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Firm Taps Legal Talent From Within

Two Lewis Roca IP attorneys make partner.

By AMY STULICK Staff Reporter

Dustin Szakalski and Martin Regehr have been promoted to partner at Lewis Roca Rothgerber Christie, the Glendale firm said in a statement.

Szakalski and Regehr are members of the firm's intellectual property practice. Although they don't expect to make any major changes after their promotions, each is eager to take on more responsibilities in helping manage the firm.



Szakalski



Regehr

"It will be more important for us to mentor and help the junior associates that are joining the firm, so that they can feel like they're welcome and an important part of the firm, but also so they can learn as efficiently as possible and become really good lawyers," Regehr told the Business Journal.

"When I was an associate, I worked as a liaison which helped facilitate communication between associates and firm management, and so this is kind of stepping into a new role, into new shoes and being more a part of firm management than I was as an associate," added Szakalski.

Regehr handles patent prosecution matters for companies in the following industries: digital integrated circuits, radar, nonlinear mechanical structures, electric motors, optical communications and switching systems, semiconductors, MEMS devices, cryptography, power generation, battery systems, welding systems and software systems.

Prior to entering the legal field, Regehr worked for engineering and scientific endeavors, including NASA's Jet Propulsion Laboratory. He wrote software for a space telescope and tested gravitational wave detectors for the Laser Interferometer Gravitational-Wave Observatory at Caltech, the firm said in a statement.

Szakalski focuses more on patent litigation, patent prosecution, trademark applications, branding, licensing and takedown procedures.

He worked as an engineer at Northrop Grumman prior to attending law school, the firm said, designing structural airframe parts for the F-35 Lightning II fighter. Szakalski also served as a flight test engineer for Goodrich Aerostructures on the Boeing 787.

"This experience as a flight and structural design engineer in commercial and military aviation enables Szakalski to provide counsel to clients in a wide variety of industries in addition to the aerospace and unmanned aerial systems industries," the firm said in a statement.

"I think having industry experience is a great benefit," added Szakalski. "It lends a certain perspective from where the clients are coming from, being a former engineer and just understanding that role. It helped me put myself in the client's shoes and understand their perspective on what they're trying to get out of the legal engagement."



Red Flag?: Employers should review service contracts for compliance.

Parsing AB5's Impact

Lewitt Hackman puts anti-gig law at centerstage.

By AMY STULICK Staff Reporter

Employers and lawyers gathered for an early-morning seminar at Lewitt Hackman to hear more about legal updates for the coming year.

Primarily, the Jan. 16 session focused on California's anti-gig economy law, AB5. It also provided a crash course on changes to the Private Attorneys General Act of 2004, or PAGA, and minimum wage increases, among other employer-centric concerns.

Attorneys Sue Bendavid and Tal Burnovski Yeyni from the Encino firm led discussions and answered questions about AB5's ABC test which became effective Jan. 1. According to the test, a worker is an independent contractor only if:

- The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.
- The person performs work that is outside the usual course of the hiring entity's business.
- The person is customarily engaged in an independently established trade, occupation or business of the same nature as that involved in the work performed.

The new test greatly narrows who would be considered a contractor due to the nature of certain professions, like a freelance writer or graphic designer that typically works on contract.

Nearly 200 freelancers for Vox's SB Nation in Los Angeles, for example, were let go and 20 employees were brought on because of AB5. Freelancers perform work that falls within the hiring entity's business, a direct violation of Prong B in the ABC test.

Exemptions for a variety of professions sprang up prior to Gov. Gavin Newsom signing the bill, expanding to 11 pages within the bill, Bendavid and Yeyni said. Lawsuits sprang up as well, filed by Uber and Postmates, as well as freelance journalists.

"When AB5 passed, a lot of industries were not included in the list of exemptions. Businesses across California essentially claimed AB5 ignores the realities of their practice," said Yeyni.

"It is beautifully written and very convincing, I think, and they specifically mentioned the author of AB5, Assemblywoman (Lorena) Gonzalez. The lawsuit

claims Assemblywoman Gonzalez is hostile toward on-demand companies," added Yeyni, referring to the Uber and Postmates lawsuit. "They said, you have all these exemptions but you deliberately did not include on-demand companies."

The team at Lewitt Hackman briefly touched on the law's retroactivity too, stating that it is indeed retroactive for claims that fall under the wage order, and also for exemptions.

"They said yes, it's retroactive, but if an exemption applies, we'll allow you to apply the exemption as well, under some circumstances. If someone sued today under AB5, it's retroactive for things that fall under the wage order, like rest breaks, meal breaks, overtime, record keeping," explained Bendavid. "There's another part of the bill, which you must also consider. It says if you currently have employees, they must remain employees even if an exemption might otherwise apply. Even if they would qualify for an exemption, too bad for you. You can't go backwards and reclassify them now."

The firm's advice to employers when it comes to AB5 was simple: Get in compliance while courts and legislators slowly attempt to narrow who is affected by the law, and pay close attention to existing contracts.

"I got a call yesterday from a woman who has a professional services-type firm in the construction industry," added Bendavid. "They have 60 employees and 200 independent contractors – that's going to be a red flag. You will be asked how could that possibly be? Do you have people that work for you who do the same thing as those independents? Think about looking at your contracts."

"The moral of the story is, if you have vendors or independent contractors that are providing services to you, then you have to look at your contracts, your facts, and see if the workers qualify, or not," Bendavid told attendees.

Other notable changes for employers discussed at the seminar included a decision which prevents plaintiffs from attempting to circumvent arbitration by filing a PAGA-only claim.

A minimum wage increase is also slated for July 1 with employers that have 26-plus employees looking at \$15 per hour, and \$14.25 per hour for employers with 25 or fewer employees.

Recruitment at Barrister Band Session

Woodland Hills firm brings on a trial associate.

By AMY STULICK Staff Reporter

Barry Goldberg met his latest trial associate through the Big Band of Barristers, a music group for lawyers, law students, judges and legal staff to "meet in harmony," Goldberg said.

Matthew Stearns will be joining Woodland Hills' Law Offices of Barry P. Goldberg, bringing his experience in entertainment law to the personal injury firm.

Stearns graduated from Southwestern Law School in 2016; he has handled trademark and copyright issues in the entertainment field, as well as licensing and intellectual property disputes before the U.S. Patent and Trademark Office.

"I was working in copyright and trademark intellectual property," Stearns said. "As much as I enjoyed the work, it was something that I felt like I needed to have more of a hands-on kind of gig."

Much of his previous work revolved around protecting rap artist trademarks and popular memes, according to a statement from the firm.



Handshake: Goldberg, left, and Stearns.

"Through working in that band, I had some opportunities to work with Barry on and off, and that's basically how things have progressed," added Stearns. "People tend to talk about their work during rehearsals. It was interesting for me to listen because it's worth hearing, what other people's experiences were in different facets of the law."

"He worked for me as a contract attorney for about a year, and that was maybe one day a week. I was begging him to come work for me for a year," said Goldberg, who also serves as president of the San Fernando Valley Bar Association. "Maybe it's because he came to law after doing other things, but he's more mature. He has a refreshing ability to analyze and think tactically that I don't see in young candidates."

Goldberg and Stearns play trombone and tenor saxophone in the band, respectively. Stearns was a professional musician prior to pursuing his law degree.