

BUSINESS GROUPS

- Business & Civil Litigation
- Commercial Finance
- Corporate
- Employment
- Environmental
- Franchise & Distribution
- Health Care
- Intellectual Property
- Mergers & Acquisitions
- Real Estate
- Tax Planning

CONSUMER GROUPS

- Family Law
- Personal Injury
- Trusts & Estate Planning

818.990.2120

www.lewithackman.com

16633 Ventura Boulevard
Eleventh Floor
Encino, California 91436

Lewitt Hackman presents complimentary seminars in our Board Room for clients and friends on a variety of legal topics, awarding MCLE and CPE credits for attorneys and accountants. A light breakfast will be served. Our next presentation, ***Year-End Tax Planning***, will take place in November. Further details will be forthcoming.

SEPTEMBER 2014

Recent Professional & Community Accomplishments

The California Supreme Court recently cited a law review article coauthored by **David Gurnick** (a Certified Specialist in Franchise & Distribution Law) "*Minimizing Vicarious Liability of Franchisors for Acts of Their Franchisees*," published in 1987. The case, *Patterson v. Domino's Pizza LLC*, involved a Domino's franchisee's employee who sued her employer and the franchisor for sex harassment. The Supreme Court ruled the franchisor was not liable.

Hannah Sweiss, in a case involving sexual harassment allegations in which the plaintiff sought a restraining order against our client's general manager (the alleged harasser), obtained a court dismissal of the restraining order. The parties agreed to a mutual stay away order which if violated carries only civil consequences, not criminal consequences. With no restraining order issued the general manager's criminal record will not be affected.

Barry Kurtz (Certified Specialist in Franchise & Distribution Law) is representing operators of a pizza, pasta and microbrew restaurant, a New York style deli and bakery, and a pet sitting and boarding business in the sale of their businesses. In other matters, Barry and **Bryan H. Clements** have been preparing franchise registration documents for a national retail florist, convenience store chain, pizza chain, tea retailer and an insurance and tax return business.

Kevin E. Rex worked closely with an estate planning and tax attorney, an accountant, and various business appraisers to persuade the IRS that a client's company was valued appropriately at the time various gifts were made from one generation to the next. The efforts resulted in a multi-million dollar tax savings.

Nicole Kamm saved a client significant costs, fees and potential exposure by settling alleged wage and hour violations, discrimination and whistleblower claims, prior to the filing of a Complaint.

Tal Grinblat worked with a Swiss based health company to negotiate a software license agreement with a global software company. The negotiations involved parties on three continents, including the software company's legal counsel in South Africa and Palo Alto, and the company's sales representative in Paris.

Kevin E. Rex and **David Gurnick** previously represented a client selling a successful business, with some of the purchase price to be paid over time in a promissory note. Recently, Kevin and David helped the client gain early payment of the final three installments totaling over \$500,000, in exchange for the release of a lien the client held on the purchaser's real property.

Paul C. Bauducco favorably settled a dispute between clients and their former real estate investment partner, ending a civil litigation matter short of trial and saving our clients substantial attorney's fees and cost.



Barry T. Harlan and **Vanessa Soto Nellis** (Certified Specialists in Family Law) resolved a dissolution of

marriage matter involving a 28 year old prenuptial agreement. The firm's client sought to enforce the agreement. With the assistance of a retired judge, who believed that the agreement would be upheld, the parties were able to promptly resolve the matter.

Barry Kurtz and **David Gurnick** assisted franchisees in two systems to amicably end unsatisfactory relationships with franchisors. Barry and David negotiated for one client to de-identify and re-identify locations so the client can continue to operate independently. They helped another client sell the franchise rights to a third party in order to benefit from the economic value of the business.

Kira S. Masteller is representing a beneficiary in obtaining a current Trust Accounting from the Trustees, and working with all parties to determine whether or not the sale of existing non-productive assets will help create the necessary cash flow from the Trust for our client.

Nicole Kamm resolved an ongoing lawsuit for alleged harassment, retaliation, wrongful termination and wage and hour issues on the eve of trial. The case had been litigated for over 18 months despite repeated attempts to reach resolution after our client ceased operations in late 2013. Nicole ultimately convinced the Plaintiffs to accept a small settlement and to fully release all claims against our client and the individually named defendant.

Stephen T. Holzer and **David Gurnick** worked with a franchisor client to be able to continue operations at fast food restaurant locations formerly operated by an unsatisfactory franchisee. Previously, at Steve and David's urging, a Court ordered the franchisee to turn over the locations to the firm's client. Steve persuaded the State Board of Equalization not to pursue the franchisor client for the franchisee's unpaid sales taxes.

Nicole Kamm convinced opposing counsel to withdraw representation of a Plaintiff in a frivolous lawsuit alleging claims of unpaid overtime and mileage reimbursement. In another matter, Nicole resolved a Labor Commissioner ruling for thousands less than the awarded amount, while obtained a full release of further claims against our client in the process.

Paul C. Bauducco settled an unfair collection practices claim before a lawsuit was filed, avoiding potential litigation and attorneys' fees and costs.

Vanessa Soto Nellis is now designated a Certified Specialist in Family Law, as specified by the State Bar of California's Board of Legal Specialization. To earn this designation, Vanessa underwent a two-step process which included an intensive, written examination administered by the Bar. Attorneys who pass the exam must then submit an application for review, in which the BLS scrutinizes the attorneys' experience, education and references.

Tal Grinblat (a Certified Specialist in Franchise & Distribution Law) presented and moderated a California State Bar webinar, *The Use of Intellectual Property in Franchising*. The program explored the various types of intellectual property used in franchising, how to lawfully use other people's intellectual property and the risks of doing so using a real life example. The presentation which was recorded and can be purchased for CLE credit also qualifies for Franchise Specialization credit.

Stephen T. Holzer was appointed to the Executive Committee of the Los Angeles County Bar Association's Environmental Law Section.

Barry Kurtz has been appointed to the State Bar of California Franchise and Distribution Law Advisory Commission, for a three year term. The Commission participates in the application and testing process for certification of applicants. Only eight attorneys serve on this Commission.

Congratulations to **Vanessa Soto Nellis** and her husband **Keith**, on the birth of their son Hudson, August 13th. Big sister Stella Marie, both parents and the new baby are all doing well.

PUBLICATIONS & MEDIA MENTIONS

Los Angeles Daily Journal

For California Franchises, There's No Place Like Home
by Barry Kurtz & David Gurnick

The Wall Street Journal

Top Ranked Law Firms in California
Lewitt Hackman designated

BlueMauMau.com

California Decides Franchisor's Forum Selection Invalid, Despite Supreme Court Ruling
quoted: David Gurnick

The Franchise Lawyer - ABA Forum Committee on Franchising

Finding Value: The Roles of Accountants in Franchising
by Tal Grinblat & David Gurnick

Los Angeles Business Journal

What to Look for in a Franchisee or Franchisor
by Barry Kurtz & David Gurnick

Los Angeles Times

Franchisees Allege Hardball Tactics, Store Seizures by 7-Eleven
quoted: Barry Kurtz

San Fernando Valley Business Journal

Employment & Labor Law Roundtable: What Business Owners Need to Know
quoted: Sue M. Bendavid

SouthernCaliforniaHomes.com

Expert Advice on Buying a Foreclosed Home
quoted: Nicholas Kanter

Los Angeles Daily Journal

Java Franchisee Turns Up Heat
quoted: Barry Kurtz

Practical Lawyer - The American Law Institute Continuing Legal Education Group

Yin and Yang of Beer Distribution Law and Franchising
by Barry Kurtz & Bryan H. Clements