

Legal Eagles recognizes the year's top franchise attorneys

Articles by Megan Glenn, Joe Halpern, Matthew Liedke, Laura Michaels and Emilee Wentland; Survey and research by Jenny Raines

Legal landscapes can be tricky to traverse for franchisors and franchisees alike.

Fortunately for the community, Franchise Times has assembled its Legal Eagles for 2024, listing the best lawyers who specialize in all things franchising. The Legal Eagles deploy their talents at firms in the United States and Canada, bringing a plethora of knowledge on a wide variety of topics.


As part of our Legal Eagles coverage, Franchise Times reporters interviewed several attorneys who offer insight on many important developments. For example, Legal Eagles weigh in on major regulatory happenings from last year, and share what to expect in 2024 when it comes to joint employer rules and the Federal Trade Commission's review of franchising.

Experts also share their views on notable legal trends in franchising, such as the emergence

of artificial intelligence and what laws may come with it, as well as franchisor involvement in franchisee ownership transfers and the security of trade secrets.

In an annual survey exploring several hot topics, the Legal Eagles were questioned on what issues in law people in franchising should be more aware of, the most interesting case they worked on in 2023, how those in franchising should navigate labor issues, what M&A and consolidation mean for the franchising space and more.

In addition to the in-depth coverage, Franchise Times profiled both newcomers and tenured Legal Eagles. New Class and Hall of Fame attorneys in this section share their key areas of focus, and, with a dose of personality, what inspires them.

Congratulations to this year's Legal Eagles. 

—Matthew Liedke

TABLE OF CONTENTS:

U.S. Legal Eagles	32
Artificial Intelligence.....	33
Regulatory Environment.....	37
What's Trending	39
Sales Compliance.....	41
Legal Eagles Canada.....	44
Trade Secrets.....	45
Best Lessons.....	46
Private Equity Impact.....	48
Franchise Transfers	50
Joint Employer.....	52
New Class & Hall of Fame	54
Labor Issues	56
Notable Hot Topics.....	58



Franchise Times
LEGAL EAGLES[®]

UNITED STATES LEGAL EAGLES®



NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Robyn Abbate	Wiggin & Dana	Hartford, CT	ZEE ZOR	T
Karen Abrams	Paris Ackerman	East Hanover, NJ	ZEE ZOR	T
Michael Ackerman	Paris Ackerman	East Hanover, NJ	ZEE	T
Kevin Adams	Mortenson Taggart Adams LLP	Irvine, CA	ZOR	L
Mohammad Alturk	Baker & McKenzie LLP	Dallas, TX	ZOR	T
Bethany Appleby	DLA Piper	Boston, MA	ZOR	L T
David T. Azrin	Gallet Dreyer & Berkey	New York, NY	ZEE ZOR	L T
Jonathan Barber	Franchise.Law	Charlotte, NC	ZOR	L T
Richard Bayer	Einbinder & Dunn LLP	New York, NY	ZEE ZOR	T
Andy Beilfuss	Quarles & Brady	Milwaukee, WI	ZOR	L T
John Berg	Monroe Moxness Berg	Minneapolis, MN	ZEE ZOR	T
Jennifer Bippus	Drumm Law	Denver, CO	ZOR	T
Andrew Bleiman	Marks & Klein, LLP	Chicago, IL/ Northbrook, IL	ZOR	L T
Michael Boardman	Baker & McKenzie LLP	Los Angeles, CA	ZOR	L
Karl Brandes	Phelps Dunbar	Tampa, FL	ZEE ZOR	L T
Alejandro Brito	Brito PLLC	Miami, FL	ZEE ZOR	L T
Joseph Brooks	Fisher Zucker	Philadelphia, PA	ZOR	T
Josh Brown	Taft Law	Indianapolis, IN	ZEE ZOR	T
Timothy Bryant	Preti Flaherty	Portland, ME	ZOR	L T
Joel Buckberg	Baker, Donelson, Bearman, Caldwell & Berkowitz, PC	Nashville, TN	ZOR	T
Howard Bundy	Bundy & Fichter PLLC	Seattle, WA	ZEE ZOR	L T
Mark Burzych	Fahey Schultz Burzych Rhodes PLC	Okemos, MI	ZOR	L T
Christopher Bussert	Kilpatrick Townsend & Stockton LLP	Atlanta, GA	ZOR	L T
Brett Buterick	The Franchise Firm	Chadds Ford, PA	ZEE ZOR	L T

NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
David Cahn	Whiteford Taylor & Preston, LLP	Baltimore, MD	ZEE ZOR	T
Laura Canada Lewis	Canada Lewis	Plano, TX	ZEE ZOR	L T
Xiaoyin Cao	Carmen Caruso Law Firm	Chicago, IL	ZEE	L T
Filemon Carrillo	Mortenson Taggart Adams LLP	Irvine, CA	ZOR	L
Carmen Caruso	Carmen Caruso Law Firm	Chicago, IL	ZEE ZOR	L
Brad Cashman	Monroe Moxness Berg PA	Minneapolis, MN	ZEE ZOR	T
Megan Center	Quarles & Brady	Washington, D.C.	ZOR	T
Amy Cheng	Cheng Cohen LLC	Chicago, IL	ZOR	T
Harris Chernow	Reger Rizzo Darnall	Philadelphia, PA	ZEE ZOR	L T
Kristen Cherry	Baker & McKenzie LLP	Dallas, TX	ZOR	T
Luke Christianson	Baker & McKenzie LLP	Dallas, TX	ZOR	T
Dale Cohen	Akerman LLP	New York, NY	ZOR	T
Fredric Cohen	Cheng Cohen LLC	Chicago, IL	ZOR	T
Deborah S. Goldwell	Haynes and Boone, LLP	Dallas, TX	ZOR	L
Derek Colvin	Waldrop & Colvin	Virginia Beach, VA	ZEE ZOR	L
Caitlin Conklin	K&L Gates	Newark, NJ	ZOR	L T
J. Michael Dady	Dady & Gardner, P.A.	Minneapolis, MN	ZEE	L
Mark Dady	Dady & Gardner, P.A.	Minneapolis, MN	ZEE	L T
Michael Daigle	Cheng Cohen LLC	Chicago, IL	ZOR	T
Jess A. Dance	Polsinelli PC	Denver, CO	ZOR	L
Elissa Deitch	Drumm Law	Denver, CO	ZOR	T
Rocio Deitz	Baker & McKenzie LLP	Dallas, TX	ZOR	T
Amanda Dempsey	Saxton & Stump	Philadelphia, PA	ZEE ZOR	L T
Jessica Dempsey	Spadea Lignana	Philadelphia, PA	ZOR	T
Liz Dillon	Lathrop GPM	Minneapolis, MN	ZOR	T

ZEE Franchisees ZOR Franchisors L Litigation T Transactional

AI use prompts big legal questions

By Matthew Liedke

Artificial intelligence technology has the potential to not just be evolutionary in franchising but revolutionary.

That's according to attorney David Kaufmann of Kaufmann Gildin & Robbins, who said AI could help enhance the customer experience and remake how new franchisees are selected.

"Franchisors have a need to intelligently project who would be a good franchisee to solicit and develop," Kaufmann said. "They need to review an application and find a candidate's education, skills and job history. AI will do all of that work in a split second."

To understand the full scope of AI and its growing presence in the world of franchising and elsewhere, Kaufmann said those in the space should know where the technology is at today. In an article published in the *New York Law Journal*, attorneys Marc Lieberstein and Jon Neiditz broke the technology down into two prominent forms.

One is enterprise AI, which is a machine learning application used for everyday business activities that can adapt, improve, function autonomously and make decisions based on input data. The other is generative AI, which can produce and create content by utilizing training data and language processing.

The scope of AI abilities, Lieberstein and Neiditz wrote, includes locating, evaluating and selecting prospective franchisees, developing efficient franchise systems and operations, and evaluating and manipulating customer data and behavior to increase sales. Derek Colvin, an attorney at Waldrop and Colvin, expanded on the capabilities.

Colvin said AI can also assist franchisors with preparing franchise disclosure documents, as it's able to break down and track metrics for sections like Item 19, allowing for more financial transparency.

"There's tremendous opportunity with franchise systems," said Deborah Coldwell of Haynes and Boone. "If you're thinking about the things people have to do, such as collecting and evaluating customer data, that's certainly an area where brands can use AI."

The ongoing increase of AI use by franchise systems may increase fees listed in an FDD, but Colvin said the benefits created by the technology can help keep IT costs in check.

"Most franchisors have a technology fee of some type and I think most franchisors intend to adapt the technology as time goes on," Colvin said. "No one wants to pay more fees, but I do expect that the costs will be, to some extent, passed on. However, AI has the ability to offset



▲ Derek Colvin of Waldrop and Colvin

those costs by taking out human error and adding labor efficiency."

Technology isn't just coming into play with the franchise clients attorneys work with, but in their domain, the courtroom, as well. Coldwell said the subject has come up in the legal realm, with some judges barring AI-generated case filings.

"One of the first orders to come out was in north Texas by Judge Brantley Starr, who banned lawyers from submitting AI filings that have not been reviewed by a human," Coldwell said. "The reason is sometimes an AI program could pick up confidential information that's not to be disclosed."

"In the litigation sector, the courts also don't want you to be taking that from something that doesn't have a duty to its client to tell the truth and come up with legal arguments," Coldwell continued. "But, in the actual business world, you can improve all kinds of things, from customer service to predictive analysis of trends."

While decisions have been made in the courtroom, the bigger question at the moment is whether action will take place in Congress, and what it would mean for the franchise community. As noted in the article by Lieberstein and Neiditz, blueprints for legislation have been submitted at the national level.

In September 2023, U.S. Sens. Richard Blumenthal (D-CT) and Josh Hawley (R-MO) introduced framework for what AI regulation and reforms could look like. For example, the framework includes the establishment of an oversight body that could administer licensing to ensure legal accountability for harm,



▲ Deborah Coldwell of Haynes and Boone

defend national security interests and promote transparency.

Specific laws cited in the article included preventing deep fake scams, enforcing transparency for how companies use AI in relation to its customers and mandating watermarks for AI-generated content. Additionally, legislation could set rules to protect voice and image likeness, and block unauthorized use and recreation by AI.

Before any of that can happen, though, Kaufmann said legislators need to know what they're dealing with.

"The first thing Congress has to do, and all of us have to do, is learn exactly what AI is, what it's capable of doing and what mischief it's capable of creating," Kaufmann said. "I'm a little skeptical, I suppose, that Congress will take the time and effort to really wrap its arms around this. As we've learned from other technology that broke out more quickly than regulators could have an intelligent reaction to, it can lead to big trouble and harm."

Colvin said he doesn't expect any legislative action, at least federally, in the near future.

"There are two factors," Colvin said. "Regulators love to regulate, but at the same time, it's tough to get major change like AI reform passed in Congress. Will we see anything over the next 12 months? Probably not. How long has it taken to regulate or talk about regulating crypto currency?"

