

Jonathan S. Berg

Member

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Jonathan Berg is Chair of Bodman's Enterprise Procurement Group (EPG). He helps clients efficiently negotiate and structure information technology and other procurement contracts with vendors. Jonathan understands the real world challenges presented by procurement transactions and provides clients with thoughtful, practical advice.

He is a trusted advisor to clients because he understands the complex regulatory and commercial landscape that many organizations must navigate, ensures that contracts mitigate legal and operational risks, and focuses on reducing client costs through efficient legal services.

He has specific experience in the areas of information technology, business process and technology outsourcing, mortgage and loan products and services, professional and consulting services, and transportation and logistics and in the banking, automotive, and outsourcing markets. He also represents clients in a variety of business and intellectual property matters including technology license agreements,

practices & industries

Mergers and Acquisitions
Enterprise Procurement
Artificial Intelligence (AI)
Business
Intellectual Property

education

University of Detroit Mercy
School of Law, J.D., *magna cum laude*
Miami University, B.A.

admissions

Michigan

corporate organization, mergers and acquisitions, and securities matters.

Jonathan has particular experience with automotive industry clients, having served extended in-house assignments with two major automotive suppliers. For nearly two years, Jonathan served as corporate counsel at a major Tier-1 automotive supplier. In that capacity, he advised on commercial and operational matters including purchase and supply contracts, terms and conditions, equipment purchases and sales, warranty and recall issues, and customer and supplier disputes.

Jonathan is recognized in *Michigan Rising Stars* 2021 under Business/Corporate and in *DBusiness* Magazine "Top Lawyers" 2025 under Commercial Law. He serves on the Board of Directors for the Institute for Supply Management Southeast Michigan.

In law school, Jonathan served as Executive Editor of the *University of Detroit Mercy Law Review* and was a member of the Moot Court Board of Advocates. Based on his academic performance, Jonathan was a member of the Frank Murphy Honor Society and Alpha Sigma Nu Jesuit Honor Society and received the merit-based Virginia Leo Sirotnak Scholarship and the Dean's Scholarship.

In his free time, Jonathan enjoys sailing, fishing, and spending time with his family.

HONORS, AWARDS, AND RECOGNITION

- *Michigan Rising Stars* 2014-2021, Business/Corporate
- *DBusiness* Magazine "Top Lawyers" 2021-2025, Commercial Law

court admissions

U.S. District Ct., E.D. Mich.

U.S. District Ct., W.D. Mich.

CIVIC, CULTURAL AND COMMUNITY ACTIVITIES

- Read to a Child, Member, Detroit Regional Board of Directors
- Leadership Oakland
 - Board of Directors, 2020-present
 - Class LOXXVII Participant, 2016-2017
 - LO Alumni Association, 2017-present

PROFESSIONAL AFFILIATIONS

- Institute for Supply Management Southeast Michigan
 - Member, Board of Directors
- International Association of Outsourcing Professionals
- State Bar of Michigan
 - Business Law Section
 - Information Technology Law
 - Intellectual Property Law
- Oakland County Bar Association
- Lakeshore Bar Association

PUBLICATIONS

- "Q&A – COVID-19 Pandemic Contract Issues and Concerns: Part II (Force Majeure)," Bodman COVID-19 Response Team Update, April 2020
- Co-Author, "Towing the Line: An Analysis of Drag-Along Rights Under the Michigan Business Corporation Act," *Michigan Business Law Journal* (Fall 2008)

SPEAKING ENGAGEMENTS

- "COVID-19 Contracting Lessons," Presenter, The Clearing House, June 2, 2020, Webinar.
- "How COVID-19 May Impact Your Contracts with Suppliers", Presenter, ISM-SEM Legal Briefing, April 8, 2020, Webinar.
- "How COVID-19 May Impact Your Contracts with Suppliers", Presenter, Bodman Briefing Series, March 27, 2020, Webinar.
- "Software as a Service (SaaS) Agreements: How to

Negotiate and Tackle Key Issues, Presenter, 24th Annual Caucus IT Procurement Summit, November 15, 2019, Orlando, FL.

