/29/2010	Firm	Photocopies
4/13/2010	Firm	Photocopies
9/30/2010	Firm	Photocopies
11/16/2010	Firm	Photocopies
4/19/2011	Firm	Photocopies

# **EXHIBIT E**


**DISERIO MARTIN O'CONNOR & CASTIGLIONI LLP**

 Attorneys at Law | [www.dmoc.com](http://www.dmoc.com)


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For over thirty years, Diserio Martin has been solving the most challenging issues for the most interesting clients. Based in Stamford, Connecticut and with offices in Greenwich, White Plains, Boston, and New York City, our full service law firm has the experience and resources to provide a broad range of corporate and finance, litigation, intellectual property, employment, commercial and residential real estate, and trusts and estates services.

Diserio Martin has a long history of success in providing innovative, cost-effective legal representation for individuals, families, and businesses in a wide range of industries and pro bono work. We take our role as a trusted advisor and advocate for our clients very seriously—whether we are working on a large corporate transaction, complex litigation, a family issue, or a pro bono matter.

Our experienced and talented attorneys have the experience and knowledge to successfully handle a wide range of legal issues in our five key practice groups. We efficiently staff matters to maximize outcome and value, listen carefully to understand each client's concerns, take appropriate action in a timely manner, and keep everyone informed throughout our representation. Our attorneys apply their in-depth business and legal acumen to creatively solve our clients' most challenging legal issues.

**Guiding Principles**

Our guiding principles motivate and lead us in our role as advocates and trusted advisors to our clients. These inspirational values and characteristics distinguish us in the legal community and personify how our clients will benefit by having Diserio Martin represent them:

**QUALITY** | Combine experienced and talented attorneys with a passion for the law to deliver exceptional legal work and superior service on every matter entrusted to us.

**INTEGRITY** | Cultivate a reputation as trustworthy and honest in dealing with our clients, opposing parties, and the courts, while also promoting an internal culture of mutual respect, diversity and opportunity.

**KNOWLEDGE** | Keep apprised of the constant evolution of the law and continue to expand our professional knowledge, skills, and judgment to meet the changing legal needs of our clients.

**VISION** | Develop leaders with the vision and impact to take on challenging matters, while appropriately assessing risk, to create positive outcomes for our clients and the legal community.

**RESPONSIVENESS** | Listen carefully to our client's issues and concerns, promptly return their calls and e-mails, and keep them informed throughout our representation.

**VALUE** | Offer a cost-effective alternative to larger law firms by providing innovative solutions, partner-level attention, and efficiently-staffed representation to maximize outcome and value.

**STABILITY** | Build on our 30+ year tradition of providing reliable legal representation and our commitment to lasting client relationships based on trust, professionalism, and respect.

**CONTRIBUTION** | Give back to the community by holding local and state elected government positions and by volunteering our time and resources to local non-profit and community organizations.



## Attorneys

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The attorneys at Diserio Martin are as diverse as the practice areas they lead and services they provide, each drawing upon robust business experience, education and interests to offer a unique perspective. Our team lives and breathes specific guiding principles that make Diserio Martin a firm worthy of consideration.

### Partners

[James P. Carlon](#)  
[Richard E. Castiglioni](#)  
[Scott S. Centrella](#)  
[David L. Dufort](#)  
[William A. Durkin III](#)

[Scott M. Harrington](#)  
[Anthony J. Iaconis](#)  
[Kevin T. Katske](#)  
[Jonathan J. Kelson](#)  
[Barbara S. Koteen](#)

[Timothy P. Moylan](#)  
[Robert E. Murray, Jr.](#)  
[Brian T. O'Connor](#)  
[Charles J. Spiess](#)  
[Jonathan P. Whitcomb](#)

### Associates

[Kristina E. Kelly](#)  
[Christina M. Volpe](#)

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### Of Counsel

[Garry H. Morton](#)  
[Thomas P. O'Dea, Jr.](#)  
[Geza C. Ziegler Jr.](#)

## Offices

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### Boston, MA

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Facsimile: (203) 348-2321

## Industries Served

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- Company Management
- Construction Industry
- Consumer Products
- Entertainment & Media
- Finance
- Insurance
- Manufacturing & Industries
- Private Clients
- Professional Services
- Real Estate - Commercial
- Real Estate - Residential
- Retail & Fashion
- Technology
- Transportation

## Practice Groups

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Our Practice Groups are grouped into five areas – Corporate & Finance, Intellectual Property, Litigation, Private Clients (Trusts & Estates, and Real Estate) and Employment. Our lawyers work together in these various disciplines to creatively problem solve and provide innovative solutions to challenges facing our clients.

