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JULY 2020

**Recent Professional & Community Accomplishments**

**BUSINESS PRACTICE GROUPS**

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

**CONSUMER PRACTICE GROUPS**

- Family Law
- Personal Injury
- Trust & Estate Planning

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Congratulations to: **Nicholas Kanter** (business litigation), **Jessica W. Rosen** (business litigation), **Matthew J. Soroky** (franchise & dealership), and **Taylor M. Vernon** (business & corporate), named *2020 Southern California Rising Stars*. Each attorney was first nominated by their peers, then evaluated by independent, third party researchers, and finally reviewed by *Super Lawyers Magazine's* "Blue Ribbon" panel of attorneys. Less than three percent of the nominees are named *Rising Stars*.

**Keith T. Zimmet** continued to guide clients through the seemingly endless changes to the SBA's *Paycheck Protection Program*. His articles have been picked up nationally and read by thousands of businesses and people across the country.

**Tal Grinblat** (Certified Specialist in Franchise & Distribution Law) negotiated a settlement on behalf of a fitness industry franchisee who received a default notice from its franchisor, allowing our client to be released from their franchise agreement.

**Jana G. Garrotto** and **Kyla A. Parrino** had a Petition granted by the court that ordered that real property which was mistakenly not titled in the trust and which was devised to beneficiaries by way of a date of death amendment by handwritten interlineation was considered an asset of the Trust.

**David Gurnick** is working with several clients in obtaining relief from burdensome agreements – particularly with commercial tenants whose businesses are impacted – and others in responding to requests and keeping agreements in place. David spoke to a group of lawyers on the subjects of force majeure, commercial frustration, unconscionability and other legal rules for modifying or terminating unfavorable contracts.

**Sue M. Bendavid** and **Tal Burnovski Yeyni** resolved disability and wage and hour claims made against our client for about eight percent of the initial demand by the plaintiff. In addition to the huge savings in time and money for our client, Sue and Tal also negotiated a payment plan for the client – the plaintiff will not be receiving a lump sum payment.

**Tal Grinblat** and **Matthew J. Soroky** filed an Opposition to a third party's mark that was confusingly similar to our client's marks, with the Trademark Trial and Appeal Board. The action served to block the third party from registering its mark while the parties' rights to the mark can be adjudicated.

**John B. Marshall** and **Peter L. Ente** represented a client in acquiring three residential care facilities comprising 13 single family homes in total. John and Peter structured the acquiror's business – real estate company, management company, and operating company; coordinated the bridge financing and permanent financing; and assisted with licensing.

**Sue M. Bendavid** and **Jessica W. Rosen** obtained a favorable outcome for our business client sued by its former tax client, claiming the business committed financial elder abuse years earlier. Sue and Jessica presented strong evidence and argument that the tax client's claims lacked merit and were untimely. The plaintiff was persuaded to resolve the issue for a mere fraction of the damages claimed, saving our client hundreds of thousands of dollars in legal fees and possible damages.

**Barry Kurtz** (Certified Specialist in Franchise & Distribution Law), **Katherine L. Wallman** and **Caitlyn Dillon** are revising the Franchise Disclosure Documents of several franchisor clients to comply with the new COVID-19 financial performance representation requirements recently announced by the North American Securities Administrators Association.

**Kevin E. Rex** settled a matter prior to litigation regarding contractual disputes between a client and customer relating to the cancellation of a major event allegedly due to force majeure. In another matter, Kevin represented a client in renegotiating the payments owed by the client on a note.

**Vanessa Soto Nellis** (Certified Family Law Specialist) negotiated, prepared and finalized a prenuptial agreement to provide that each party's assets will remain his/her separate property. The agreement allows both parties to leave their assets to their respective adult children from prior marriages.

**Mark J. Phillips** and **Zane S. Averbach** negotiated and documented the transfer of a partial interest in commercial real property between two clients, acting for both under a written conflicts waiver. By handling the matter in this way, Mark and Zane helped our clients avoid the likely expenses, delays and escalation that could have resulted if each of the parties had engaged separate counsel – while preserving the family relationship between our clients.

**John B. Marshall** and **Peter L. Ente** represented a family group in a division of a complex real estate, property management and storage facility business, which had been owned and operated by two families for almost half a century. John and Peter provided guidance on the real estate and tax structuring of the division of assets, transfers of multiple pieces of real property in several states, and preparation of a complex memorandum supporting the applicability of advantageous tax provisions of the Internal Revenue Code.

**Vanessa Soto Nellis** negotiated a modification of child support where the firm's client lost her income stream due to the pandemic. The negotiated settlement was cost effective and avoided a costly hearing.

**Barry Kurtz** is preparing documents for a start-up company that will, upon opening, provide top quality meal experiences for its customers via delivery, pick up, and online food orders.

**Tal Grinblat** and **Katherine L. Wallman** overcame a difficult refusal to register a trademark application for a client in the real estate business. The filed response explained to the Examiner why the client's mark was not confusingly similar to two other existing registrations. After back and forth and numerous submissions in support, the Examiner was finally convinced and approved our client's mark for publication. In a separate matter, Tal and Kate succeeded in overcoming a refusal to a kids gym franchisor's trademark application.