- “Software as a Service (SaaS) Agreements: How to Negotiate and Tackle Key Issues”, Presenter, ISM-SEM Legal Briefing, September 10, 2019, Troy, MI.
- “Reviewing and Negotiating SaaS Agreements”, Presenter, ISM-SEM Legal Briefing, September 18, 2018, Troy, MI.
- “Basic Contract Principles: Common Contract Structures and Key Clauses”, Presenter, ISM-SEM Legal Briefing, March 7, 2018, Troy, MI.
- “Reviewing and Negotiating Statements of Work and Schedules,” Presenter, ISM-SEM Legal Briefing, October 18, 2017, Troy, MI.
- “SEC Accounting and Legal Update,” Co-Presenter, UHY Annual Accounting & Regulatory Update, December 4, 2014, Troy, MI.
- “Conflict Minerals,” Co-Presenter, UHY Annual Accounting & Regulatory Update, December 4, 2013, Troy, MI.

PRO BONO ACTIVITIES

- Assisted a start-up company with reviewing and negotiating an agreement with a local developer to design and create a mobile web application to provide real-time water bill estimates and an agreement to provide the application to a local water department.

REPRESENTATIVE MATTERS

Mr. Berg’s representative matters include:

- **Banking Technology Services Agreement**

Assisted a regional bank in the negotiation of an agreement with a FinTech vendor for the provision of the bank’s entire suite of technology services, including core processing, internet banking, mobile banking,

AML, OFAC, bill pay, card fulfillment, teller, eDelivery and eSign, electronic funds transfer, check/item processing, and remote deposit capture. The deal involved the review and negotiation of a master technology services agreement as well as over 35 schedules for the individual services.

- **ATM Agreement**

Assisted a large domestic bank in the negotiation of an agreement for the procurement of ATMs and the servicing of the bank's ATM fleet. The transaction involved the negotiation of a master services agreement as well as schedules for the procurement of ATM maintenance services, software support services, software licenses, and service levels.

- **ATM Branding Agreement**

Assisted a large domestic bank in the negotiation of an ATM branding agreement with an ATM placement provider to brand the provider's ATM machines at various merchant store locations, such as airports, malls, gas stations, and drug stores. The project involved the negotiation of an ATM branding agreement as well as the drafting of schedules for branding of ATMs at the different merchant stores.

- **Mortgage Loan Origination and Servicing Outsourcing Agreement**

Negotiated an agreement for the outsourcing of a large domestic bank's consumer mortgage lending operations involving millions of dollars in spend. The transaction included drafting and negotiating a master services agreement, several statements of work for loan origination technology solutions, documentation generation services, vendor management services, loan fulfillment services, settlement services, and

implementation services, and mortgage loan sale agreement. The vendor's standard form agreement failed to provide adequate protections to the client. Mr. Berg was able to negotiate additional warranties, more favorable terms, and other legal protections for the client.

- **Business Process and Technology Outsourcing Agreement**

Negotiated an agreement for the outsourcing of a large domestic bank's consumer lending servicing operations. The transaction included drafting and negotiating a services agreement with the vendor for both business processes and technology solutions and involved millions of dollars in spend. Mr. Berg worked with the client to obtain a number of changes to the terms of the agreement to meet the client's business needs and to provide additional protections to the client.

- **Mortgage Loan Origination System Outsourcing Transaction**

Assisted a large domestic bank with implementing a new loan origination system (LOS) to replace the existing legacy platforms currently supporting the origination of first and second lien residential mortgages. The 18 month project involved strategy meetings with the client and the drafting and negotiation of a software-as-a-service (SaaS) agreement for loan origination and related implementation services with selected vendor as well as the negotiation of smaller, ancillary services agreements with related vendors for pricing, a customer facing system, and closing services. Mr. Berg worked with the bank to ensure that the negotiated agreements complied with applicable law and the bank's policies and risk tolerance, were fair to and

protective of the bank, clearly set out the rights and responsibilities of the parties, and fostered a good working relationship between the bank and the vendors.

