

Firms Cash In on Franchising Boom

By DREW COMBS - 7/16/2007

Los Angeles Business Journal Staff

Los Angeles-based franchise lawyers are experiencing a noticeable bump in business because of the increasing popularity of frozen yogurt shops, workout gyms and similar franchises as a method of expansion.

“The franchising business model is definitely growing in popularity,” said Brian Cole, an attorney in the Santa Monica office of Bryan Cave LLP who also serves as chair of the California state bar franchise law committee. “And lawyers’ practices have grown as a result.”

In fact, the state bar of California next month will offer its first test for attorneys seeking certification in franchise and distribution law. The exam follows the decision earlier this year to add franchise and distribution law to the bar’s list of certified legal specialties that already includes family law, criminal law and six other practice areas.

“This week alone I have gotten five or six calls about new franchising systems,” said Susan Grueneberg, a transactional partner at Santa Monica law firm Dreier Stein & Kahan LLP, who has represented franchisors SuperShuttle and Jazzercise Inc.

But it is not the growth of franchise related legal services, rather its high degree of technicality that resulted in the bar’s designation in March of franchise law as a specialty.

“Given the complexity of law in this area and the importance of franchise and distribution to consumers in this state, we thought it important to establish this specialty,” said Stafford Matthews, chairman of the franchise law consulting group of the state bar, in a written press statement.

In addition to California law, which requires franchise systems register with the state department of corporations, franchisors are also regulated by a specific set of rules issued by the Federal Trade Commission.

The FTC rules require that franchisors make a variety of disclosures to potential franchisees including information regarding past litigation and financial health. Recent updates of the federal rules took effect on a voluntary basis at the beginning of this month, and will become mandatory July 1, next year.

“Franchise law is very specialized and highly regulated,” said Jeffrey Dasteel, a Los Angeles-based litigation partner at Skadden Arps Slate Meagher & Flom LLP, who has represented clients such as Taco Bell Corp. and Pizza Hut Inc.

“Lawyers who practice in this area have to be familiar with specific state rules and federal rules, and familiar with the franchise business model.”

Additionally, lawyers practicing in the field advise franchise companies during major corporate changes such as a merger or acquisition.

Litigators who deal specifically with disputes that arise between franchisors and their franchisees are also often referred to as franchise lawyers.

Los Angeles is home to more than 50 lawyers who specialize in franchise and distribution law. Many attorneys who practice in the area of franchise law also provide counseling on distribution matters, which generally pertain to companies that may have franchise-like arrangements, such as authorized dealer networks, but do not meet the specific definition of a franchise.

Growing sector

A study released by the trade group International Franchise Association in 2006 showed the number of new franchise concepts more than doubled from 2004, when 200 new concepts debuted, to 2005, when that total number of new concepts hit 500. A 2004 study also reported that more than \$1.5 trillion in economic activity is generated by the franchise industry in this country.

The franchise model allows a company to expand in a way that generally requires less capital and less staff versus a growth strategy in which the company retains ownership of individual outlets.

"More and more businesses want to franchise their operations," said **Tal Grinblat**, an attorney at Encino-based Lewitt Hackman Shapiro Marshall & Harlan, which represents fast food, car wash and gym franchisors. "It is an exciting way to expand."

And while the franchise business model is generally associated with such fast food companies as McDonald's and Burger King, it is also expanding in other sectors.

"Whatever provides a service or a product can be franchised and frequently is," Dasteel said. "All it has to have is a trademark associated with the business, a method of doing business and a fee."

Grueneberg added, "We are not just talking about quirky doggy care businesses."

Businesses in sectors such as building and construction and child-related services have experienced more than 25 percent growth in recent years, according to the most recent trade group study.

Dasteel has counseled Internet franchise systems, which has been a growing sector.

The list of somewhat non-traditional franchise models that have come on line in recent years includes Business Advisers International, a business coaching and advice company; AccuDiagonostics, which provides drug, steroid and alcohol screening; and Snap Fitness, a 24-hour workout center.

And in Los Angeles specifically, the most activity in the franchising industry has come from frozen yogurt shops. Following the 2005 debut of Pinkberry, the Los Angeles region has seen the opening of several franchised outlets peddling similar tart tasting non-fat yogurt.

According to several Los Angeles franchise attorneys, these developments have had a positive impact on their business.

"We have seen our business grow in the past two years," said Lori Lofstrom, a franchise attorney at Long Beach-based firm Holmes & Lofstrom LLP, who counts Pinkberry Inc. among her roster of franchisor clients.

Lofstrom added, "We have brought on board an additional attorney and staff person to satisfy those needs."

But in addition to being ground zero in the yogurt wars, Los Angeles more generally is fertile ground for franchisors, and as a result, their lawyers.

“Los Angeles has always been a great marketplace for franchise lawyers,” Lofstrom said. “There are a lot of new businesses created here and many of those businesses decide to expand by franchising.”

Grinblat said, “Los Angeles in general is a multifaceted, multicultural city and that contributes to its attractiveness to franchisors. It is an exciting place for franchisors to test their different offerings.”

In addition, several more established franchisors such as Taco Bell and CKE Restaurants Inc. (Carl's Jr.) are headquartered in southern California.