**David Gurnick** and **Jessica W. Rosen** obtained dismissal for two of our out-of-state business clients in a federal lawsuit. David and Jessica convinced the creditor that the court lacked jurisdiction over the out-of-state clients without having to file a motion to dismiss.

**David B. Bobrosky** of our Personal Injury Practice Group resolved a case for a client in which the Defendant was woefully underinsured with only a \$25,000 auto insurance policy, despite having significant personal assets. In addition to the \$25,000 policy limits, David was able to obtain an additional \$200,000 of the Defendant's personal money for our client.

**Jana G. Garrotto** and **Kyla A. Parrino** are working to form limited liability companies to provide asset protection for trust assets and the trust's beneficiaries which consist of a current beneficiary during that beneficiary's life, as well as charitable remainder beneficiaries once that beneficiary is no longer alive.

**Sue M. Bendavid** presented *Ramping Up: COVID-19 Considerations When Bringing Employees Back to Work*, for members of the Sherman Oaks Chamber of Commerce.

**David Gurnick** updated privacy policies to comply with the California Consumer Privacy Act (CCPA) for multiple clients with online presence, as the CCPA's effective enforcement date by the state attorney general was July 1st. David also worked with clients to prepare or update online terms and conditions.

**Zane S. Averbach** and **Alex J. Hemmelgarn** worked with the Los Angeles County Public Guardian, elected representatives, and many health care providers at several medical institutions for more than one year to have a professional fiduciary appointed as mental health conservator for a gravely disabled ward, ensuring proper medical and related treatments of her potentially life-threatening health issues.

**Melissa L. Mayer** (Certified Family Law Specialist) represented an ex-wife in a post Judgment action brought by her ex-husband in an effort to deprive her of her community property interest in his pension. The Judgment's terms, as drafted by prior counsel, were vague and allowed her ex-husband to claim our client waived her interest in the pension. Melissa showed the court that her client had not forfeited her community rights, and the pension was divided equally between the parties.

**David G. Jones** represented a café owner in dealing with an inaccurate post by a reputable blogger/reporter indicating a government entity confirmed that one of our client's employees tested positive for COVID-19. David sent a cease and desist letter – the blogger immediately removed the post and provided a retraction and apology.

**Barry Kurtz** and **David Gurnick** are advising a franchisor client on various issues arising from the placement of one of its franchisee's into receivership by the US District Court for the District of Arizona. In an unrelated matter, Barry and **Kevin E. Rex** are advising a franchisor client on an agreement with an investment banker for the sale of its franchise system.

**Tal Grinblat** and **Matthew J. Soroky** succeeded in setting aside a Notice of Default that was issued against a trademark owner for failing to timely file an Answer in a cancellation petition filed against her. The Trademark Trial and Appeal Board accepted the motion and after filing an answer, issued an order resuming the proceeding.

**Sue M. Bendavid** and **Tal Burnovski Yeyni** lobbied several California Legislators on behalf of our client, to support legislation exempting physical therapists from California's Assembly Bill 5. The statute became law last year, and makes it more difficult for employers to classify workers as independent contractors rather than employees.

**David Gurnick** serves on the Board of Directors of the Mediation Center of Los Angeles, a charity that provides low cost mediations to settle cases. David attended a meeting with Los Angeles Superior Court Judges to share information on the use of mediation to ease the Court's backlog and to resolve an anticipated high influx of landlord-tenant disputes when the current eviction moratoriums end.

**Jana G. Garrotto** began a one year term as Chair of the Los Angeles County Bar Association's (LACBA) Trust and Estates Section Executive Committee. Formerly, she served as the Committee's Vice-Chair, and Secretary/Treasurer. Jana also co-edits LACBA's Trust and Estates Section eBulletin.

## PUBLICATIONS & MEDIA MENTIONS

### ***The Los Angeles and San Francisco Daily Journal***

*Reformation of Unambiguous Wills in Light of Estate of Duke*

**Mark J. Phillips**, author

### ***San Fernando Valley Business Journal***

*Landlord-Tenant Talks: Real Estate Attorneys See Vacancy and Rent Concessions in Negotiations*

**John B. Marshall** quoted

### ***KNX 1070 News Radio***

*COVID-19 Employer Compliance and Re-Opening Businesses*

**Sue M. Bendavid** interview

### ***San Fernando Valley Business Journal***

*Employment Lawyers Put in 14-Hour Days to Keep Up with Client Questions, Changing Rules*

**David G. Jones** quoted

### ***Valley Lawyer*** (San Fernando Valley Bar Association)

*COVID-19: Its Impacts on Lawyers and the Practice of Law*

**David Gurnick**, author

### ***The Los Angeles and San Francisco Daily Journal***

*Best Practices for Business Franchises During Pandemic*

**Barry Kurtz & Matthew J. Soroky**, authors

### ***Franchise Law Journal*** (American Bar Association)

*Franchise Law Jury Instructions*

**David Gurnick**, author

### ***San Fernando Valley Business Journal***

*Communication Up for Employment Lawyers*

**Keith T. Zimmet & Sue M. Bendavid** quoted

### ***San Fernando Valley Business Journal***

*City Backs Off Hiring Rewrite*

**Keith T. Zimmet** quoted

### ***GPSolo eReport*** (American Bar Association)

*Employee vs. Independent Contractor: A Distinction with Huge Differences*

**David G. Jones**, author