- **Person-to-Person (P2P) Payments Network Agreements**

Negotiated agreements for multiple domestic banks for a new person-to-person (P2P) payments network that allows for funds to be sent from one bank account to another in minutes. The projects required the negotiation of network participation agreements with the network as well as agreements for the implementation of the service. Mr. Berg worked with the banking clients to ensure that the contracts complied with applicable regulations, mitigated legal and operational risks such as data breach, and guided the clients through the maze of legal provisions.

- **Datapoint Abstraction Project**

Assisted a large domestic bank with a review of the bank's existing contracts for its most critical suppliers, the capture of key data points, and the delivery of abstracts of key contract terms. The five month project allowed the bank to gain insight into the active contracts it has with its critical suppliers and to understand whether it has covered key contract terms with each of the suppliers.

- **National Card Processing Agreement**

Negotiated an agreement for card processing services for a large domestic bank with a government entity. The project included the negotiation of an agreement with the government entity and a payroll processing agreement with the bank's merchant processor.

- **Software License Agreement for Teller Software**

Negotiated an agreement for the license of new teller and item capture software and implementation services for a large domestic bank to replace its existing software. The project required the negotiation of two new license agreements and an implementation statement of work. Mr. Berg worked with the client to structure the agreement documents to mitigate legal and operational risks, addressing key operational components such as testing and acceptance and service levels that provided additional protections to the client.

- **Check Product Agreement**

Negotiated a product and service agreement for a large domestic bank for the procurement of personal and small business check products for use by the bank and for resale to its customers. The project involved the negotiation of new master agreement and statement of work. Mr. Berg worked with the bank to ensure that the contract complied with applicable regulations and the bank's contracting policies, mitigated legal and operational risks such as data breach, and guided the clients through the maze of legal provisions.

- **Software License Agreement for Wire Transfer**

Negotiated an agreement for the license of new wire transfer software and implementation services for a large domestic bank to replace its existing software. The project required the negotiation of a new master software license agreement, an implementation statement of work, and multiple license schedules. Mr. Berg worked with the client to structure the agreement documents to mitigate legal and operational risks, addressing key operational components such as

testing and acceptance and service levels and negotiating more favorable provisions that provided additional protections to the client.

- **Merchant Processing Services Agreements**

Negotiated multiple agreements for a large domestic bank to transition to a new vendor for credit card processing services. The project included the negotiation of a transition services agreement with the old vendor, a new master agreement and multiple service schedules with the new vendor, and development of new template agreements for the bank to use with its merchant processing customers. Mr. Berg worked with the client to efficiently negotiate key business and legal terms with the new merchant processor to address key issues with the old processor.

- **Payroll Processing Services Agreements**

Negotiated a payroll processing agreement with a new vendor to provide payroll processing services to the bank's customers. The project included the negotiation of the payroll processing agreement with the vendor and the development of a new payroll processing agreement template for the bank to use with its payroll processing customers. Mr. Berg worked with the client to ensure that the vendor agreement mitigated both legal and operational risks, and that the customer payroll processing agreement included all terms required by the vendor.

- **Agreements for ERP Systems**

Negotiated agreements for numerous clients for the procurement of new Enterprise Resource Planning (ERP) systems. The projects required the negotiation of new master service agreements, implementation statements of work, and license orders. Mr. Berg

advised the clients on key operational components such as testing and acceptance, data security, and service levels in addition to key legal provisions such as warranty, indemnification, and limitations of liability to ensure that the contracts included adequate protections for the client.

- **Reseller Agreements**

Negotiated reseller agreements for numerous clients. The projects required the negotiation of reseller agreements with resellers for the procurement of third party software, hardware, and services. Mr. Berg advised the clients on key operational and legal risks regarding reseller arrangements such as return of products, intellectual property infringement indemnification, pass-through warranties, and liability allocation.