"That's not the same thing, but it's illustrative and shows people are still trying to figure out the implications," he continued. "I'm sure there's going to be implications with AI that we haven't thought about, too." [FT](#)

UNITED STATES LEGAL EAGLES®



NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Mackenzie L. Dimitri	Einbinder & Dunn LLP	New York, NY	ZEE ZOR	L T
Andrew Donovan	Cheng Cohen LLC	Chicago, IL	ZOR	T
John Doroghazi	Wiggin & Dana	New Haven, CT	ZEE	L
Pete Dosik	Shipe Dosik Law	Atlanta, GA	ZEE ZOR	T
Erica Dotras	Mullins PC	Richardson, TX	ZEE ZOR	L T
Cassie Doult	Lathrop GPM	Los Angeles, CA	ZOR	L
H. Michael Drumm	Drumm Law	Denver, CO	ZEE ZOR	T
Abhishek Dube	Baker McKenzie	Dallas, TX	ZOR	T

NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
John Dwyer	DLA Piper	Reston, VA	ZOR	L
Michael Einbinder	Einbinder & Dunn LLP	New York, NY	ZEE ZOR	L T
Robert Einhorn	Zarco Einhorn Salkowski	Miami, FL	ZEE ZOR	L
Hashim Elwazir	Baker & McKenzie LLP	Dallas, TX	ZOR	T
Marisa Faunce	Plave Koch, PLC	Reston, VA	ZOR	L T
Steven Feirman	Nixon Peabody LLP	Washington, D.C.	ZOR	L T
Adrian Felix	Bilzin Sumberg	Miami, FL	ZEE ZOR	L
Caroline Fichter	Bundy & Fichter	Seattle, WA	ZEE ZOR	T
Joseph Fittante	Larkin Hoffman	Minneapolis, MN	ZOR	T
John Forrest	Fahey Schultz Burzych Rhodes	Okemos, MI	ZOR	L T
Dean T. Fournaris	Wiggin & Dana	Philadelphia, PA	ZOR	L T

CONGRATULATIONS TO OUR 2024 “LEGAL EAGLES”!



JOHN BERG



BRAD CASHMAN



RICK GIBSON



SCOTT HUSABY



DENNIS MONROE



CHRIS MUMM



JOHN REMAKEL

Congratulations to our attorneys selected as 2024 Franchise Times “Legal Eagles” by industry peers and clients. Building on a 40-year legacy of innovation, they are driven by the ambition to soar higher and see further in the service of their franchise clients.

Visit us at MMBLawFirm.com or call **952.885.5999**



MORE THAN A LAW FIRM

NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Maisa Frank	Lathrop GPM	Washington, D.C.	ZOR	L
Vincent Frantz	Cheng Cohen LLC	Chicago, IL	ZOR	T
Eric Friedman	Paris Ackerman	East Hanover, NJ	ZEE	T
Christina Fugate	Ice Miller	Indianapolis, IN	ZEE ZOR	L T
Aaron Gagnon	Warshawsky Law Group	Phoenix, AZ	ZOR	T
Ronald Gardner Jr.	Dady & Gardner, P.A.	Minneapolis, MN	ZEE	L
Eleanor Gerhards	Fox Rothschild LLP	Plymouth Meeting, PA	ZEE ZOR	T
Richard Gibson	Monroe Moxness Berg PA	Minneapolis, MN	ZEE ZOR	T
Elliot Ginsburg	Garner, Ginsburg & Johnsen, P.A.	Minneapolis, MN	ZEE ZOR	T
Evan M. Goldman	The Franchise Firm	Chadds Ford, PA	ZEE ZOR	T

NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Jeffrey Goldstein	Goldstein Law Firm	Washington, D.C.	ZEE	L
Joseph Goode	Laffey, Leitner & Goode LLC	Milwaukee, WI	ZEE ZOR	L
John Gotaskie	Fox Rothschild	Pittsburgh, PA	ZEE ZOR	L
Joseph Gottlieb	Shires Peake & Gottlieb	Alpharetta, GA	ZOR	T
Kevin Graff	Lathrop GPM	Chicago, IL	ZOR	T
Michael Gray	Lathrop GPM	Minneapolis, MN	ZEE ZOR	L T
Nina Greene	Venable LLP	Miami, FL	ZOR	L
Peter Greenfeld	Peter N. Greenfeld P.C.	Phoenix, AZ	ZEE	L T
Richard Greenstein	DLA Piper	Atlanta, GA	ZOR	T

ZEE Franchisees | ZOR Franchisors | L Litigation | T Transactional

Congratulations to our 2024 Legal Eagle Honorees



Dale Cohen
dale.cohen@akerman.com



Kevin Hein
kevin.hein@akerman.com



Jill Klein
jill.klein@akerman.com



Warren Lee Lewis
warren.lewis@akerman.com



Trish Barrett MacAskill
trish.macaskill@akerman.com



William Sentell
william.sentell@akerman.com



Robert A. Smith
robert.a.smith@akerman.com

Akerman helps franchisors, multi-unit franchisees, and franchise suppliers achieve their most important business objectives throughout the Americas and around the world. We collaborate with the world's most successful franchise stakeholders to navigate change, seize opportunities, and help drive innovation and growth. While most *AmLaw* 100 firms have elected to forego the opportunity to assist the global franchise community, Akerman has built one of the largest, most creative, and most respected teams of franchise lawyers and professionals in the country.

Thank you to our clients and colleagues for your support.

700+ Lawyers, 24 Offices
akerman.com

©2024 Akerman LLP. All rights reserved.



UNITED STATES LEGAL EAGLES®



NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Tal Grinblat	Lewitt Hackman	Encino, CA	ZEE ZOR	T
Stephanie Grobler	Spadea Lignana	Pennsylvania, PA	ZOR	T
Allison Grow Ryan	Cheng Cohen LLC	Chicago, IL	ZOR	L
Susan Grueneberg	Cozen O'Connor	Los Angeles, CA	ZOR	T
Matthew Grueneberg	DLA Piper	Los Angeles, CA	ZOR	T
David Gusewelle	Drumm Law	St. Louis, MO	ZOR	T
Lucie Guyot	Faegre Drinker Biddle & Reath	Boulder, CO	ZOR	T
Jeffrey Haff	Dady & Gardner, P.A.	Minneapolis, MN	ZEE	L
Evan Harra	Spadea Lignana	Philadelphia, PA	ZOR	T
Kevin Hein	Akerman LLP	Denver, CO	ZEE ZOR	T
Barry Heller	DLA Piper	Reston, VA	ZOR	L
Stuart Hershman	DLA Piper	Chicago, IL	ZEE ZOR	T
Kristian Higgs	Kit Franchise Law	Cincinnati, OH	ZEE ZOR	T
Leon Hirzel	Hirzel Dreyfuss & Dempsey	Miami, FL	ZEE	L T
John Holland	Dady & Gardner, P.A.	Minneapolis, MN	ZEE	L
John Hughes	Quarles & Brady	Chicago, IL	ZOR	L
Scott Husaby	Monroe Moxness Berg PA	Minneapolis, MN	ZEE ZOR	T
Michael Joblove	Venable LLP	Miami, FL	ZOR	L
Todd Jones	Snell & Wilmer	Phoenix, AZ	ZEE ZOR	T
David Kaufmann	Kaufmann Gildin & Robbins LLP	New York, NY	ZOR	T
Kevin Kennedy	Wiggin & Dana	New Haven, CT	ZOR	T
Harold Kestenbaum	Spadea Lignana	Philadelphia, PA	ZOR	L T
Maral Kilejian	Haynes and Boone, LLP	Dallas, TX	ZOR	T
Mark Kirsch	Lathrop GPM	Washington, D.C.	ZOR	T

NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Jill Klein	Akerman LLP	West Palm Beach, FL	ZEE ZOR	T
Gaylen Knack	Lathrop GPM	Minneapolis, MN	ZOR	T
Scott Korzenowski	Dady & Gardner, P.A.	Minneapolis, MN	ZEE	L
Matthew Kreutzer	Howard & Howard	Las Vegas, NV	ZEE ZOR	L T
Jonathan Labukas	Quarles & Brady	Washington, D.C.	ZOR	L T
Peter Lagarias	Lagarias, Napell & Dillon LLP	San Rafael, CA	ZEE	L
Nancy Lanard	Luther Lanard	Plymouth Meeting, PA	ZEE	T
Mark Landauer	Larkin Hoffman	Minneapolis, MN	ZOR	T
Mark Leitner	Laffey, Leitner & Goode LLC	Milwaukee, WI	ZOR	L
Norman Leon	DLA Piper	Chicago, IL	ZOR	L
Michael Levitz	Drumm Law	Minneapolis, MN	ZOR	T
Warren Lewis	Akerman LLP	Washington, D.C.	ZEE ZOR	T
Marc Lieberstein	Kilpatrick Townsend & Stockton LLP	New York, NY	ZOR	T
Josh Lignana	Spadea Lignana	Philadelphia, PA	ZOR	L T
Bret Lowell	DLA Piper	Washington, D.C.	ZOR	L T
Julie Lusthaus	Lusthaus Law PC	White Plains, NY	ZEE ZOR	T
Doug Luther	Luther Lanard	Newport Beach, CA	ZOR	L T
Trish MacAskill	Akerman LLP	Denver, CO	ZOR	T
Leonard Macphee	Polsinelli PC	Denver, CO	ZEE ZOR	L T
Kevin Maher	Baker McKenzie	Dallas, TX	ZOR	T
Gina Malandrino	Cheng Cohen LLC	Chicago, IL	ZOR	T
Andrew Malzahn	Dady & Gardner, P.A.	Minneapolis, MN	ZOR	L
April McKenzie Mason	Burr & Forman LLP	Birmingham, AL	ZEE ZOR	T
Andrew Matson	Spadea Lignana	Philadelphia, PA	ZOR	T
Daniel Matthews	Warszawsky Law Group	Seattle, WA	ZEE ZOR	T

ZEE Franchisees ZOR Franchisors L Litigation T Transactional

New rules but no ‘existential threat’

By Joe Halpern

Talk to franchise lawyers about the legal landscape and the many hot-button issues, and you’ll get a wide range of predictions and opinions.

At the same time, attorneys close to the action agree that while franchisors and franchisees need to keep an eye on governmental moves, they believe the model is safe and will continue to grow and prosper, despite increased rules and regulations.

Joint employer in flux

The National Labor Relations Board announced in October an updated rule that broadened the joint employer standard, increasing the likelihood of franchisors being held liable with their franchisees for labor law violations.

Attorney Amy Cheng of Cheng Cohen said regardless of whether a congressional action ultimately rescinds the rule or a lawsuit brought by the U.S. Chamber of Commerce and other business groups to block it succeeds, franchisors should review all their agreement documents and manuals to see where they possess authority of direct or indirect control of their employees.

“A lot of this simply is understanding what joint employer liability means and how franchisors and franchisees accomplish the same goals in regards to the new rules without stepping over the line,” Cheng said. “I don’t see any reason why that can’t be accomplished.”

Workplace safety and health standards are also among the terms under the new rule, which as of press time was on hold after a federal judge in Texas blocked its implementation March 8. The rule was set to take effect March 11. The NLRB said it is reviewing the court’s decision and will determine next steps in the case.

“I think many of our clients understand joint employer with respect to their executive team,” Cheng said. “But my question to them is, ‘are your field reps being trained on joint employer liability as well?’ Because they’re the ones who are dealing with the franchisees day in and day out, and are likely conducting the field inspections and providing the actual employee training.”

Cheng said franchisors should carefully review their agreements to make sure they’re not retaining authority to control terms of employment of franchisees, and have all employees, not just the executive team, review their manuals. Training is also imperative for franchisors.

“Two hours of training goes such a long way, in my experience, in educating all employees within the entire community to make them sensitive to this issue,” Cheng said. “If the franchisor does that, I don’t think the world is coming to an end.