### Corporate & Finance

- Commercial and Retail Leasing
- Corporate Finance and Securities
- Debt Finance
- Mergers & Acquisitions
- Mezzanine Finance
- Real Estate Private Equity
- Start-Ups and Emerging Companies

### Litigation

- Alternative Dispute Resolution
- Business Disputes and Commercial Litigation
- Construction Litigation
- Creditor's Rights and Bankruptcy
- Family and Matrimonial Law
- Employment Law
- Foreclosures and Loan Workouts
- Insurance Coverage, Risk Management and Risk Avoidance
- Intellectual Property
- Probate Litigation
- Product Liability and Mass Tort Claims
- Professional Liability
- Real Estate and Title Insurance Disputes

### Employment

- Employment Litigation
- Employment Policies and Practices
- Non-Competes, Restrictive Covenants and Trade Secret Protection
- Intellectual Property

### Intellectual Property

- Trademarks and Copyrights
- Worldwide Brand and Product Development
- IP Enforcement, Investigations, and Litigation
- Regulatory Compliance
- IP Corporate and Transactional Support

### Private Clients: Trusts & Estates

- Estate Planning
- Business Succession and Tax Planning
- Fiduciary Representation
- Trust and Estate Administration
- Multigenerational Families and Family Offices

### Private Clients: Real Estate

- Residential Purchases and Sales
- Mortgage Closings and Refinancing
- Commercial and Retail Leasing
- Commercial Purchases and Sales

## Litigation Practice Group

Diserio Martin trial attorneys understand that the time constraints and financial challenges of litigation often require creative approaches to dispute resolution. Our skilled trial attorneys, who handle trials and appeals in state and federal courts in Connecticut, New York and selectively in other states, draw upon a tremendous breadth and depth of experience in complex litigation which rivals that of much larger firms, often with greater economy to our clients. From the very first meeting, we work to ensure our clients so they understand the litigation process, reduce risks, manage expenses and pursue outcomes that are in their best interests. While that require us to litigate a case through judgment, we are equally skilled in counseling and guiding our clients through negotiation, arbitration, mediation, and other alternative dispute resolution mechanisms to achieve optimal results for our clients.

### Alternative Dispute Resolution

Diserio Martin attorneys have extensive experience representing clients in Alternative Dispute Resolution (ADR) proceedings as an alternative to traditional litigation. Our attorneys represent individuals and businesses before the American Arbitration Association (AAA), Financial Industry Regulatory Authority (FINRA), JAMS and in federal and state court sponsored ADR programs as well. Several of our attorneys also serve as special masters and attorney trial referees for the Connecticut courts. In addition, our attorneys are frequently retained by our peers to serve as arbitrators and mediators. Our cross-disciplinary ADR practice includes lawyers with deep experience in litigation, banking and financial services, corporate, intellectual property, insurance, construction and employment law. We have a record of obtaining efficient and cost effective resolutions to sophisticated and complex matters through the creative use of:

- Arbitration
- Mediation
- Early case assessment
- Summary jury trial
- Negotiation, drafting and enforcement of ADR clauses
- Early neutral evaluation
- Moderated settlement
- Conciliation

### Business Disputes and Commercial Litigation

Diserio Martin's Litigation Practice Group has significant experience and a proven record of success in litigating and resolving a wide array of business and commercial disputes. Diserio Martin attorneys represent businesses and individuals in a broad spectrum of industries, including finance, employment, real estate, consumer products, marketing, manufacturing, leasing, construction, and information technology. We take the time to understand our clients' businesses, drawing on the experience of attorneys in the Firm's other practice areas, to develop appropriate strategies and achieve cost effective and beneficial results. We practice in federal and state trial and appellate courts and in all ADR for a, where our lawyers have won significant victories. Proper planning, management and staffing, use of technology, and extensive experience enable us to aggressively represent our clients' legal interests while never losing sight of their specific business needs. We regularly handle cases involving:

