



## David Gurnick

### In Memoriam

#### Contact

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## Practice Groups

- Business & Civil Litigation
- Franchisees
- Copyrights
- Trademarks
- Franchise & Distribution
- Litigation & ADR
- Licensing
- Franchisors
- Intellectual Property
- Technology

## Biography

### IN MEMORIAM

David Gurnick, franchise attorney, business lawyer and litigator, was a State Bar of California Specialist in Franchise and Distribution Law, as certified by the Bar's Board of Legal Specialization. He was also a Certified Franchise Executive, as designated by the International Franchise Association.

Mr. Gurnick's practice also focused on licensing, trademarks and copyrights, trade secrets, e-commerce, antitrust and competition matters, and related litigation.

Representing clients in all aspects of [franchise and distribution law](#), Mr. Gurnick was often asked to testify as an expert in the field. He authored two texts: *Distribution Law of the United States*, addressing laws governing U.S. manufacturers and retailers, and *Franchising Depositions*, a treatise on taking and defending depositions in franchising cases.

He was also a contributing author of *Franchising: Cases, Materials, & Problems*, the first law school textbook on franchise law, published by the American Bar Association; *International Franchising*, a text on law and strategies for international franchising programs; and was a co-author of *California*

*Franchise Law Jury Instructions*, published by Matthew Bender.

Representing our clients in wide-ranging industries, Mr. Gurnick provided counsel and transactional and litigation services to local, national and international companies, some of which included:

- Audio/Visual Retailers
- Automobile & Service Station Dealers
- Building Inspection and Maintenance
- Clothing Manufacturers & Distributors
- Commercial & Residential Movers
- Cooperatives
- Food Products Manufacturers
- Health/Beauty Manufacturers, Distributors
- High-Tech Equipment Manufacturers
- Home Improvement/Repair Franchises
- Hoteliers
- Personal Care Service Retailers
- Product Importers & Distributors
- Professional Consulting Firms
- Professional Law Practices
- Professional Medical Practices
- Restaurateurs
- Software Developers and Licensors
- Spa Companies
- Travel Agencies

Mr. Gurnick assisted numerous franchisors in registering to offer and sell franchises, structuring to avoid and work around franchising and other legal issues, and negotiating solutions to wide-ranging business challenges. The business lawyer won millions of dollars of court judgments in [litigation and settlements](#) for clients: franchisors, franchisees, manufacturers, distributors, resellers, and policyholders in claims against insurance companies. He represented clients in federal and state courts.

As a franchise attorney, Mr. Gurnick served as an adjunct professor of law teaching semester courses, as well as a panelist at the American Bar Association Forum on Franchising, International Franchise Association annual Legal Symposium, and California Continuing Education of the Bar. He also served on the editorial board of the *American Bar Association Franchise Law Journal*, and Franchise Law Committee of the State Bar of California.

Mr. Gurnick served two terms as President of the San Fernando Valley Bar Association. He has also served as Chair of the Association's Business Law Section, Chair of the Association's Litigation Section, trustee of the University of West Los Angeles College of Law, President of the Valley Community Legal Foundation, and as trustee of the Los Angeles County Bar Association.

Admitted to practice before the U.S. Supreme Court, he was also admitted before the U.S. Courts

of Appeals for the Federal Circuit and Ninth Circuit, and the U.S. District Court for the Central District of California. The business and franchise law attorney was a member of the Bar in California and the District of Columbia.

## Publications & Presentations

- Featured, *Remembering the Late David Gurnick, a Franchise Law Specialist and Professor, and Much, Much More* - *The Franchise Lawyer*, a publication of the American Bar Association, Summer 2023
- Author, *Maxims on Franchise Law* - *Franchise Law Journal* a publication of the American Bar Association, Vol. 42 No. 3, Spring 2023
- Featured, *In Memory and Honor of David Gurnick and Yi Sun Kim* - *Valley Lawyer*, a publication of the San Fernando Valley Bar Association, March 2023
- Author, *California's New Motor Vehicle Board: Representing Car Makers and Dealers* - *Valley Lawyer*, a publication of the San Fernando Valley Bar Association, December 2022
- Co-Author, *Nuts, Bolts and Outline for Teaching Franchise Law; Would Socrates Approve?* - *Franchise Law Journal*, a publication of the American Bar Association, Vol. 40 No. 3, Winter 2021
- Author, *Franchise Law Jury Instructions* - *Franchise Law Journal*, a publication of the American Bar Association, Vol. 39 No. 3, Winter 2020
- Quoted, *Flexibility for Franchisers in the New Economy* - *San Fernando Valley Business Journal*, January 2020
- Author, *How Do I Distribute? Let Me Count the Ways* - *Valley Lawyer*, a publication of the San Fernando Valley Bar Association, August 2019
- Co-Author, *Unconscionability in Franchising* - *Franchise Law Journal*, a publication of the American Bar Association, Vol. 38 No. 1, Summer 2018
- Co-Author, *Gas Station Franchises: Federal and California State Regulations* - *Valley Lawyer Magazine*, a publication of the San Fernando Valley Bar Association, August 2018
- Author, *Unconscionability in California: Contract Power Tool for the Powerless and Powerful* - *Valley Lawyer Magazine*, a publication of the San Fernando Valley Bar Association, January 2018
- Quoted, *Should Uber's Salle Yoo Have Taken Earlier Look at Critical Due Diligence Report?* - *Corporate Counsel*, October 2017
- Quoted, *Was Uber's Deal With Otto Out of the Ordinary?* - *Corporate Counsel*, August 2017