▲ Amy Cheng of Cheng Cohen

I have no doubt that franchisors can control brand standards in regards to health and safety and that franchising will survive and come out of this OK.”

FTC’s review still ongoing

Amid the Federal Trade Commission’s review of franchise disclosures in agreements and considerations of new rules aimed at enhancing fairness within the franchisor-franchisee relationship, attorney Michael Strum of Lathrop GPM said advising clients on next steps at this time is difficult when the scope of future requirements is so unclear.

“It’s really impossible to know what the FTC is going to do at this point,” he said. “We can only speculate.”

The FTC, which enforces the Franchise Rule, wrapped up a public comment period last June in response to its request for information on the franchising industry and its business practices. The FTC received more than 5,500 comments on the inquiry, and said there was “broad interest in ensuring fairness in franchising,” adding “all options are on the table.”

Labor advocates said changes could benefit service workers, while industry groups like the International Franchise Association warn against “one-size-fits-all” regulatory changes and is advocating lawmakers to block any new legislation that they believe will hinder the model.

Strum said his firm, which participated in FTC’s public comment period, is particularly interested in what, if any, changes are made to Section 5 of the FTC Act that permits the FTC



▲ Michael Sturm of Lathrop GPM

to regulate “unfair methods of competition” and “unfair or deceptive acts” or trade practices.

“Commission leadership has taken an unprecedented and extraordinarily expansive view of its Section 5 authority, explicitly rejected prior statements of interpretive policy, and asserted that Section 5 confers authority,” Strum said. “For example, to displace longstanding state common law principles with respect to the covenants against competition on a nationwide basis.

“Former Commissioner Wilson characterized this position as, and I quote, ‘a radical departure from hundreds of years of legal precedent,’” said Strum of Christine Wilson, the Republican FTC commissioner who resigned last March in protest over chair Lina Khan’s antitrust agenda.

He noted any regulatory actions recommended by the FTC, such as changes to the Franchise Rule or a new rule regarding non-competes, will face a litany of litigation challenges and could make their way up to the U.S. Supreme Court, where it’s unlikely they would survive review.

Strum did not mince words when asked where his firm stands on the FTC’s actions. “As demonstrated by its continued expansion, the franchise industry as a whole represents a great success story, for both franchisors and franchisees,” he said. “The public interest would be better served by the FTC’s enforcement of existing rules, rather than re-writing those rules in an attempt to solve perceived problems that, in our experience, are primarily anecdotal and not pervasive in the industry.”

Regulations continued on 38

Regulations continued from 37

More state regulations

New franchise bills introduced in Arizona and Georgia in February addressed the relationship between the franchisor and franchisee, and the lawful termination of franchisees. Attorney Susan Grueneberg of Cozen O'Connor said she expects other states to take up similar motions to further regulate franchising.

"One of the things I see in California, and a number of other states that regulate franchising, is the focus on regulation of franchise brokers," Grueneberg said. "I've talked to franchise brokers I know and alerted them that there's going to be something coming down the pike regarding this."

Grueneberg, who sits on the industry advisory committee for the North American Securities Administrators Association's Franchise and Business Opportunities Project Group, pointed out only New York and Washington require separate registration of franchise brokers. She anticipates California and other states to begin requiring the same.

She also said more states adopted the new NASAA policy on the use of questionnaires



▲ Susan Grueneberg of Cozen O'Connor

and acknowledgments in the franchise disclosure document. (For more on this topic, turn to page 41). She said those changes will make

it more difficult for franchisors to get out of litigation with franchisees.

"Another thing we can see with this adoption of questionnaires and acknowledgments is more systems going to arbitration," Grueneberg said.

Her advice to franchisors who are unnerved by new state regulations is not to panic. Compliance often requires some slight adjustments to the wording in the FDD and franchise agreements.

"Yes, we need to monitor what the FTC is doing and how it applies to individual states," Grueneberg said. "But like I keep reminding my franchise clients, none of this, at least in my mind, is threatening the franchising model. Franchisors will continue to franchise in California and grow their business here and in other states that regulate franchising. Maybe it's just the Pollyanna in me, but I don't see any of these new state regulations being an existential threat to franchising."

"Franchising is very strong business model that's only growing in attractiveness by every study I've ever seen, and there will always be bad actors in it," she said. "We should all want the bad actors to suffer consequences, right?" ^{FT}

CONGRATULATIONS TO ALL 2024 LEGAL EAGLES

CHENG
COHEN

AMY CHENG
MICHAEL DAIGLE
VINCENT FRANTZ
STUTI MURARKA
AARON-MICHAEL SAPP

FREDRIC COHEN
ANDREW DONOVAN
GINA MALANDRINO
ALLISON GROW RYAN
ANTONIA SCHOLZ

chengcohen.com

Changing trends to consider in 2024

What is the biggest trend you're watching in 2024, and how are you approaching it?

“We are definitely seeing an uptick in litigation post-pandemic. But one of the other biggest trends I'm seeing from the brands I work for is an increasing focus on environmental, social and governance, or ESG, factors and sustainability.”

—Deborah Coldwell, Haynes and Boone

“I'm keeping an eye on non-competes. While most states have not restricted the enforceability of covenants not to compete in the franchise context, many states have restricted their enforceability in the employment context. I am waiting to see if the trend against non-competes in the employment context spills over into the franchise context.”

—Elliot Ginsburg,
Garner Ginsburg & Johnsen

“The North American Securities Administrators Association statement of policy on acknowledgments and disclaimers. This should have always been the law, i.e. franchisors

cannot violate the disclosure statutes because of fine print in their FDDs and franchise agreements.”

—Peter Lagarias,
Lagarias, Napell & Dillon

“Wearing my transactional hat, my clients continue to struggle with the high cost of hiring, paying and retaining quality employees. Some are considering moving to contractors, but that path is not without significant peril. Higher operating costs mean that a prospective franchisee has to very carefully consider whether or not a franchisor is providing bang for the prospective franchisee's royalty and fees bucks.

Wearing my litigation hat, I'm exploring how technology can lower the cost of legal services. Courts and arbitrators have been open to remote depositions and hearings, which can save the client thousands. While artificial intelligence isn't ready to help draft documents or motions, there are programs that are helpful for discovery and document review.”

—Caroline Fichter, Bundy & Fichter

“Foreign brands moving into the U.S. market. The pandemic left a heavy mark on the Chinese economy. On top of that, international conflicts caused serious disruption to consumers, both in reality and psychologically. The U.S. is still seen as a relatively stable and strong society. I have seen a growing interest of foreign brands, especially different types of cuisine, who want to bring their brands to the U.S. via franchising. These brands often find a higher level of regulation than in their home countries and attempt to bypass the same. It will be interesting to see if these brands cause a serious threat to U.S. franchisors.”

—Xiaoyin Cao,
Carmen D. Caruso Law Firm

“As a Canadian attorney, I am seeing a significant expansion of U.S. and international foodservice brands into Canada. The challenge has been aligning the brand's expectations to the realities of what is often the much smaller, but extremely competitive Canadian marketplace.”

—Richard Leblanc, Miller Thomson

“Artificial intelligence will be used to build new franchise brands, support franchisees and deliver exceptional customer experiences in 2024 and beyond. I strongly believe in continual improvement and encourage franchisors to leverage technology whenever possible to build and



“System change. How a franchisor and its franchisees embrace system change will be a difference maker in 2024 for every system. Some systems will thrive. Others will struggle. System change is constant, and yet too many franchisors design and implement system change abruptly and in a command-control style based on the franchise agreement, rather than effective leadership through collaboration and data.

This dynamic will be an even higher priority with artificial intelligence and related technology developments impacting customer demands. Everything I do as a franchisor counselor and franchise thought leader will be to prioritize a franchisor effectively designing and implementing system change in ways that protect, grow and evolve brands and the business model.”

—Brian Schnell,
Faegre Drinker

enhance a brand. AI has the power to help emerging and seasoned franchisors operate, collect and understand data, spot and stay ahead of trends, and stand out from competitors.”

—Derek Colvin,
Waldrop & Colvin

“There seems to be a wave of franchisees who invested during or right after the pandemic who are now realizing that they were defrauded. The phones are ringing and the email is chiming with folks who have astonishing facts to share. It looks like the next two years will be busy for franchisee litigators.”

—Howard Bundy, Bundy & Fichter



“An ever-increasing number of supply and service contracts have a technology or digital component, such as a digital platform for their product and/or service delivery systems. I now regularly incorporate an analysis of issues relating to data storage, data redundancy, disaster recovery plans, service level uptime, data loss, cyber security and data breach, and compliance with privacy laws.”

—Jill Klein, Akerman

UNITED STATES LEGAL EAGLES®



NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Joyce Mazero	Polsinelli	Dallas, TX	ZOR	T
Scott McIntosh	Quarles & Brady	Washington DC	ZOR	L T
Cameron Mckinley	Spadea Lignana	Philadelphia, PA	ZOR	T
Natalma (Tami) McKnew	Fox Rothschild LLP	Greenville, SC	ZOR	L
Keri McWilliams	Nixon Peabody LLP	Washington, D.C.	ZOR	T
Kristy Miamen	Dady & Gardner, P.A.	Minneapolis, MN	ZEE	L
Nicole Micklich	Urso, Liguori & Micklich, P.C.	Westerly, RI	ZEE ZOR	L T
Cecilia Miranda	Brito PLLC	Coral Gables, FL	ZEE ZOR	L T
Charles Modell	Larkin Hoffman	Minneapolis, MN	ZOR	T
Dennis Monroe	Monroe Moxness Berg PA	Minneapolis, MN	ZEE ZOR	T
John Moore	Husch Blackwell	Kansas City, MO	ZEE ZOR	T
Richard Morey	DLA Piper	Chicago, IL	ZOR	T
Cheryl L. Mullin	Mullin, PC	Richardson, TX	ZEE ZOR	L T
Chris Mumm	Monroe Moxness Berg	Minneapolis, MN	ZEE	T
Stuti Murarka	Cheng Cohen LLC	Chicago, IL	ZOR	T
Jason Murray	Nelson Mullins Riley & Scarborough LLP	Miami, FL	ZEE ZOR	L T
Michelle Murray-Bertrand	Kaufmann Gildin & Robbins LLP	New York, NY	ZOR	T
Bruce Napell	Lagarias, Napell & Dillon LLP	San Rafael, CA	ZEE	L T
Dawn Newton	Donahue Fitzgerald	Oakland, CA	ZOR	T
Nancy Nguyen Sims	Baker & McKenzie LLP	Los Angeles, CA	ZOR	L
Ashley Nielsen	Warshawsky Law Group	Scottsdale, AZ	ZEE ZOR	T
Maureen O'Brien	DLA Piper	Reston, VA	ZOR	T
David Oppenheim	Greenberg Traurig	New York, NY	ZOR	T
Ryan Palmer	Lathrop GPM	Minneapolis, MN	ZEE ZOR	T

NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
David Paris	Paris & Ackerman	East Hanover, NJ	ZEE	T
Sawan Patel	Larkin Hoffman	Minneapolis, MN	ZOR	T
Henry Pftutzenreuter	Larkin Hoffman	Minneapolis, MN	ZOR	L T
Tom Pitegoff	Offit Kurman	New York, NY	ZOR	T
Lee Plave	Plave Koch, PLC	Reston, VA	ZOR	T
Jason Power	Franchise.Law	Charlotte, NC	ZOR	T
Michelle Prager	Paris Ackerman	Norwell, MA	ZEE	T
Rebekah Prince	Duane Morris LLP	Los Angeles, CA	ZOR	T
David B. Ramsey	Kaufmann Gildin & Robbins LLP	New York, NY	ZOR	T
John Remakel	Monroe Moxness Berg	Minneapolis, MN	ZEE ZOR	T
Natalie Restivo	The Franchise Firm	Boca Raton, FL	ZOR	T
Nate Riordan	West Coast Franchise Law	Seattle, WA	ZEE ZOR	T
Richard L. Rosen	Rosen Karol Salis, PLLC	New York, NY	ZEE ZOR	L T
Michael Rosenthal	Taylor English Duma LLP	Atlanta, GA	ZEE ZOR	T
Robert Salkowski	Zarco Einhorn Salkowski	Miami, FL	ZEE ZOR	L
Michael Santa Maria	Baker McKenzie	Dallas, TX	ZEE ZOR	T
Joseph Santaniello	Shumaker, Loop & Kendrick	Charlotte, NC	ZOR	T
Aaron-Michael Sapp	Cheng Cohen LLC	Chicago, IL	ZOR	L
Ryan Schildkraut	Winthrop & Weinstine, P.A.	Minneapolis, MN	ZEE ZOR	T
Brian Schnell	Faegre Drinker Biddle & Reath LLP	Minneapolis, MN	ZOR	T
Antonia Scholz	Cheng Cohen LLC	Chicago, IL	ZOR	T
Max Schott II	Larkin Hoffman	Minneapolis, MN	ZOR	T
Marc Paul Seidler	DLA Piper	Chicago, IL	ZOR	L T
William Sentell	Akerman LLP	Houston, TX	ZEE ZOR	L T
Kevin Shelley	Kaufmann Gildin & Robbins LLP	New York, NY	ZOR	L

ZEE Franchisees ZOR Franchisors L Litigation T Transactional

Focus on franchise sales compliance

By Laura Michaels

After four years of working to keep their systems viable and navigating a slew of consumer, economic and business changes, established and emerging franchisors alike are fully in growth mode, with many pursuing new and aggressive expansion opportunities.

Amid this activity, monitoring franchise sales compliance for internal teams, brokers and the increasing number of outside franchise development companies is paramount. One poorly trained or rogue salesperson can sour dozens of deals, noted Caroline Fichter, a partner at Bundy & Fichter in Seattle. Best case scenario, the franchisor winds up signing franchisees with unrealistic expectations, she continued, and worse case, litigation is the eventual outcome.

Fichter, who represents franchisors and franchisees in transactional matters and litigation, said franchisors must be invested in the sales process and provide regular training. Every franchisor should conduct an annual training session for its development staff on the rules that govern the sale of franchises, Legal Eagles attorneys advised, along with best practices to avoid mistakes in the sale of franchises.

Common mistakes include making a prohibited financial performance representation or representing that a particular location is certain to succeed. Franchisees will ask, “How much can I make,” but if information is given outside the franchise disclosure document, it is likely unlawful, attorneys said. The same goes for the performance of a location, as guaranteeing a site or that a franchisee will be successful in a specific market could be the subject of a lawsuit.

More vigilance is necessary on the part of franchisors that use brokers or franchise development firms, said Fichter, as while there are reputable and experienced firms, brokers are paid a commission when someone buys a franchise from their client and pressure tactics aren’t uncommon.

“I strongly discourage a franchisor in their first year or two from working with brokers at all,” said Fichter. “Those first dozen franchisees will make or break your system, and you don’t want someone else picking them for you.”

Also on Fichter’s radar is the proliferation of firms that claim to be experts in franchise development but can wind up creating poorly managed systems or will encourage the launch of a franchise program without the operations to back it up. “You have these franchise development companies that will sometimes hunt the founder down and say, hey, we’ll put together a franchise system for you,” she said.

“You don’t have to be an attorney to prepare an FDD, but you should be,” she continued, and



▲ Max Schott of Larkin Hoffman

poorly prepared documents or the franchising of a business model that’s not proven can set a new franchisor up for failure. “I see a lot of no-unit franchisors. I’m blown away by the fact that people think they can sell franchises with no proof of concept.”

On the sales compliance front, a policy adopted by the North American Securities Administrators Association and effective January 1, 2023, is impacting how state securities regulators apply the standards for the proper use of questionnaires and acknowledgments in franchise offerings. Many franchisors use these in the franchise sales process to identify problematic sales practices. NASAA, however, took the stance that they are used by “unscrupulous franchisors ... to try to limit their potential liability to franchisees,” according to the organization.

The new policy prohibits 11 specific statements, including: that the prospective franchisee is qualified or suited to own and operate the franchise; that neither franchisor nor franchise seller has made any representation, including any financial performance representation, outside of or different from the FDD; and that the franchisor bears no liability or responsibility for franchisee’s success or failure.

While NASAA is not a regulatory agency, and the policy isn’t a law, state regulators in the 14 states that have franchise registration laws may object to franchisors using questionnaires. They may also deny registration.

Regulators in California, Maryland and Washington have already said they’ll adhere to the policy; the other registration states are



▲ Caroline Fichter of Bundy & Fichter

Hawaii, Illinois, Indiana, Michigan, Minnesota, New York, North Dakota, South Dakota, Rhode Island, Virginia and Wisconsin.

Larkin Hoffman attorney Max Schott, who is based in Minneapolis, said Minnesota regulators haven’t outright banned the questionnaires but “the examiners all talk to each other” and many franchisors are removing them entirely or creating separate FDDs.

“I’ve been doing this for 30 years and I’ve seen the pendulum swing,” said Schott. “And now it’s swung even further to more regulation and scrutiny of the sales process.”

Most franchisors, said Schott, were using the acknowledgments and questionnaires to find out if, during the sales process, prospective franchisees were being given incorrect information or being told something outside of information in the FDD. Some, however, “were using them in bad faith” to shut down future claims of fraud.

“They used to be a backstop, and maybe franchisors didn’t have to be as vigilant in policing their sales staff,” he said, but with the new guidelines, ongoing training should be a focus. Schott also emphasized the importance of a strong Item 19, so that a seller can point to those financial performance representations and not be tempted to make other claims.

“The good, ethical franchisors know they need successful franchisees,” he said. “It doesn’t do anyone any good if you’re going into it with false expectations.” Franchisors can still interview prospects about the sales process, he added, but that information can’t be used against the franchisee in a misrepresentation or fraud claim. **ET**

UNITED STATES LEGAL EAGLES®



NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Brad Shipe	Shipe Dosik Law	Atlanta, GA	ZOR	L T
Kitt Shipe	Shipe Dosik Law	Atlanta, GA	ZEE ZOR	T
Jordan Siedell	Baker McKenzie	Dallas, TX	ZOR	T
Adam Siegelheim	Stark & Stark	Lawrenceville, NJ	ZOR	T
Elizabeth Sigety	Fox Rothschild	Philadelphia, PA	ZEE ZOR	T
Briar Siljander	Trio Law	Highland, MI	ZEE ZOR	L T
Peter Silverman	Shumaker, Loop & Kendrick	Toldeo, OH	ZOR	L
Robert Smith	Akerman LLP	Washington, D.C.	ZEE ZOR	T

NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Jonathan Solish	Bryan Cave Leighton Paisner LLP	Santa Monica, CA	ZEE ZOR	L
Tom Spadea	Spadea Lignana	Philadelphia, PA	ZOR	L T
Rochelle (Shelley) Spandorf	Davis Wright Termaine	Los Angeles, CA	ZEE ZOR	T
David Steinberg	Taft Law	Southfield, MI	ZEE ZOR	T
Ari N. Stern	Ruberto, Israel & Weiner, P.C.	Boston, MA	ZEE ZOR	L
Brent R. Stewart	Baker McKenzie	Dallas, TX	ZOR	T
Michael Sturm	Lathrop GPM	Washington, D.C.	ZOR	L
Jim Susag	Larkin Hoffman	Minneapolis, MN	ZOR	L
Ritchie Taylor	Manning Fulton	Raleigh, NC	ZEE ZOR	T
Craig R. Tractenberg	Fox Rothschild LLP	Philadelphia, PA	ZEE ZOR	L T

We're Serving Up Franchise Law!

Congratulations
to Dale & Lessmann lawyers
selected as Legal Eagles!



Cassandra Da Re



Chad Finkelstein



Clark Harrop



Jeffrey Hoffman



David Shaw

Dale & Lessmann
Ready for What's Next

181 University Avenue, Suite 2100, Toronto, Ontario, Canada M5H 3M7
(416) 863-1010 | dalelessmann.com

NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Alexander Tuneski	DLA Piper	Washington, D.C.	ZOR	T
James Wahl	Lathrop GPM	Minneapolis, MN	ZOR	T
Daniel Warshawsky	Warshawsky Law Group	Scottsdale, AZ	ZEE ZOR	L T
Adam Wasch	The Franchise Firm	Boca Raton, FL	ZEE ZOR	L T
Joseph Wasch	The Franchise Firm	Boca Raton, FL	ZEE ZOR	T
Elizabeth Weldon	Haynes and Boone, LLP	Costa Mesa, CA	ZOR	L
Bryan White	Baker McKenzie	Dallas, TX	ZOR	T
Richard White	Baker McKenzie	Dallas, TX	ZEE ZOR	T
Ryan Whitfill	Cuhane Meadows	Dallas, TX	ZEE ZOR	T
Matthew Wizmur	Spadea Lignana	Philadelphia, PA	ZOR	L T
Jeffrey H. Wolf	Quarles & Brady	Phoenix, AZ	ZOR	L

NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Will Woods	Baker McKenzie	Dallas, TX	ZOR	T
Erik Wulff	DLA Piper	Washington, D.C.	ZOR	T
Tao Xu	DLA Piper	Reston, VA	ZOR	T
Rachel Zaiger	Dady & Gardner, P.A.	Minneapolis, MN	ZEE	L T
Robert Zarco	Zarco Einhorn Salkowski	Miami, FL	ZEE ZOR	L
Stephanie Zosak	DLA Piper	Chicago, IL	ZOR	T
Jeff Zucker	Fisher Zucker	Philadelphia, PA	ZOR	L T