- Business disputes
- Contract disputes
- Business torts
- Fiduciary duty litigation
- Unfair business practices
- Business fraud
- Corporate dissolutions and shareholder and partnership disputes
- Trade secrets
- Non-competition and restrictive covenant litigation
- Warranty claims
- Breach of contract
- Insurance issues
- Securities matters
- Commercial lease disputes

### **Construction Litigation**

Diserio Martin's trial attorneys represent general contractors, construction managers, subcontractors, architects, design professionals, owners, lenders and sureties in complex commercial construction matters in the state and federal courts and in arbitration and alternative dispute resolution forums in Connecticut, New York, and selected other states. Our attorneys also are well-versed in residential construction matters, having handled appeals to the Connecticut Supreme Court involving the Home Improvement Act and the New Home Construction Contractors' Act. Several of our construction litigators have been hired by our peers to serve as mediators and arbitrators in construction disputes. Among the matters we have handled successfully are disputes involving:

- Breach of contract
- Defective design
- Construction defects
- Professional liability
- Performance bonds
- Mechanic's liens
- Home Improvement Act
- New Home Construction Contractors Act

### **Creditor's Rights and Bankruptcy**

Diserio Martin's Creditor's Rights attorneys are experienced in representing lenders, manufacturers, suppliers, landlords, service providers and other creditors in the Bankruptcy Courts in Connecticut, New York and selected other jurisdictions. We have represented our creditor clients in a variety of matters involving:

- Cash collateral hearings
- Claims objections
- Secured claims and liens
- Classification disputes
- Cram down issues
- Creditor rights
- Lease rejections
- Relief from stay hearings
- Objections to discharge and dischargeability
- Preference and turnover actions
- Fraudulent conveyances
- Lien avoidance

### **Family and Matrimonial Law**

Diserio Martin Family and Matrimonial Law attorneys represent individuals and families involved in deeply personal and uniquely stressful legal disputes. We provide our clients with a straightforward assessment of their situation and thoughtful and thorough advocacy to achieve the best possible outcome. We handle family law matters including:

- Prenuptial and postnuptial agreements
- Divorce
- Child custody matters
- Post-judgment modification proceedings
- Alimony
- Spousal support
- Child support
- Termination of parental rights
- Legal separation
- Visitation rights and actions
- Tax issues
- Paternity Disputes

### **Employment Law**

Diserio Martin attorneys in the Employment Practice Group have represented individuals and businesses ranging in size from small independent companies to major corporations, handling cases in all state and federal courts in Connecticut and New York and before administrative agencies such as the Equal Employment Opportunity Commission, the Commission on Human Rights and Opportunities and the Department of Labor. Apart from litigation, our attorneys provide clients with proactive counseling in human resources best

practices to deliver comprehensive protection from liability. We offer a proven record of success in aggressively defending against employment claims. Our practice includes:

- Employment discrimination defense
- Sexual harassment claims, investigations and mandatory training
- Age discrimination
- Disability discrimination and failure to accommodate under the Americans With Disabilities Act
- Termination or retaliation claims under the Family Medical Leave Act (FMLA)
- Wrongful discharge, including qui tam and whistle blower claims
- Employment contract preparation and negotiation
- Wage and hour claim defense
- Restrictive covenant and trade secret litigation
- Drafting and enforcing non-compete, non-solicitation and confidentiality agreements
- Review of insurance coverage
- Guidance and development of risk management best practices
- Preparation and negotiation of severance agreements

For more information regarding our employment law services, please review the information on our Employment Practice Group.