- Presenter, *Responding to Online Negativity from Adversaries and Clients: Practical, Legal and Ethical Considerations* - Santa Clarita Valley Bar Association MCLE Accredited Ethics presentation, June 2017
- Co-Author, *Teaching Franchise Law in Law Schools: A Role for Experienced Franchise Lawyers- The Franchise Law Journal*, a publication of the American Bar Association, Vol. 36 No. 3, Winter 2017
- Quoted, *Labor Secretary Nominee's Company Hit With Antitrust Class Action* - Courthouse News, February 2017
- Co-Presenter, *Legal Developments 2016* - ABA 39th Annual Forum on Franchising at The Fountainbleu, Miami, November 2016
- Co-Author, *Ten Cases Rise to the Top for Two Franchise Attorneys* - *Franchise Times*, October 2016
- Co-Author, *Annual Franchise and Distribution Law Developments 2016* - ABA Forum on Franchising, October 2016
- Author, *The Franchise System's Role in Combatting Terrorism* - *The Franchise Lawyer*, a publication of the ABA Forum Committee on Franchising, Spring 2016 Vol. 19, No. 2
- Author, *Technical Terms for Comparative Trademark Analysis* - *The Franchise Law Journal*, a publication of the American Bar Association, Vol. 35 No. 4, Spring 2016
- Quoted, *Chain Offers Slice: PizzaRev in Growth Mode with Experienced Franchisees* - *San Fernando Valley Business Journal*, December 2015
- Co-Presenter, *Finders, Keepers, Losers, Weepers: Opportunities, Risks & Considerations in Using IP Created by Others* - ABA 38th Annual Forum on Franchising at Sheraton New Orleans, November 2015
- Co-Author, *Online Negativity: How to Fight Back* - *Valley Lawyer Magazine*, a publication of the San Fernando Valley Bar Association, November 2015
- Quoted, *How to Steer Clear of Franchise Financial Disasters* - CNBC, November 2014
- Co-Author, *For California Franchisors, There's No Place Like Home* - *Los Angeles Daily Journal*, August 2014
- Quoted, [California Franchisor's Forum Selection Invalid, Despite Supreme Court Ruling](#) - BlueMauMau.com, July 2014
- Co-Author, [Finding Value: The Roles of Accountants in Franchising](#) - *The Franchise Lawyer*, a publication of the ABA Forum Committee on Franchising, Spring 2014 Vol. 17, No. 2
- Presenter, [Profit & Growth: Expand Your Distribution](#) - MCLE Accredited Seminar Series, July

2014

- Co-Author, [OPIP: When Is It Lawful to Use Other People's Intellectual Property in Franchising?](#) - Franchise Law Journal, a publication of the American Bar Association, Vol. 33 No. 4, Spring 2014
- Author, [Enforcement of Non-Compete Clauses in California](#) - *Valley Lawyer*, January 2014
- Contributing Author: [Collateral Issues in Franchising: Beyond Registration and Disclosure](#) - an American Bar Association Text, February 2014
- Author, [Shareholder Claims](#) - *Valley Lawyer*, January 2014
- Author, [Cooperative Conditions: California Law Allows for Flexible Application of the Operative Principles of Cooperatives](#) - *Los Angeles Lawyer*, December 2013
- Contributing Author: [Franchising: Cases, Materials & Problems](#) - an American Bar Association law school textbook, October 2013
- Co-Author, [OPIP: When Is It Lawful to Use Other People's Intellectual Property?](#) - *Valley Lawyer Magazine*, October 2013
- Quoted, [Labor & Employment Law Roundtable: What Owners & Executives Need to Know](#) - *San Fernando Valley Business Journal*, June 2013
- Author, [When Should You Bring Your Franchise Law Claims?](#) - International Association of Franchisees and Dealers, October 2012
- Co-Author, [After Domino's Ruling: Franchisors, Loosen Up; Employers, Tighten Up](#) - *Los Angeles Daily Journal*, July 2012
- Co-Author, [Nine Ways to Avoid Copyright Termination, Parts 1 and 2](#) - New Matter (official publication of the Intellectual Property Law Section of the State Bar of California), Volume 37 Number 1, March 2012; Volume 37 Number 2, June 2012
- Named, [Southern California's Best Lawyers 2012 \(Franchise Law\)](#) - *The Los Angeles Times*, November 2011
- Author, [Distribution Law of the United States](#) - Legal Text, *Juris Publishing, Inc.* August 2011
- Co-Author, [Are Baseball Franchises Really Franchises?](#) - *Los Angeles Daily Journal*, June 2011
- Author, [The Franchising Solution to the Employee Independent Contractor Problem](#) - *Los Angeles Daily Journal*, March 2011
- Author, [The Long Reach of Franchise Laws](#) - *Los Angeles Daily Journal*, February 2011
- Author, [Arbitration Decisions in Franchising Cases - They Go Together](#) - *Los Angeles Daily*