ZEE Franchisees | ZOR Franchisors | L Litigation | T Transactional

Congratulations to our 2024 Legal Eagles



Eleanor Gerhards



John Gotaskie



Tami McKnew



Craig Tractenberg



Elizabeth Sigety



www.foxrothschild.com/franchising-distribution

Visit our blog at: franchiselaw.foxrothschild.com

Attorney Advertising

CANADA LEGAL EAGLES®



NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Joseph Adler	Hoffer Adler LLP	Toronto, ON	ZEE ZOR	T
Adrienne Boudreau	Sotos LLP	Toronto, ON	ZEE ZOR	L
Jason Brisebois	Sotos LLP	Toronto, ON	ZOR	T
Cassandra Da Re	Dale & Lessmann LLP	Toronto, ON	ZOR	T
Allan Dick	Sotos LLP	Toronto, ON	ZEE ZOR	L
Jennifer Dolman	Osler Hoskin & Harcourt LLP	Toronto, ON	ZOR	L
Idan Erez	Hoffer Adler LLP	Toronto, ON	ZEE ZOR	L
Chad Finkelstein	Dale & Lessmann LLP	Toronto, ON	ZOR	T
Helen Fotinos	Dentons	Toronto, ON	ZEE ZOR	L T
Andraya Frith	Osler Hoskin & Harcourt LLP	Toronto, ON	ZOR	T
Daniel Hamson	Sotos LLP	Toronto, ON	ZEE ZOR	L
Clark Harrop	Dale & Lessmann LLP	Toronto, ON	ZEE ZOR	T
Lloyd Hoffer	Hoffer Adler LLP	Toronto, ON	ZEE ZOR	L
Jeffrey Hoffman	Dale & Lessman LLP	Toronto, ON	ZEE ZOR	L
Christopher Horkins	Cassels	Toronto, ON	ZOR	L
Christine Jackson	Osler Hoskin & Harcourt LLP	Toronto, ON	ZOR	T
Richard Leblanc	Miller Thomson	Toronto, ON	ZEE ZOR	T
Noah Leszcz	Cassels	Toronto, ON	ZOR	T
Edward "Ned" Levitt	Dickinson Wright	Toronto, ON	ZOR	T
Andrae J. Marrocco	McMillan LLP	Toronto, ON	ZOR	T
Eric Mayzel	Cassels	Toronto, ON	ZOR	L
Dominic Mochrie	Osler Hoskin & Harcourt LLP	Toronto, ON	ZOR	T
Lauren Parker	Sotos LLP	Toronto, ON	ZEE ZOR	T
Colin Pendrith	Cassels	Toronto, ON	ZOR	L
Frank Robinson	Cassels	Toronto, ON	ZOR	T

About the Legal Eagles project:

This Franchise Times list of star legal professionals in the franchise industry is built with nominations and recommendations from clients, peers and other legal professionals. New Class Legal Eagles are those who are making their debut on the list this year. Hall of Fame Legal Eagles are lawyers who have been named to the list for 10 years. Nominations for the 2025 Legal Eagles open in December.



NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Derek Ronde	Cassels	Toronto, ON	ZOR	L
David Shaw	Dale & Lessmann LLP	Toronto, ON	ZOR	T
Geoff Shaw	Cassels	Toronto, ON	ZOR	L
Peter Snell	Cassels	Vancouver, BC	ZOR	T
John Sotos	Sotos LLP	Toronto, ON	ZEE ZOR	L T
Debi Sutin	Gowling WLG (Canada) LLP	Toronto/Hamilton, ON	ZEE ZOR	T
Anna Thompson-Amadei	Sotos LLP	Toronto, ON	ZEE ZOR	T
Rebecca Valo	Cassels	Toronto, ON	ZEE ZOR	T
Peter Viitre	Sotos LLP	Toronto, ON	ZOR	T
Larry Weinberg	Cassels	Toronto, ON	ZOR	T
John Yiokaris	Sotos LLP	Toronto, ON	ZOR	T

ZEE Franchisees | ZOR Franchisors | L Litigation | T Transactional

Cookie wars spotlight trade secrets

By Matthew Liedke

A dispute over stolen cookie recipes turned into a full-on legal battle two years ago and franchise attorneys who specialize in trade secret litigation took notice.

The legal bout began in June 2022 when Crumbl Cookies sued competitor Dirty Dough for allegedly stealing and misappropriating trade secrets. In its suit, Crumbl claimed Dirty Dough stole and misused 66 recipes, as well as information about sales, statistics process improvements and recipe experiments.

More than a year later, in October 2023, the brands reached a settlement and finalized it in November. At the center of the lawsuit was Bradley Maxwell, the brother of Dirty Dough CEO Bennett Maxwell.

In early 2019, Bradley Maxwell was employed by Crumbl and before he was later fired, he downloaded Crumbl recipes and operational information from the brand's internal server. Bradley Maxwell was then an early independent contractor of Dirty Dough and he shared Crumbl information with representatives of the brand.

As part of the settlement, Dirty Dough returned any Crumbl information and agreed to alter its cookie boxes to "eliminate any potential confusion for customers."

Mullin founding partner Cheryl Mullin called the case one of the more unique trade secret lawsuits.

"Usually, it's not a former employee," Mullin said. "With franchise brands, where it comes up

secret, because franchisors typically don't give the franchisees the actual recipes that would rise to the level of a secret," Mullin said. "Sometimes, when you go into court for an injunction, the court may very well find that either the franchisor doesn't have any secret or the franchisee didn't have access to secrets."

Amanda Dempsey of Saxton & Stump also called it an interesting case and weighed in more on how recipes are protected.

"The classic trade secret example that people would use is the Coca-Cola formula," Dempsey said. "If anyone could figure out the recipe, it's not protected. It's only protected by nature of it staying secret. The point of trade secret law is that if you can keep something secret, it's yours. If someone steals it from you, that's different than a situation where people figure it out on their own, which is just reverse engineering."

While the recent case was considered rare, litigation around intellectual property and trade secrets is anything but.

"There's litigation involving intellectual property really all the time in franchising," Dempsey said. "We see a lot of cases around unfair competition, using trademarks and using operations which are considered proprietary."

As a result, non-compete agreements are regularly signed, but they can be tricky to enforce.

"Non-compete agreements help, but you still have to establish when you go into court that there are trade secrets being protected," Mullin said. "The key in this case was the forensic report that detailed all the information that was misappropriated.

"However, non-compete rules also violate the anti-trust laws of states," Mullin said. "So, you have to look at a state's statutory exceptions. Those that say 'non-competes will be enforceable to the extent necessary to

protect a legitimate interest.' The court then decides how necessary enforcement is."

Dempsey said most laws limiting the power of non-competes are created with the employee in mind, in the cases of a job seeker not being able to use marketable skills to achieve employment. As a result, though, Dempsey said she works with franchises that no longer operate in states where such legislation is passed.

James Susag, an attorney at Larkin Hoffman in Minneapolis who represents franchisors, noted California and Minnesota are two states where



▲ Cheryl Mullin of Mullin, P.C.

non-compete provisions are unenforceable.

"You have to look state-to-state, because non-competes are already tough to deal with and now there's an additional layer on top," Susag said. "They're all tough cases to win as the franchisor, which seems counter-intuitive. But you really have to come into court with a very clean set of hands and put the bad actor hat on the former employee or franchisee, whichever it is."

While non-competes can be difficult to manage in a legal sense, attorneys listed other ways franchisors can protect their trade secrets and intellectual property. For example, Mullins said it's a common law duty for employees to maintain the confidentiality of the employer.

"In situations where there are non-enforceable non-competes, they can still file their intellectual property rights," said Dempsey. "What they'll do is file a trademark infringement case or a misappropriation of information type of case, rather than a non-compete case."

Additionally, even if non-compete cases are difficult to pursue legally, Susag said it's still worth doing for franchisors.

"You have to protect your system," Susag said. "So, sometimes it's actually better to go to court and lose on a non-compete than not doing anything about it at all. The same thing goes with trade secrets and your likeness. You have to let your system know. You have to tell those who don't want to adhere that, 'we're going to do this, win, lose or draw.'" ^[FT]

“ You have to protect your system. So, sometimes it's actually better to go to court and lose on a non-compete than not doing anything about it at all. ”

— James Susag, Larkin Hoffman

most often is a franchisee who has left the system and the franchisor is trying to enforce a non-compete. They may say the franchisee has trade secrets and if they continue to use them, it would create unfair competition for the brand."

Because of the blatancy in the Crumbl case, Mullin said it was easier for the brand to succeed with its suit. In other situations, it can be more difficult.

"The challenge is, if you're talking about information that a franchisee knows from operating the system, it doesn't raise to the level of a trade

Be flexible & care, plus more lessons

What has been your most important lesson recently, and how did you learn it?

“No lawyer exists in a silo. My most successful deals came from actively collaborating with industry specialists, financial advisers and even my competitors on occasion. By sharing knowledge and perspectives, we crafted solutions that wouldn't have been possible individually.

This collaborative approach not only benefits clients but fosters a more dynamic and innovative legal environment. To me, success in franchise law requires continuous learning, intellectual flexibility and a willingness to forge strong partnerships. It's not just about knowing the law; it's about understanding the industry, anticipating challenges and working together to navigate the ever-changing landscape.”

—Eric Friedman, Paris Ackerman

“There are times when I say to myself, 'I've been doing this for so long, that I've really seen everything that there is to see.' And then, after I've said that to myself ... yet again ... something new comes along and I find myself saying, 'well, what d'ya know.' So, what's the les-

son? That in the real world, nothing should be taken for granted or assumed to be a given. And how do we learn that? By living life and experiencing the above for what it is: a simple, irrevocable, truth.”

—Richard L. Rosen,
Rosen Karol Salis

“Franchise legislation in Canada aims to protect franchisees by providing them with formidable remedies to exercise in the event of franchisor misconduct. However, the exercise of those remedies is, in practice, cost-prohibitive. For instance, a franchisee seeking to exercise its statutory right of rescission must fund the resulting litigation (if, as is typically the case, the franchisor does not initially recognize the franchisee's entitlement to rescind), but without the benefit of any continuing revenue from the franchisee's rescinded business. The franchisee must also simultaneously service any loans it incurred in connection with its business and satisfy any ongoing rent obligations it owes to its former landlord. This concern is front-of-mind for me, whether I am acting for a franchisee or a franchisor.”

—Idan Erez, Hoffer Adler

“This should be obvious, but franchisors and franchisees need to talk to each other, and listen, really listen, when problems arise. I am often asked to serve as a mediator in franchisor-franchisee disputes that are headed to litigation and always find it amazing how many problems could have been avoided, or at least more easily addressed, before the lawyers have to get involved.”

—Charles Modell,
Larkin Hoffman Law Firm

“Even sophisticated, business savvy franchisors who have substantial franchise systems and franchising experience may not be sufficiently knowledgeable about franchise laws and regulatory requirements. Annual written bulletins relating to new requirements and regulatory summaries will not necessarily be sufficient to educate all clients.

There is nothing that ensures a client's true understanding of legal and regulatory requirements better than live educational programming with illustrative examples and ample time for participant questions.

I re-learned this important lesson recently in reviewing the completed franchise agreements of a client that appeared to have knowledgeable, experienced staff and well-defined processes,



“I am only two years into my franchise litigation practice and last year I drafted a respondent's brief in the California Court of Appeals. Through that process I learned to appreciate and trust my instincts as the associate knee-deep in the underlying materials.

I knew the facts, the record, and had vigorously researched the law. After the drafting process, I had to just let it go and see where my dice landed. A favorable tentative was just released and it turns out that my arguments were on point.

I think the lesson here is that I'm doing right by my clients by caring about their legal issues and that is always step one. It inspires the rest of the work on a matter to fall into place and a good result more than likely will come forth.”

—Cassie Doult,
Lathrop GPM

until I reviewed their franchisee files.

The most effective solution to closing knowledge gaps is providing comprehensive, live educational programs on a continuing basis.”

—Jill Klein, Akerman

“I have known this all along but I keep seeing more clearly that it makes sense to try and have a good relationship with opposing counsel. It keeps costs down for the client and helps smooth over those matters that arise in a lawsuit that might otherwise require court intervention.”

—Deborah Coldwell,
Haynes and Boone



“Bridges and roadways are built with expansion joints to relieve pressure under changing temperatures. Agreements which govern the relationships between franchisors and franchisees must also be drafted flexibly to accommodate the inevitable changes that occur in any long-term relationship. An inflexible relationship will almost invariably rupture over time.”