#### **Foreclosures and Loan Workouts**

Our Foreclosure and Loan Workout trial attorneys represent local, regional and national lenders and loan servicers, in commercial, office, retail and residential foreclosures in state and federal courts in Connecticut and New York. During the banking crisis in the early 1990's, we were involved in litigation, workout and collection of over \$250 million of problem loans for the FDIC and its servicers in the Connecticut state, federal and bankruptcy courts. Our attorneys provide services in a wide range of matters including:

- Foreclosures
- Problem loans
- Workout and restructuring
- Deficiency judgments
- Prejudgment remedies
- Relief from stay in the bankruptcy courts

#### **Insurance Coverage, Risk Management, Risk Avoidance, and Bad Faith**

Diserio Martin attorneys favorably resolve insurance coverage disputes through litigation, mediation, and pre-suit negotiation. We have represented insurers and insureds in insurance coverage disputes involving directors and officers (D&O), commercial general liability (CGL), employment practices liability (EPL), errors and omissions (E&O), professional liability, disability, life and homeowners policies. We also litigate matters involving insurance, bad faith, and unfair insurance practices. Aside from litigation, we analyze and structure their insurance programs for our clients, interfacing with insurance brokers, improving the scope of coverage.

#### **Intellectual Property**

The experienced attorneys within Diserio Martin's Intellectual Property (IP) practice area represent businesses of all sizes in a broad spectrum of industries. Intellectual property can be a source of both major revenue and considerable risk for today's corporations. With experience in state and federal courts in Connecticut, New York and selectively in other states, we have handled some of the most complex IP matters including:

- Copyright
- Trademarks
- Patents
- Infringement

- Internet and eCommerce
- False advertising
- Trade secret.

For more information regarding our robust intellectual property services, please review the information on our Intellectual Property Practice Group.

### **Probate Litigation**

Diserio Martin trial attorneys have extensive experience and a record of success in handling Probate Litigation. Beyond maneuvering through the legal intricacies involved, we are adept at counselling and guiding our clients through the difficult and emotionally charged issues which often arise when there are disputes relating to the distribution of the assets of a recently deceased loved one. We have experience representing family members, named beneficiaries, and fiduciaries in this context. We routinely work with attorneys in our Private Clients Group to advise trust and estate clients and provide optimal outcomes in their contested probate matters. Our practice covers the spectrum of probate litigation, including:

- Will contests
- Trust disputes
- Conservatorship and guardianship proceedings
- Appraisal and accounting disputes
- Asset distribution disputes
- Trust mismanagement Issues
- Breach of fiduciary duty claims
- Fraud and embezzlement claims

### **Product Liability and Mass Tort Claims**

Diserio Martin attorneys defend product manufacturers, distributors and retailers in product liability actions, including mass tort claims. Our cases have involved household products, appliances, chemicals, machinery and machine components, nutraceuticals, automobiles, pharmaceuticals, medical devices, recreational products, asbestos, mold, silica, lead paint, among other products. Our practice includes the following matters:

- Litigation prevention counseling
- Product liability defense litigation
- Mass tort litigation
- Toxic exposure litigation
- Design defect claims
- Manufacturing defect claims
- Breach of warranty
- Failure to warn

### **Professional Liability**

Our Professional Liability practice area attorneys have extensive experience representing professionals including, attorneys (including grievances), architects, engineers, realtors, insurance brokers, accountants and financial advisers in defense of malpractice and regulatory claims.

### **Real Estate and Title Insurance Litigation**

Diserio Martin's trial attorneys have substantial experience representing clients in a wide array of disputes involving real estate and real estate transactions. We are frequently retained by title companies to handle title insurance litigation representing both the companies and their insureds in a broad range of matters. We routinely work with attorneys in our Private Clients Practice Group to advise clients on commercial and



residential real estate matters, title issues, and related litigation. Our practice covers the spectrum of real estate litigation matters, including:

- Real estate investments and partnership disputes
- Foreclosures
- Lawsuits between purchasers and sellers of real estate
- Landlord/tenant disputes involving commercial and residential leases
- Claims for brokers' commissions
- Title insurance
- Priority claims and lien disputes
- Mechanic's liens
- Lender liability claims
- Fraudulent conveyance claims
- Quiet title actions
- Boundary disputes
- Title and easement disputes
- Adverse possession claims

#### **Litigation Contacts**

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Scott M. Harrington

Anthony J. Iaconis

Jonathan J. Kelson

Timothy P. Moylan

Julie V. Pinette

Thomas P. O'Dea, Jr.

