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SEPTEMBER 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 our attorneys named *Best Lawyers in America* for 2021: **Michael Hackman** (Tax Law), **Andrew L. Shapiro** (Personal Injury Litigation), **Sue M. Bendavid** (Employment Law - Management), **David Gurnick** (Franchise Law), **Kira S. Masteller** (Trusts & Estates), and **Lynn Soodik** (Family Law). The attorneys were named in the 27th edition of *Best Lawyers in America*.

We also congratulate **Sue M. Bendavid** and **Barry Kurtz**, selected to the *Valley 200* by the *San Fernando Valley Business Journal*. The list highlights engaged and active business leaders and professionals the journal considers to be the most influential in the San Fernando Valley.

Vanessa Soto Nellis (Certified Family Law Specialist) represented a wife in a lengthy trial in which the court ruled in favor of our client on issues regarding date of separation and validity of a previous agreement. Our client's spouse challenged the ruling – but the Court of Appeal affirmed the trial court's decision and awarded our client appellate costs.

Barry Kurtz (Certified Specialist in Franchise & Distribution Law) and **Matthew J. Soroky** resolved a dispute between a large franchisor and the operators of a formerly franchised business who unlawfully solicited cash donations and refused audit requests, in breach of the franchise agreement and violation of other laws. In other litigation matters, Matt persuaded a personal injury attorney to dismiss a slip and fall lawsuit against a restaurant franchisor and properly name the franchisee that operated the business.

Mark J. Phillips (Certified Specialist in Estate Planning, Probate & Trust Law) and **Alex J. Hemmelgarn** worked with a client who had contracted with her husband to sell three parcels of property in San Diego. Our client's husband died unexpectedly, and she discovered the properties were not included in their trust, but were held in her spouse's name only. Other counsel advised her to open a probate, which would have significantly delayed the sale. Mark and Alex instead advised a delay in the escrow with the buyer, filed a petition with the Superior Court in Los Angeles, and obtained an order confirming title to all three properties in the trust without probate, thus saving the transaction.

Sue M. Bendavid and **Nicholas Kanter** represented a client before the California Court of Appeal on a hard fought wage and hour class action and Private Attorneys General Act (PAGA) lawsuit. Arguing via video-conference with a panel of three appellate court justices, Sue and Nick persuaded the Court of Appeal to uphold a trial court's ruling that the plaintiffs' meal break, expense reimbursement, misclassification, and minimum wage claims could not proceed on a class-wide basis. The Appellate Court also ruled that the trial court may later use its inherent authority to dismiss related PAGA claims due to lack of manageability. Employer advocacy groups have reached out to note the importance of this significant PAGA ruling, citing it could be useful to defend future PAGA claims.

Paul C. Bauducco obtained a judgment in trial court for a high six figure nondischargeable amount for our client. The opposing party appealed the trial court's ruling, but due to Paul's extensive work and arguments, the Appellate Court upheld the lower court's decision.

Jessica W. Rosen and **David Gurnick** (Certified Specialist in Franchise and Distribution Law) persuaded the Superior Court to deny an Anti-SLAPP motion brought against our national franchisor client. Jessica and David are defending the client in litigation and brought a cross-complaint that the franchisee claimed was a device to attack first amendment rights. Strong factual research and a legal brief by Jessica, along with Paralegal Marianne Toghia's research, were key to persuading the judge to reject the claim, allowing our client's cross complaint to move forward.

David G. Jones and **Tal Burnovski Yeyni** successfully resolved a matter for a health provider involving formally issued citations by the California Department of Industrial Relations Labor Commissioner. The citations sought millions in unpaid employee wages and associated penalties. Dave and Tal engaged in lengthy negotiations and prior to hearing, settled the matter for less than 15 percent of the total amount sought.

Keith T. Zimmet guided our client through a complicated refinancing of its major credit facilities.

Kevin E. Rex and **Taylor M. Vernon** represented multi-unit franchisee clients in the laundry service industry in an eight figure asset sale of their franchised locations in California and Nevada back to the franchisor. **Barry Kurtz** advised regarding franchise-related issues.

Jessica W. Rosen obtained a favorable outcome for our franchisor client sued by a vendor. Jessica persuaded the vendor to resolve the action early and dismiss the complaint with prejudice without the need for the franchisor to appear in the action.

Barry Kurtz and **Taylor M. Vernon** represent a client in the purchase of an existing fitness business franchise and with the review of the franchisor's franchise agreement under which she will operate the business after closing.