—Richard Leblanc,
Miller Thomson



Carmen D. Caruso Law Firm

Cdcaruso.com



Carmen D. Caruso and his firm are sought-after for high stakes litigation and arbitration cases throughout the United States. Nationally recognized for its success in franchise and dealership litigation, and at the negotiating table, the firm's cases have expanded legal protections for franchisees and dealers, and their independent associations, against anti-competitive, abusive, and bad faith or fraudulent conduct.

Carmen's practice extends to all types of business and professional liability litigation, and Carmen is also an Arbitrator for the American Arbitration Association.

Carmen D. Caruso

77 West Washington Street
Suite 1900
Chicago, IL 60602
(312) 626-1160
cdc@cdcariuso.com

Practice Areas:

- Trials & Appeals
- Arbitration
- Franchise, Dealership & Distribution



Einbinder & Dunn LLP

ed-lawfirm.com



Richard Bayer, a partner with Einbinder & Dunn LLP, leads the firm's franchise regulatory practice. Richard has extensive experience in representing franchisors with the development and growth of their franchise systems domestically and internationally. Services for franchisors include franchise disclosure document preparation and registration, franchise sales compliance and onboarding, corporate structuring, mergers & acquisitions, trademark registration and protection and commercial real estate leasing. Richard also represents franchisees in connection with the acquisition of single-unit, multiple-unit, area development and master franchises, the formation and operation of franchisee associations, as well as matters involving corporate structuring, financing, commercial real estate leasing, and mergers & acquisitions. Richard is a frequent author and speaker on franchise and business law topics.

Richard Bayer

112 Madison Ave, 8th Floor
New York, NY 10016
(212) 391-9500
rb@ed-lawfirm.com

Practice Areas:

- Franchise Law
- Business/Corporate Law
- Real Estate
- Intellectual Property Law



Einbinder & Dunn LLP

ed-lawfirm.com



Mackenzie L. Dimitri is a partner with Einbinder & Dunn LLP. She splits her practice between litigation, representing franchisor and franchisee clients in trials and other dispute resolution forums throughout the country, and transactional work, which includes an extensive number of complex franchise acquisitions, including for multi-unit franchisees, drafting and negotiating commercial contracts including franchise disclosure documents, and advising on corporate structure, among other things. Ms. Dimitri is a member of the American Bar Association Forum on Franchising, the Women's Caucus for the Forum, the International Franchise Association, IR Global, and other prominent legal organizations.

Ms. Dimitri is a frequent author and presenter, including the ABA article, "Enforcing the Bargain or Buying Your Way Out? The Right to Specific Performance in Franchise Agreements versus the Concept of Efficient Breach," an upcoming article for the IFA on representing franchise systems in their handling of social justice issues, the New York Chapter of the Franchise Deskbook, and a number of magazine and trade journal articles. Ms. Dimitri has also spoken at several franchise conferences, hosted webinars, and taught continuing legal education classes on franchise legal issues, and is a frequent contributor to Einbinder & Dunn's legal blogs.

Mackenzie L. Dimitri

112 Madison Ave, 8th Floor
New York, NY 10016
(212) 391-9500
mld@ed-lawfirm.com

Practice Areas:

- Franchise Law
- Business/Commercial Litigation
- Business/Corporate Law
- Intellectual Property Law



Einbinder & Dunn LLP

ed-lawfirm.com



Michael Einbinder is a founding member of Einbinder & Dunn LLP. He is a member of the American Bar Association Forum on Franchising, the International Franchise Association and other prominent franchise organizations, as well as a frequent speaker at leading franchise industry events. An author in numerous publications, he has contributed a chapter to the "Franchise Litigation Handbook," and to "Covenants Against Competition in Franchise Agreements," both published by the ABA Forum on Franchising. Michael Einbinder also serves as an arbitrator in franchise cases for the American Arbitration Association.

Einbinder & Dunn handles litigation, arbitration, and mediation nationwide for both franchisors and franchisees (including associations). The firm also represents start-up and established franchisors in franchise development and regulatory compliance.

In addition, Einbinder & Dunn represents multi-unit and single unit franchisees in transactional and real estate matters of all kinds.

Michael Einbinder

112 Madison Ave, 8th Floor
New York, NY 10016
(212) 391-9500
me@ed-lawfirm.com

Practice Areas:

- Franchise Law
- Business/Commercial Litigation
- Business/Corporate Law
- Intellectual Property Law



Fahey Schultz Burzych Rhodes PLC

fsbrlaw.com



Mark is a founding member and current President of Fahey Schultz Burzych Rhodes PLC. He leads the firm's franchise practice, representing start-ups to Top 300 franchise systems in virtually all aspects of the industry. Mark takes his role in representing franchisors far beyond the traditional preparation and registration of disclosure documents. Mark counsels clients on franchise sales compliance, franchise relationship management, dispute resolution, supply chain contracting, marketing, and operations. For over 30 years, Mark has lived out his passion working with executives and representing businesses looking to expand their business model through franchising.

Mark is a frequent author on franchising topics for the ABA Forum on Franchising, including the Franchise Law Journal and other publications of the ABA, as well as the Michigan Restaurant and Lodging Association's magazine. He is also nationally recognized by publications such as "The Best Lawyers in America," "Super Lawyers," and is rated "AV" by Martindale-Hubbell—the highest possible rating.

Mark J. Burzych

4151 Okemos Road
Okemos, MI 48864
(517) 381-3159
mburzych@fsbrlaw.com

Practice Areas:

- Franchise
- Business
- Intellectual Property
- Administrative
- Real Estate
- Liquor

Fahey Schultz
Burzych Rhodes

EXPERT COUNSEL REAL SOLUTIONS



Fahey Schultz Burzych Rhodes PLC

fsbrlaw.com



John is Of Counsel with Fahey Schultz Burzych Rhodes PLC. John has over 30 years of experience representing and advising established and start-up franchisors in all aspects of franchise, business opportunity, and distribution law. He has extensive experience in compliance with federal and state franchise laws, preparing franchise and distribution related documents, the purchase and sale of franchisor companies, the purchase and sale of franchise units, franchisee relationship matters, and advising franchisors on antitrust, price discrimination, supplier, and trade regulation issues, as well as all aspects of franchise dispute resolution. John also has significant experience in other aspects of commercial transactions and business planning.

John Forrest

4151 Okemos Road
Okemos, MI 48864
(517) 381-3200
jforrest@fsbrlaw.com

Practice Areas:

- Franchise
- Business
- Commercial Contracts
- Intellectual Property

Fahey Schultz
Burzych Rhodes

EXPERT COUNSEL REAL SOLUTIONS

Time for buyers, sellers to take note

M&A and consolidation within franchising remain a mega trend, and the influence of private equity continues to grow. What's your take, and how should franchisors/franchisees proceed?

“Be very careful about culture fit. If a private equity firm is considering investing in or acquiring the franchise business, it is important to ‘date’ and take time to make sure that the resulting culture will not harm the strengths present in the system.”

—Elizabeth Sigety, Fox Rothschild

“A 10-year franchise term is longer than some marriages. And I don't think anyone would get married if their spouse could cash out and put another person in to fulfill their part of the marriage. But most franchise agreements allow franchisors to do just that. When I work

with a prospective franchisee, I spend significant time educating them about that risk.”

—Caroline Fichter, Bundy & Fichter

“When undertaken correctly, consolidation can be healthy for both franchisors and franchisees. In this higher interest rate environment, the anticipated value proposition must be clearly identified to justify the investment.”

—Ritchie Taylor, Manning Fulton

“Franchisees need to understand that through a 10-, 20- or 30-year relationship, there will be changes in the franchise system. If you don't want to see the business change, don't buy a franchise, and control your own business.

Without change, systems die. The changes may mean more investment in floorplans, equipment and new products. They may be costly, but they are necessary for the brand's long-term survival.

The same is true for ownership and management of the franchisor; people age, they move on. Private equity has presented opportunities for franchise owners to cash out on their investment and life's work. And for franchisees, it means new blood, new ideas, and often new investments in the business.

Again, these changes can be good. We hear more about the times there was friction when PE came on board, but in my decades of experience with PE companies coming into franchise systems, they more often bring new ideas and breathe new life into the system.”

—Charles Modell, Larkin Hoffman Law Firm

“Private equity manages franchisors as a part of its portfolio. For effectiveness sake, private equity companies often acquire franchisors in the same line of business, which causes

**Baker
McKenzie.**

Congratulations to our 2024 Legal Eagles!

These Legal Eagles are part of our Chambers and Partners Band 1 Global Market Leaders ranked team, which is proud to advise many of the largest franchise companies in the world on franchising, licensing, distribution, brand expansion and protection, joint ventures, strategic transactions, compliance matters and disputes both domestically and on a global basis.



Will Woods
+1 214 978 3022
will.woods@bakermckenzie.com



Michael Santa Maria
+1 214 978 3016
michael.santamaria@bakermckenzie.com



Richard White
+1 214 978 3050
richard.white@bakermckenzie.com



Abhishek Dubé
+1 214 978 3030
abhishek.dube@bakermckenzie.com



Brent Stewart
+1 214 965 7084
brent.stewart@bakermckenzie.com



Kristen Cherry
+1 214 978 3039
kristen.cherry@bakermckenzie.com



Rocío Deitz
+1 214 978 3457
rocio.deitz@bakermckenzie.com



Hashim Elwazir
+1 214 978 3043
hashim.elwazir@bakermckenzie.com



Kevin Maher
+1 214 978 3085
kevin.maher@bakermckenzie.com



Mohammad Alturk
+1 214 978 3029
mohammad.alturk@bakermckenzie.com



Nancy Sims
+1 310 616 5734
nancy.sims@bakermckenzie.com



Bryan White
+1 214 965 7285
bryan.white@bakermckenzie.com



Jordan Siedell
+1 214 978 3046
jordan.siedell@bakermckenzie.com



Luke Christianson
+1 214 978 3045
luke.christianson@bakermckenzie.com



Michael Boardman
+1 310 616 5739
michael.boardman@bakermckenzie.com

bakermckenzie.com/franchise

WIGGIN
WIGGIN AND DANA

Wiggin and Dana congratulates its 2024 Legal Eagles



ROBYN C. ABBATE
860.297.3705 | Hartford
rabbate@wiggin.com



JOHN DOROGHAZI
203.498.4421 | New Haven
jdoroghazi@wiggin.com



DEAN T. FOURNARIS
215.988.8311 | Philadelphia
cfournaris@wiggin.com



KEVIN M. KENNEDY
203.498.4383 | New Haven
kkennedy@wiggin.com

Our skilled and accomplished franchise law practitioners offer a wide variety of experience and work closely with their clients to understand and achieve their business objectives.

ATTORNEY ADVERTISING

www.wiggin.com

CONNECTICUT | NEW YORK | PHILADELPHIA | WASHINGTON, DC | PALM BEACH

conflict of interest for the system. There is nothing in the franchise agreement prohibiting a franchisor being acquired as such. However, from the franchisees' perspective, if there is a dramatic downgrade after the acquisition, arguments such as fraud and breach of the implied covenant of good faith and fair dealing can be maintained.”

—Xiaoyin Cao,
Carmen D. Caruso Law Firm

“Potential franchisees should be cautious when purchasing a franchise. The potential purchaser should assume that the franchisor will be a toughminded businessperson, not the ‘nice’ individual who owns the franchise system yet to be sold to an equity firm.”