Jonathan P. Whitcomb

## Corporate & Finance Practice Group

The attorneys within Diserio Martin's Corporate & Finance Practice Group cover a full spectrum of corporate and financial transactions important to businesses today. Because of our transactional engagements, we have developed a keen vision of the issues that confront organizations, which allows us to develop creative and constructive solutions. We combine the intelligence of different specialty areas to provide full transactional support, which means our clients directly benefit from our deep bench of expertise.

### Commercial and Retail Leasing

Within the Corporate and Finance Practice Group, Diserio Martin attorneys have a well-established reputation in advising landlords and tenants on the complex legal, technological and business issues that confront sophisticated property owners and users of commercial and retail spaces throughout Connecticut and New York State. In our role as outside counsel to many companies, we also work closely with in-house corporate departments and outside consultants to address and achieve their strategic and day-to-day needs in all aspects of retail and commercial real estate law, including:

- Office, industrial, retail and shopping center leases
- Ground leases
- Subleases
- Assignments
- Reciprocal easement and access agreements
- Licenses
- Extensions
- Substitutions and expansions
- Lease amendments and restructurings
- Property management agreements
- AIA Construction Agreements
- Other lease-related documentation

### Corporate Finance and Securities

Diserio Martin attorneys represent issuers and investors in private securities transactions ranging from two-party, 50/50 joint ventures to joint ventures involving multiple participants. We have represented numerous clients in Corporate Finance and Securities litigation, helping our clients address complex legal issues and minimize risk. These clients rely on our experienced and creative Corporate Finance and Securities law counsel to negotiate a wide variety of corporate and financing transactions, including:

- Public and private mergers, tender offers, proxies, and other change of control and acquisition transactions
- Joint venture structure (partnership, corporation, limited liability company, purely contractual relationship, etc.)
- Corporate structure liability, tax, governance and other implications
- Business credit transactions
- Secured and unsecured loan transactions
- Revolving lines of credit
- Term loans
- Asset based lending
- Debt restructures, equity offerings, workouts and other post default transactions

Given the critical role technology and licensing arrangements play in joint ventures and strategic alliances, we also include attorneys from our Intellectual Property practice area when structuring and documenting joint venture transactions.

### Debt Finance

Diserio Martin attorneys represent both borrowers — including established entities to privately held start-ups and emerging growth companies and lenders — including banks, pension funds, mezzanine lenders and private equity funds. Our clients rely on our experienced and skilled Debt Finance team to work within the Uniform

Commercial Code and other applicable state and federal laws governing secured transactions (including security interests in intellectual property, in non-UCC collateral and other collateral governed by federal law) to provide counsel for:

- Acquisition loans
- Mezzanine financings
- Term and revolving credit facilities
- Working capital loans
- Mortgage warehousing loans
- Senior and subordinated debt instruments
- Project financing
- Lease financing (capital lease programs, leveraged leases and synthetic leases)
- Asset securitization transactions
- Syndicated loans
- First and second lien facilities
- Real estate financing transactions
- Intercreditor agreements
- Subordination agreements and security documents
- Creation and perfection of liens and security interests

### **Mergers & Acquisitions**

Clients using the services of the Diserio Martin attorneys in the Mergers & Acquisition practice area range from individuals to international private companies in connection with both negotiated and unsolicited transactions in every major industry, including information technology, financial services, construction, chemicals, telecommunications, healthcare, and entertainment and hotel. Our Mergers & Acquisition practice is bolstered by our experience in corporate governance matters — we routinely counsel boards of directors and executive officers regarding significant transactions, disclosure issues and internal investigations. Clients look to us for counsel in merger and acquisition transactions of all sizes, including:

- Acquiring companies
- Structuring and negotiating transactions
- Divestitures
- Partnership arrangements, joint ventures and strategic alliances
- Buyouts
- Senior, mezzanine and equity financing
- Corporate Governance

### **Mezzanine Finance**

Attorneys within the Diserio Martin Mezzanine Finance practice area represent equity investors, senior lenders, and borrowers in a broad range of investment and other transactions. Our comprehensive expertise offers clients the full spectrum of the legal, tax, financial, and business considerations that bring unique perspective to complex financing and business combination transactions, including:

- Formation and administration of venture capital and mezzanine funds
- Bridge Financing
- Financing of management buy-outs and other leveraged acquisitions
- Financing for growth capital, recapitalization, portfolio purchases and sales
- Financing for bankruptcies and workouts
- Fund structuring
- Preparation of offering documents
- Securities law compliance, ERISA and other regulatory compliance

Given their depth of expertise in all aspects of complex financial transactions, our Mezzanine Finance attorneys are also active in our firm's Real Estate Private Equity and Debt Finance practice areas.