*Journal*, January 2011

- Author, [Caveat Franchisor](#) - *Los Angeles Daily Journal*, March 14, 2007
- Co-Author, [A Crack in Arbitration Contracts](#) - *Los Angeles Daily Journal*, January 19, 2007
- Co-Author, [From the Mouths of Babes: Deposing Children in Civil Suits](#) - *Los Angeles Daily Journal*, July 2006
- Co-Author, [Avoiding the Franchise Surprise in IP Licensing Agreements](#) - *ABA Intellectual Property Law Newsletter*, Winter 2005
- Author, [Federal and California Franchise Regulation: An Era Of Change](#) - *Business Law Update*, A Publication of the Los Angeles County Bar Association Business & Corporations Law Section, Fall 2005
- Author, [Pet Businesses: Not Just All Mom and Pop](#) - *San Fernando Valley Business Journal*, May 2005
- Author, [Avoiding Accidental Franchises](#) - *Business Law Update*, A Publication of the Los Angeles County Bar Association Business & Corporations Law Section, Summer 2004
- Co-Author, [Be Prepared – Managing Catastrophic Risks in Franchise Systems](#) - *ABA Franchise Law Journal*, Winter 2002
- Author, [Franchising Depositions](#) - 550 page treatise on depositions in franchising litigation published by *Juris Publishing, Inc.* 2002
- Author, *Case History of American Business Franchise* - *Oklahoma City Law Review*, 1999
- Author, *Franchise Law* - *ABA “Compleat” Lawyer*, 1997
- Author, *Getting and Using Insurance to Defend Claims* - *ABA Franchise Law Journal*, 1996
- Author, *Intellectual Property in Franchising: Today’s Domestic Issues* - *Oklahoma City Law Review*, 1995
- Author, *Accountant’s Role in Assisting Franchisors* - *CPA Journal*, 1992
- Author, *Nuts and Bolts of Trademark Registration* - *ABA Franchise Law Journal*, 1991
- Co-Author, *Franchise Law Jury Instructions* - Matthew Bender, 1989
- Author, *Introduction to Copyright for Business Practitioners* - *Daily Journal Report*, 1988
- Co-Author, [Minimizing Vicarious Liability of Franchisors for Acts of Franchisees](#) - *ABA Franchise Law Journal*, 1987

## Noteworthy Legal Activities

- Co-Presenter, *Franchising: Litigating the Definitional Elements* - ABA 41st Annual Forum on

Franchising at Omni National Hotel, Nashville, October 2018

- Co-Presenter, *Legal Developments 2016* - ABA 39th Annual Forum on Franchising at The Fountainbleu, Miami, November 2016

## Memberships

- **Admitted in:** California; District of Columbia; U.S. Central District of California; U.S. Ninth Circuit; U.S. Federal Circuit; U.S. Supreme Court
- **American Bar Association** - Forum Committee on Franchising
- **Los Angeles County Bar Association**
- **San Fernando Valley Bar Association** -President, 2012-13; and 1993-94 - Member, Board of Trustees
- **Valley Community Legal Foundation** -President, 2012-13 - Member, Board of Trustees

## Awards

- ***The Lewis G. Rudnick Award*** by *The ABA Forum on Franchising*, November 2023 (awarded posthumously)
- ***Best Lawyers: Franchise Law*** by *Best Lawyers Magazine* 2008 - 2023
- ***AV Rating of 5.0 Preeminent***, Martindale-Hubbell's highest rating awarded by peers of the bar and judiciary for legal ability and ethics.
- ***Justice Armand Arabian Leaders in Public Service Award*** 2013
- ***Top 25 Attorneys of the Valley*** by the *San Fernando Valley Business Journal*
- ***Southern California Super Lawyer***, by *Super Lawyers Magazine*

## Education

University of California, at Berkeley Boalt Hall School of Law, *Juris Doctor*(1984) University of California, at Los Angeles, Bachelor of Arts, English (1981)

- *Summa Cum Laude*
- Phi Beta Kappa