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JULY 2021

## 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 **Jessica W. Rosen** (business litigation), **Matthew J. Soroky** (franchise/dealership), and **Taylor M. Vernon** (business/corporate), all named *2021 Southern California Rising Stars*, by *Super Lawyers Magazine*. Less than three percent of attorneys nominated are selected.

**Zane S. Averbach** and **Stephen T. Holzer** prevailed for a second time in obtaining a Writ of Attachment for a client owed several hundreds of thousands of dollars. The Court previously granted the Writ at the first hearing, but the defendant asked for a second chance to brief the matter in an attempt to avoid the Writ. After briefing, the Court reaffirmed our client's entitlement to the Writ.

**Tal Grinblat** (Certified Franchise & Distribution Law Specialist) overcame a difficult refusal from the Trademark Office to a restaurant franchisor's trademark. The Examiner objected, claiming an identical mark was already registered for wines, and that consumer confusion could arise. After evaluating several options, Tal contacted the owner of the cited registration and negotiated and obtained the owner's consent to the client's use and registration of its mark. This then paved the way for the client's mark to proceed to registration.

**David G. Jones** secured a full stay of all discovery and moved the matter into an early mediation, for a client involved in a wage and hour dispute with a family caregiver, thereby avoiding substantial litigation costs for the client.

**Sue M. Bendavid** and **Nicholas Kanter** successfully resolved two wage and hour class action and PAGA lawsuits against clients in the retail food and home improvement industries. Through the settlements our clients were able to avoid several years of litigation, significant legal fees and the risk of a substantial judgment.

**Barry Kurtz** and **Katherine L. Wallman** (both Certified Specialists in Franchise & Distribution Law) represent a client acquiring a regional education franchisor. The transaction includes Barry and Kate handling all franchise-related due diligence.

**Andrew L. Shapiro, Thomas Cecil** and **David B. Bobrosky** represented a client who was standing on a street corner when two cars collided in the intersection causing both vehicles to careen onto the sidewalk, killing our client's wife. We filed suit against the drivers as well as the City, alleging that a design defect which did not allow for an "all red" phase, contributed to the tragedy. The City claimed the traffic signals complied with all applicable standards and guidelines and that no such injury collision had occurred there before. Andy, Tom and David took more than 25 depositions, defeated the City's Motion for Summary Judgment to dismiss the case, and participated in two Mediations. The case favorably resolved with a multiple seven-figure settlement.

**Mark J. Phillips** (Certified Specialist in Estate Planning, Probate & Trust Law) represented a couple with sufficient assets to fully transfer over \$23 Million to a trust for their children to make use of disappearing estate and generation-skipping tax exemptions. Given the continued uncertainty regarding tax laws affecting estate planning, Mark ensured that the maximum portion of our clients' appreciating assets will be free of estate tax well into the future.

**David Gurnick** (Certified Specialist in Franchise & Distribution Law) prepared a consumer product warranty meeting requirements of the federal Magnuson-Moss Warranty Act for a prominent franchisor whose franchisees offer customers a lifetime limited warranty.

**Keith T. Zimmet** represented our client through its acquisition of a shopping center on the East Coast, whose primary tenant is a well-known national discount variety store.

**John B. Marshall** and **Peter L. Ente** completed a complex reorganization and multi-million dollar refinancing for a client which operates licensed residential care facilities. This involved multi-step transfers of thirteen properties, including a strategy to avoid significant property tax increases, restructuring of the companies to include several holding companies, a purchase agreement with a significant third-party investor, and negotiation and documentation of a multi-million dollar institutional loan.

**John B. Marshall** successfully defended a client in an arbitration in which a co-owner of a business sought to reverse and recover twenty years of payments to an independent contractor and to a management company owned by our client, even though both owners had signed a multi-party settlement agreement with broad releases only a year before. The arbitration was conducted solely on written briefs, declarations and documents, for which our client had only two weeks to respond. John produced six witness declarations and over 2,000 pages of financial statements supporting our client's position in the arbitration.

**Jana G. Garrotto** and **Kyla A. Parrino** worked with their client Trustee to petition the Court for an Order authorizing distribution of certain payable on death assets to the beneficiaries of a later drafted Trust Amendment rather than to different earlier named individuals via beneficiary designations which conflicted with the terms of the Trust. Jana and Kyla prevailed on the Petition for their client and the Court ordered said accounts distributed to the beneficiaries of the Trust.

**Sue M. Bendavid, Tal Burnovski Yeyni** and **Chrystal Ferber** worked with several clients to obtain restraining orders against former employees and third parties harassing our clients' employees. In a separate matter, Sue provided counsel for a client who wanted to "manage out" an employee who was underperforming, and blaming the problem on a medical condition.