### **Real Estate Private Equity**

Real estate deals have grown increasingly complex, involving a wide range of investors and capital structures with multiple layers of equity and debt. These transactions demand legal sophistication and broad industry knowledge. The multi-disciplinary team within the Real Estate Private Equity practice area represents private equity funds, developers and other market players in real estate, corporate, tax and other related legal



specialties. They have expertise in virtually every asset class, including hotels, office buildings, retail centers, industrial facilities and residential and mixed-use projects and provide a wide arrange of services including:

Structuring and negotiating investment vehicles

- Acquisitions and dispositions
- Mortgage and mezzanine financings
- Joint ventures
- Credit facilities
- Preferred equity
- Other transactions related to real estate projects

### **Start-Ups and Emerging Companies**

Many of Diserio Martin's business clients are start-ups and emerging companies — privately or closely held entities with management and ownership issues distinct from larger companies. Our attorneys know business owners expect their counsel to be both knowledgeable about the client's business and sensitive to providing immediate and effective solutions to their legal needs, and provide services including:

- Purchase agreements
- Business organization
- Entity formation and governance
- Venture capital and other forms of funding
- Shareholder and operating agreements
- Business sales/acquisition
- Tax advice
- Management succession
- Personal estate planning
- Professional consulting agreements

### **Corporate & Finance Contacts**

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William A. Durkin III

Kevin T. Katske

Brian T. O'Connor



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**Jonathan P. Whitcomb**  
**PARTNER**

**Practice Areas**

- Business Disputes and Commercial Litigation
- Insurance Coverage
- Professional Liability
- Alternative Dispute Resolution
- Employment Law
- Intellectual Property

**Admissions**

- Connecticut, 1990
- New York, 1991
- U.S. District Court of Connecticut
- U.S. District Court of Southern District of New York
- U.S. Court of Appeals for the Second Circuit

Jon Whitcomb is a Partner in the Litigation Practice Group. He specializes in civil litigation, including insurance coverage and defense; products liability, including pharmaceutical and device; mass tort and class action representation; securities and shareholder litigation; commercial litigation; directors and officers liability; corporate governance and investigations; Intellectual property litigation, including Lanham Act disputes; FTC investigation and litigation, professional liability, including lawyers, accountants, architects and engineers, and insurance professionals; general employment; complex and catastrophic personal injury defense and prosecution.

His practice also includes business advisory, insurance advisory, including manuscripting of policy language, crisis and risk management, and outside general counsel services. His clients include private equity funds, private equity-owned portfolio entities, hedge funds, publicly traded companies, private entities, insurance companies and high net-worth individuals.

Jon currently serves on the board of directors of the George Washington Carver Center, which is a charity providing after-school programs and support for underprivileged children.

**Representative Matters**

- Won an approximately \$8,000,000 verdict against a private equity fund manager on behalf of oil and gas investors
- Won a defense verdict in a jury trial of a legal malpractice case on behalf of Connecticut lawyer and law firm
- Won summary judgment on behalf of major insurer in common law and statutory bad faith case
- Obtained 7 figure settlement in insurance coverage dispute on behalf of major family office against major insurer

**Education**

New England School of Law, J.D., 1990  
Hobart College, B.A., 1987

**Honors**

Jon has been named to the Connecticut *Super Lawyers* list in Connecticut from 2011-2016 for his work in the areas of civil litigation defense and insurance coverage. No more than 5 percent of the lawyers in the state are selected by *Super Lawyers*. For more information about *Super Lawyers*, go to [www.superlawyers.com](http://www.superlawyers.com).