—Peter Greenfeld,
Law Offices of Peter N. Greenfeld

“The current M&A wave in franchising offers exciting expansion opportunities for franchisors seeking strategic growth and franchisees eager for amplified growth, but it’s crucial to navigate it with caution. While private equity players’ capital and expertise can be tempting, their focus often lies on short-term returns,

which might clash with long-term vision for sustainable growth.”

—Eric Friedman, Paris Ackerman

“Private equity provides capital and experience that can be helpful, even transformative to franchisors. However, I see an alarming trend toward young PE firms formed to purchase brands that are not ready to be franchised, and franchising them anyway so that they will have more franchise concepts to offer to an unsuspecting public.

I’m seeing a very disturbing number of franchisees who bought into these concepts partly because they thought the PE firm/umbrella provided an assurance of competence, only to find that the PE firm was not as capable as advertised, or worse, that the PE firm’s primary concern was a fast launch of multiple brands with very heavy fees charged to franchisees, leading to multiple trainwrecks. I don’t know how this ultimately shakes out, but it cannot be good for the model as a whole.

In the short run, it’s ruining or severely damaging a lot of franchisees’ lives. Franchisees should proceed with extra, extra due diligence in making franchise purchases and be wary of

taking claims at face value if made from very small sample sizes in Item 19 disclosures. They should also take a hard look at how one or two affiliate-owned units identified as the source of Item 19 or Item 7 data may differ in terms of the business model being offered by the franchisor.”

—Michael Rosenthal,
Taylor English Duma

“The impact of private equity in franchising accelerates the need for franchise relationship statutes providing a minimum floor of protections from unjust terminations, non-renewals and transfer denials.”

—Peter Lagarias,
Lagarias, Napell & Dillon

“Franchisors should think about their exit strategy well in advance of considering approaching PE firms and M&A transactions. Their ‘house’ needs to be in order, including management team, document management/retrieval, strong franchisee relationships and franchisees who are compliant within the system.”

—Trish MacAskill, Akerman



CONGRATULATIONS TO OUR LEGAL EAGLES

Celebrating our team and their accomplishments
as some of the top franchise attorneys.



Dan Matthews Ashley Nielsen Dan Warshawsky Aaron Gagnon

Continuing our dedication to the values that got us here:

Responsive and efficient legal advice

Pragmatic business-oriented solutions

Predictable and affordable flat-fee structures

Clear, concise, easy to understand legal documents

Lawyers with entrepreneurial and regulatory experience

Extensive domestic and international franchising experience

Franchising: It’s What We do!

Scottsdale, Arizona
(480) 719-4800

www.FranchiseLawyers.com



Andraya Frith



Jennifer Dolman



Dominic Mochrie



Christine Jackson

The experience to help you soar

Our advisors consistently deliver winning strategies for our clients. We are proud to have partners Andraya Frith, Jennifer Dolman, Dominic Mochrie and Christine Jackson recognized as Legal Eagles.

With extensive Canadian expertise and a proven track record, Osler’s Franchise Group provides the innovative solutions that our clients have come to count on to build and protect their franchise systems and brands.

For more info, visit osler.com/franchise

Osler, Hoskin & Harcourt LLP
Toronto Montréal Calgary
Ottawa Vancouver New York
osler.com

OSLER

'Zor oversight can hinder transfers

By Emilee Wentland

Franchisors are involving themselves more in the sales and transfers of franchised units, Dady & Gardner founding partner Michael Dady noted in the Franchise Times Legal Eagles survey last year.

Other franchise attorneys agree, giving reasons surrounding finances on either end and protecting interests of the franchise system overall.

"Increasingly, franchisors are asserting that they have the right to consent to the transfer and sale of their franchisees' franchises to their successor franchisees, and, in connection with exercising this right, that they also have the right to withhold their consent to the transfer and sale of the franchise unless the successor franchisee agrees to sign a new, and dramatically different and more onerous, form of franchise agreement," Dady wrote last year.

Franchisees looking to exit their systems via sale of the business are facing plenty of hurdles, but attorneys say that's often been the case. The environment for buying and selling franchises, along with the demand for doing so, has been challenged in recent years for a number of economic reasons—a pandemic, higher interest rates, private equity involvement—but also, in some cases, because of obstacles franchisors have created, attorneys say.

McDonald's, for one, announced internally in 2022 that existing franchisees would need to secure re-approval from the franchisor following the expiration of their franchise agreements, rather than automatically qualifying to renew. The increased oversight, in turn, makes it harder for operators to buy or sell stores, and franchisees have been pushing back.

Ron Gardner, founding partner of Minneapolis-based Dady & Gardner, said he hasn't witnessed a drastic change in franchisor involvement, but he's noticed a shifting dealmaking market, which raises other concerns.

"Some franchisors have always been extremely involved and want to pick and choose, and others have been basically, 'Look, bring me someone who's qualified and that's going to be fine,'" Gardner said.

However, with multi-unit franchisees increasing their portfolio sizes, franchisors now have to decide how large a piece of the franchise pie they want any one group to own. If one franchisee owns a significant number of units and that business goes bankrupt or, on the other side, they wield a lot of power thanks to private equity backing, that could result in future issues.

"In 2015, if mom and pop are selling to mom and pop and you didn't care, you probably don't care that much in 2024," Gardner said. "But, in 2024, they're not selling to mom and pop. They're selling to the guy now who has 500 units and he's getting bigger and bigger."

He continued, "You might be more active to make sure that the deal gets structured in a way that you don't lose, at least perceptually, any more ability to control the system than you had when it was all mom and pop."

Gardner has seen a handful of cases in his career where franchisors impose unwritten requirements for franchise unit transfers. It's not a major issue overall, he said, but he has seen it throughout the course of his 30-year career.

"Brands see something negative happen in their systems and think, 'Oh, we don't want this guy or we don't want people that fit this profile,'" Gardner said. "That leaves sellers in a really bad spot because you go and you find a buyer, you go through the provisions of the franchise agreement that says the buyer has to do X, Y and Z and meet these criteria. Then they're ultimately rejected for reasons a franchisee wasn't aware of."

Nicole Liguori Micklich, an attorney at Urso Liguori Micklich's Westerly, Rhode Island office, said franchise lawyers have been discussing franchisor involvement in unit transfers "for decades." She said even in 2013 at a forum where she spoke, she noted it was more common for franchisees to challenge a franchisor's refusal to approve a transfer.

"In the ensuing 10 years or so, franchisors became a lot more specific and detailed in their drafting of transfer provisions," Micklich said.

Micklich said franchisors are upping their involvement in systems large and small, with reasons often rooted in financial concerns such as potential for franchisee bankruptcies.

"In some of these instances, the franchisor would probably prefer less involvement, but they have their own interests and the interests of their systems to consider," she said. "In nearly every instance, they have the right to consent or not to the transfer based on parameters in the contract and applicable state law—but it's still a question that they'd have to consider."

Franchisor oversight for protection

Michael Drumm, of Colorado-based Drumm Law, primarily works with franchisors. He said it's in a franchisor's best interest to accommodate an exiting franchisee and, "try to be speedy in the approval process."

The deal itself, Drumm said, should be between the seller and the buyer, and the franchisor shouldn't involve themselves in anything but the approval and "making sure there aren't any provisions in those contracts that could cause issues," he said.

"We want to protect the old franchisee. We want them to be able to come back, because the other thing to think about is if the new franchisee goes out of business, we may want that old franchisee to step back in, rather than close," Drumm said.

Or, if the franchisor has a portfolio of corporate-owned stores and has the means to take over another, maybe that's the route to pursue, he said. Drumm Law advises its clients on preparing for the worst-case scenario in these transfers.

"The franchisor could get in trouble if they're not reasonable in approving a transfer," Drumm said. "If I want out, and you make it harder than you have to, or if you're denying a prospect that's looking to buy, even though they're very similar to what you approve, that could be problematic for a franchisor." [FT](#)



▲ Ron Gardner



▲ Michael Drumm



▲ Nicole Micklich

A decades-long issue

Nicole Liguori Micklich, an attorney at Urso Liguori Micklich's Westerly, Rhode Island office, said franchise lawyers have been discussing franchisor involvement in unit transfers "for decades." She said even in 2013 at a forum where she spoke, she noted it was more common for franchisees to challenge a franchisor's refusal to approve a transfer.



Jeffrey M. Goldstein

1629 K Street NW, Suite 300
Washington, DC 20006
(202) 293-3947
jgoldstein@goldlawgroup.com

Practice Areas:

- Franchise Litigation
- Antitrust, Unfair Competition, & RICO
- Complex Commercial Litigation
- Representing Exclusively Franchisees, Dealers, and Distributors
- Law & Economics

Goldstein Law Firm

goldlawgroup.com



“The life of the law has not been logic: it has been experience. The felt necessities of the time, the prevalent moral and political theories, intuitions of public policy, avowed or unconscious, even the prejudices which judges share with their fellow-men, have had a good deal more to do than the syllogism in determining the rules by which men should be governed.”

— THE COMMON LAW
By Oliver Wendell Holmes, Jr.



Matthew J. Kreutzer

3800 Howard Hughes Pkwy.
Ste. 1000
Las Vegas, NV 89169
(702) 667-4827
mkreutzer@HowardandHoward.com

Practice Areas:

- Franchise Law
- Transactional
- Litigation

Howard & Howard Attorneys PLLC

howardandhoward.com



Experienced in all facets of franchise law, Matt Kreutzer assists both startup and mature franchisors with developing, protecting, and licensing their franchise and distribution systems. As part of this practice, he counsels companies regarding the laws and regulations pertaining to franchising nationwide, and assists them in creating their contracts, Franchise Disclosure Documents, and other critical operational documents. He also responds to state administrative inquiries and investigations and obtains exemptions and interpretive opinions from regulatory agencies. With his background in franchise litigation, Matt understands the risks inherent in the relationship and works with his clients to limit those risks allowing those franchisors to focus on brand and system growth.

Matt also helps potential franchise buyers understand contracts before signing on the dotted line. If franchise disputes cannot be avoided, Matt assists them in litigation or alternative dispute resolution.



Julie Lusthaus

222 Bloomingdale Ave
Suite 202
White Plains, NY 10605
(914) 265-4100
jl@lusthauslawpc.com

Practice Areas:

- Franchise Law
- Real Estate Law
- Business/Corporate Law

Lusthaus Law P.C.

lusthauslawpc.com



Julie Lusthaus has been practicing franchise law for more than 24 years, representing both franchisors and franchisees. Services for franchisors include assisting with the development of franchise programs, corporate structuring, preparation and registration of FDDs, onboarding franchisees, compliance with franchise sales and relationship laws and ongoing operational issues.

Julie also represents single unit, multi-unit and multi-brand franchisees as well as master franchisees, guiding them through franchise acquisitions and renewals, the purchase and sale of existing franchise businesses and real estate matters. She has extensive experience assisting sophisticated operators navigating the risks associated with multi-unit and multi-brand development.

Julie is a past member of the Governing Committee of the ABA Forum on Franchising and a past Director of the LADR Division of the ABA Forum on Franchising. She was Program Co-chair for the 2018 ABA Franchise Forum. Julie has published extensively on franchise law issues and is the co-author of the chapter on “Representing Franchisees” in the Fundamentals of Franchising, 4th Edition and the co-author of the chapter on “FDD Review and Franchise Agreement Negotiation” in Representing Franchisees. Julie is also a frequent speaker on franchise issues at events hosted by various organizations including the ABA, Stafford Webinars, the IFA, NYS Bar Association and WCBA.