Kira S. Masteller filed a Guardianship of an estate for a two year old who inherited from his grandmother and cannot receive the assets directly as a minor. We guide clients with respect to beneficiary designations so that they can leave grandchildren gifts without the necessity of a Guardianship proceeding.

David Gurnick, in renewing a state franchise registration for a prominent franchise chain, persuaded a state examiner to withdraw a requirement that our client impound or delay collection of initial franchise fees. David showed that the appearance of a change in our client's financial statement was due mainly to a new accounting rule.

Matthew J. Soroky advised several franchisee clients in large franchise systems with expiration and resale planning, and renegotiations of existing agreements due to the COVID-19 pandemic. In a related matter, Matt counseled a franchisee on the business and legal aspects of converting a client's professional recruitment business to a franchised operation.

David G. Jones settled a hard fought sexual harassment matter for a client which involved serious allegations, for a reasonably low sum while avoiding costly and contentious depositions for the client and his staff as well as significant associated attorneys' fees.

Kira S. Masteller completed gift tax planning for clients who are concerned that the Federal gift and estate tax exemption will change after the elections in November. Clients are actively using numerous planning tools to make gifts to utilize \$11,580,000 Federal gift and estate tax exemption per person this year.

Barry Kurtz and **Matthew J. Soroky** are working on the termination of a Middle Eastern development agreement for a franchisor client. In an unrelated matter, Barry and Matt represent a client in the renewal of her Franchise Agreement at the expiration of its current term.

Our family is growing! Congratulations to **Tal Burnovski Yeyni** on the birth of her second child, Noam. Tal, husband Avi, son Tom and Noam are all doing well. Congratulations also to **Kira S. Masteller**, who welcomed her first grandchild into the world. Kira's daughter, son-in-law, and baby Bodhi Dawson are also all doing well.

David B. Bobrosky resolved a trip and fall case against a national retailer. Our client suffered a fracture and needed surgery. The case was filed shortly before the pandemic, making litigation challenging – in person depositions were prohibited, and our client's age and inability to handle technology disallowed remote proceedings. David worked cooperatively and creatively with defense counsel to exchange information and negotiate in good faith, coming to a resolution that exceeded expectations even without the constraints of the pandemic.

Mark J. Phillips, as trustee of an irrevocable trust, collected more than \$1 million in life insurance proceeds for our client's beneficiaries. The trust was set up years before to provide liquidity for estate taxes, but with the rise in estate tax exclusions no tax is due. As a result the entire proceeds are now distributed to heirs, demonstrating that life insurance planning is beneficial whether estate tax is ultimately due or not.

David Gurnick, Steven L. Feldman and **Stephen T. Holzer** presented a webinar entitled, *Getting Out of Contracts & Legal Risk Management for the COVID-19 Era* for firm clients as well as members of the San Fernando Valley Bar Association.

David G. Jones joined the Board of Directors for MEND (Meet Each Need with Dignity) which offers support to the most vulnerable members of our community and is one of the most comprehensive poverty relief agencies in the San Fernando Valley. He also joined the Board of a prominent animal rescue, Marley's Mutts, which helps to facilitate the humane rescue of animals in need in the community.

Sue M. Bendavid conducted virtual Harassment, Discrimination & Bullying prevention trainings for employees of several client companies. Given current trends in #MeToo litigation and the #BlackLivesMatter movement, it is more important than ever for employers to ensure harassing or discriminating behaviors in the workplace are not tolerated, that all employees are aware of their zero tolerance policies, and that managers are trained to properly handle employee complaints.

David G. Jones presented a webinar on *Recognition and Elimination of Bias in the Legal Profession and Society*, which included discussion of United States Supreme Court Decision on LGBTQ plus rights and the Black Lives Matter movement to the San Fernando Valley Bar Association as part of its Member Appreciation Day, and gave remarks addressing his upcoming term as Bar Association President.

David Gurnick was confirmed to a one year term as Assistant Vice President of the Los Angeles County Bar Association. The position includes serving on the Association's Board of Trustees and Executive Committee.

PUBLICATIONS & MEDIA MENTIONS

San Fernando Valley Business Journal
Uber, Lyft Remain in Business for the Present

Sue M. Bendavid quoted

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
California Labor & Employment - What Business Owners and Executives Need to Know

Sue M. Bendavid, participant

Valley Lawyer (San Fernando Valley Bar Association)

Meet the 2020 SFVBA Trustee Candidates

Alex J. Hemmelgarn & Jessica W. Rosen, featured

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

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
City Backs Off Hiring Rewrite

Keith T. Zimmet quoted