**David Gurnick** prepared Rules of Conduct and a Membership Terms for a new private social club opening in Southern California.

**Steven L. Feldman** favorably settled two separate ADA lawsuits for two different clients – one filed in Federal Court and the other in Los Angeles Superior Court.

**Matt J. Soroky** (Certified Specialist in Franchise & Distribution Law) negotiated favorable workout agreements for two of the firm's franchisor clients that sought releases from aggrieved franchisees. In a separate matter, **Barry Kurtz** and Matt represented a franchisee in brokering a termination agreement and refund of initial fees based on pre-sale fraud claims against a large out-of-state franchisor.

**Tal Grinblat** hired an investigator after receiving a refusal to register a mark, to research the Registrant whose mark the Trademark Office deemed confusingly similar to that of our client. The investigation revealed questionable use of the mark by the cited registrant. After evaluating options, Tal filed a petition to cancel the blocking party's registration. In return, the blocking party filed a petition to cancel another registration owned by the client. After a three year battle in the Trademark Trial and Appeal Board over the parties' rights, the parties finally resolved their claims in a manner which allowed our client's mark to proceed to registration.

**Zane S. Averbach** and **Alex J. Hemmelgarn** represented a client in the purchase of a 200,000 square foot warehouse in Memphis, Tennessee, using Small Business Administration financing to complete the transaction.

**Sue M. Bendavid** represented a client in resolving an EEOC age and race pay discrimination claim. After showing company pay and employee statistics which summarily refuted the allegations, Sue negotiated a resolution with the plaintiff, which included a voluntary resignation of the employee.

**Steven L. Feldman** successfully worked with a client in manufacturing and specialty contracting to achieve compliance with stormwater requirements as mandated by state and federal water programs.

**Matthew J. Soroky** negotiated a dismissal of a franchisor client from a negligence case where the plaintiff alleged a franchisee and other parties using the franchisor's trademark were liable for the plaintiff's damages. Matt was able to save the client substantial amounts of legal fees from having to defend the claim in court.

**Vanessa Soto Nellis** (Certified Family Law Specialist) finalized a prenuptial agreement for two parties with significant separate property assets, who would like to protect those assets for their adult children. The agreement allows the couple to opt out of California's community property laws and have full control of their assets during marriage.

**Barry Kurtz** and **Taylor M. Vernon** are serving as franchise counsel for a client acquiring a national consulting franchisor, including handling franchise-related due diligence for the transaction.

**David G. Jones** drafted and reviewed multiple employment agreements for caregivers, for several of our clients' elderly family members. In doing so, Dave also provided counsel on wage and hour and other practical concerns, to protect the families in their employment of these caregivers.

**Sue M. Bendavid** and **Tal Burnovski Yeyni** presented our annual webinar, Employment Defense: Mid-Year Legal Updates, focused on ever-changing COVID-19 policies and leaves of absence and trending wage and hour litigation. Sue also presented this for the clients of a business insurance carrier, and local business associations.

Our Employment Practice Group family is growing! Congratulations to **Chrystal Ferber**, who recently married her husband Aspen in Costa Rica. Additionally, **Gayane Ghandilyan** is our newest employment defense attorney, joining the department as an associate.

## PUBLICATIONS & MEDIA MENTIONS

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

*Buying a Franchise: Dream vs. Delusion*

**Barry Kurtz**, author

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

*The First Franchise*

**David Gurnick**, author

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

*The "Fatty" Arbuckle Case:*

*Hollywood's First Celebrity Trial*

**Mark J. Phillips**, co-author

**San Antonio Lawyer**

*Charles Manson 50 Years Later - Part III: The Trial*

**Mark J. Phillips**, co-author

**The Los Angeles Daily Journal**

*Proving Testamentary Capacity in Suits Involving Tortious Interference with Inheritance*

**Mark J. Phillips**, co-author

**Law360**

*Self-Driving Car Tech in Crosshairs as Feds Probe Tesla Crash*

**David B. Bobrosky** quoted

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

*Just Eat It: Calif. Meal Break Rules*

**Nicholas Kanter** and **Tal Burnovski Yeyni**, authors

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

*Nuts, Bolts, and Outline for Teaching Franchise Law; Would Socrates Approve?*

**David Gurnick**, co-author

**The Los Angeles Daily Journal**

*Strange New World: Restrictions on the Right to Posthumously Procreate*

**Mark J. Phillips**, co-author

**Franchise Times Magazine**

*Regulatory Watch: Gauging Legislative Impacts on Franchising*

**Tal Grinblat** quoted

**San Antonio Lawyer**

*Charles Manson 50 Years Later - Part II: The Investigation*

**Mark J. Phillips** co-author