Ritchie W. Taylor

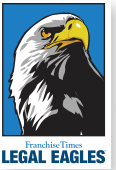
3605 Glenwood Avenue
Suite 500
Raleigh, NC 27612
(919) 787-8880
taylor@manningfulton.com

Practice Areas:

- Franchising and Licensing
- Start up and Emerging Franchise Systems
- Franchise Registration and Compliance
- Mergers & Acquisitions
- Corporate Law

Manning, Fulton & Skinner, P.A.

manningfulton.com



Ritchie leads Manning Fulton's franchise practice, providing innovative strategic counsel to franchise systems through all phases of growing and protecting their brands.

Ritchie's clients benefit from his wealth of experience representing both sector-leading franchisors as well as innovating emerging concepts. From launching their franchise system to navigating a successful business sale, franchisors and multi-unit franchisees alike rely on his timely, practical counsel.

Learn how Manning Fulton can help your brand by visiting www.manningfulton.com.



Tim Bryant

One City Center
Portland, ME 04101
(207) 791-3000
tbryant@preti.com

Practice Areas:

- Franchise Law & Litigation
- Business Law & Litigation
- Construction Litigation
- Intellectual Property
- Arbitration & Mediation

Preti Flaherty

preti.com



Tim Bryant advises franchisors nationwide in prosecution, defense, and resolution of disputes related to franchise regulatory, intellectual property, and business relationship issues. He has assisted numerous startup and existing franchise businesses with relationship agreements and disclosure/regulatory compliance. He is also a member of the American Arbitration Association's panel of arbitrators. Tim is repeatedly recognized by *Benchmark Litigation*, *Best Lawyers in America*, *Super Lawyers* and *Chambers USA* for work in the areas of franchise law and commercial litigation.



Harris J. Chernow, Esquire

Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, Pa 19104
Offices in PA, NJ, DE, NY and MD
(215) 495-6532
hchernow@regerlaw.com

Practice Areas:

- Franchise/Distribution
- Hospitality
- Dispute Resolution
- General Business
- Intellectual Property
- Real Estate/Leasing
- Immigration (EB-5)

Reger Rizzo & Darnall LLP

regerlaw.com



Harris J. Chernow chairs the Firm's national franchise and hospitality practice, which provides full service franchise, hospitality, and business legal services to franchisors, franchisees, brands, single and multi-unit owners, area developers, management companies, master franchisees, franchisee associations, and businesses desiring to expand through franchising and distribution systems.

The Firm's full-service capabilities not only provide clients with franchise/hospitality representation, but also corporate, merger & acquisition, real estate, leasing, intellectual property, employment, financial, and immigration services, along with day-to-day counseling and dispute resolution services, including mediation and arbitration.

Harris has served on franchise-related committees, including the ABA Forum on Franchising Governing Committee, the IFA, and county/state bar association Franchise Law Committees. He is a frequent speaker on franchise, hospitality, and business-related topics, and serves as a neutral mediator and arbitrator.



Joint employer still in the headlines

Joint employer liability is a seemingly perennial topic. How are you helping your clients navigate the changing landscape, and what impact do you expect on the franchise model?

“Joint employer will continue to be among the biggest external challenges to the franchise business model. Defeating joint employment turns, in part, on understanding and reinforcing the fundamentals of franchising.

In order to minimize joint employment risks, we work every day with our clients in evaluating whether requirements currently being imposed on franchisees are truly necessary or merely a recommendation or suggestion. Understanding the difference between mandating system standards versus unnecessarily mandating the manner and means of meeting the standards is a game changer.

It is often more appropriate to identify guide-

lines, recommendations or best practices to meet the required brand standards. We encourage each franchisor client to take a fresh look each year at how they approach these joint employer pressure points and make adjustments accordingly. A good example this year is reviewing a franchisor's training program(s)/training materials to assess and address joint employer risks.”

—Brian Schnell, *Faegre Drinker*

“The NLRB's new joint employer rule is forcing franchisors to think more critically about the services they offer to franchisees and the related contractual obligations. We expect more franchisors to reconsider the provision of those services unless they can be expressly tied to system standards. We are working with clients to help them identify potential problematic areas and other options.”

—Ritchie Taylor, *Manning Fulton*

“We're working with the L&E group to educate franchisors on how much control is too much control. It will continue to impact the model until law makers have a better understanding of the franchise model and its significant impact on the economy. We're also educating lawmakers on how franchising is not a traditional employee/employer relationship.”

—Trish MacAskill, *Akerman*

“I think the risk is overblown. If a franchisor interferes with or overextends its reach into an employer-employee relationship, joint employer liability is there precisely for that reason.”

—Elliot Ginsburg,
Garner, Ginsburg & Johnsen

YOU WOULDN'T BUY a RANDOM FRANCHISE...



So don't rely on a random website for your research.

www.franchisetimes.com is the trusted source in franchising, bringing you exclusive research and original reporting to rely on.

“Franchisors are faced with the virtual certainty that they will not have the ability to impose the restrictions on their franchisees in terms of the manner and under what conditions that franchisee employees must operate, that they once had. The risk is simply too great.

It is in the interest of franchisees to have their employees conduct themselves in an appropriate manner, for the benefit of the franchised business, whether the franchisor has promulgated the conditions which encompass the franchisee’s relationship with its employees or not.

As a result, where franchisee employees are concerned, both franchisors and franchisees will learn to live independently of one another. While that will impact the franchise model by placing a practical barrier between the interaction of franchisors and franchisees with respect to this issue, that is not necessarily a negative result. Inevitable, but perhaps better for all parties concerned.”

—Richard Rosen, Rosen Karol Salis

“I offer an analysis of the franchise business model to determine and recommend best practice requirements for minimizing exposure to both joint employer and vicarious liability. Regardless of the enforcement landscape, my recommendation is for franchisors to remain risk adverse, adopt the best measures and consistently enforcing them. I recommend that the practices and mandates are incorporated into the pre-opening process with new franchisees and the operations manual.”

—Jill Klein, Akerman

“The specter of joint employment characterization of franchisors is as much an issue in Canada as it is in the U.S. A recent case

in western Canada relating to the Sobeys grocery chain revived the idea that franchisors are in certain cases joint employers with franchisees and therefore liable to their employees. The Canadian franchise bar and industry associations are strenuously resisting this trend.

We are live to this issue and have ensured that franchise agreements are drafted in a manner which creates no nexus between a franchisor and a franchisee’s employee recruitment or employment practices.”

—Richard Leblanc, Miller Thomson

“Our firm primarily represents franchisees and this issue is really a franchisor issue, i.e. franchisors seek to avoid liability for actions by franchisees. A bigger question is whether a particular franchise model allows franchisees to not only cover costs but make a profit.”

—Peter Lagarias, Lagarias, Napell & Dillon

“At this stage, joint employer liability is primarily an emotional talking point that gives a lot of lawyers the fodder for speeches and articles. Until a large franchisor gets hammered, nothing will really change.

We encourage franchisors to loosen up a bit and let their franchisees be business people and operate their businesses. Franchisors look around at their competitors and ignore what we say.

They are looking for managers who accept low pay and all of the liability, not independent entrepreneurs. In combination with other factors, after a few franchisors have been slammed with joint employer liability in a very public case, I think people will start doing what we suggest.



They will suddenly discover that they can trust good franchisees to make good business decisions and will be a lot happier.”

—Howard Bundy, Bundy & Fichter

**PARIS
ACKERMAN LLP**

**Congratulations to our 2024
LEGALEAGLES**

- Multi-Unit Franchise Sales & Acquisitions
- Franchise Finance
- Commercial Real Estate / Retail Leasing
- Licensing & Distribution
- Automotive Dealership Transactions



Michael J. Ackerman
Multi-Unit Transactions
Franchise Finance



David S. Paris
Multi-Unit Transactions
Franchise Finance



Karen E. Abrams
Commercial & Retail Leasing
Multi-Unit Transactions



Eric A. Friedman
Multi-Unit Transactions
Automotive Dealership
Transactions



Michelle L. Prager
Multi-Unit Transactions
Franchise Finance
Commercial & Retail Leasing

EAST HANOVER, NJ • NEW YORK, NY • PHILADELPHIA, PA • QUINCY, MA | (973) 228-6667

WWW.PARISACKERMAN.COM

Attorneys have eyes on the future

By Megan Glenn

Colin Pendrith and Cassie Doutt hadn't planned on becoming attorneys, but in their own unique ways, they not only found themselves in the legal world, but specifically, franchise law.

With his interest in law sparked by the Toronto International Film Festival, Pendrith began interning in 2010 at Canadian-based firm Cassels Brock and Blackwell. Now an attorney at the firm, Pendrith said he originally came onboard with a focus on entertainment law, but his expertise later evolved in franchising.

"I took a broad cross section of courses and decided that I was either going to be an entertainment lawyer or a litigator," said Pendrith. "One of the reasons I went to Cassels is it had a very strong litigation practice and entertainment practice."

At the same time, Pendrith was interested in the human aspect of the law, and franchise work aligned with that goal, giving him a chance to work with people in court on a day-to-day basis. In working with franchisors and franchisees, he began to take a deeper interest in the developing area of franchise law in the early 2010s.

Another Legal Eagles New Class member, Doutt's journey to franchise law started with a bet centered on passing the bar exam. From that initial spark, Doutt worked her way through several areas of law, including in a district's attorney's office.

Finding that space "too earthy," Doutt said she wanted a more business-forward practice, and took a franchise law class from attorney David Gurnick, which sealed the deal.

"I said to myself, 'I like this. I like franchise law,'" she said. "It marries a lot of the elements of law that I like under copyright, trademark, business litigation and contracts."

She's now an associate in the Los Angeles office of Lathrop GPM, joining the firm in December 2023. While she's a recent addition to the firm, Doutt said she's already noticed several arbitration provision and forum selection clauses not being met in cases.

North of the border, Pendrith is also tracking trends, and said they were similar to those in the

U.S., citing joint employer, wages and artificial intelligence as major topics.

Like many, Pendrith sees AI as a tool that will impact the whole industry. While there's no answer on what the technology will mean for the law and franchisors are still grappling with how to implement it in their systems, Pendrith sees it as the biggest topic in law overall.

Rather than put their attention toward trends, though, the new Legal Eagles are keeping their focus on efficiency for their clients. With cost and time being important to clients, Pendrith said finding a solution that all parties can agree on is a particular point of pride in his work.

Looking ahead

New or experienced, being able to prepare for change is a valuable skill. For Alexander Tuneski of DLA Piper, working with clients through the com-

plexified day-to-day life franchisors are involved in is the majority of his work. From mergers and acquisitions to essentially serving as general counsel, Tuneski falls back on more than 20 years of experience to know what comes next.

"There's been an increase in regulatory interest in both joint employer issues and potentially having more franchise relationship laws," said Tuneski. "I think overall the growth of franchising has been almost exponential and constant, and has proven to be a resilient and successful business model."

Elizabeth Sigety of Fox Rothschild has been in the industry since her family became an area developer for a restaurant franchise. Realizing there weren't many franchise lawyers 20 years ago, she stepped into an open role after practicing as a finance lawyer.

From a financial perspective, Sigety has seen more interest in private equity and investment options. Another, more problematic issue Sigety has been seeing

in her work is franchisors who grow too quickly instead of adequately preparing for expansion.

"They don't think about the future enough," said Sigety. "That can be a mix of things. Not just on the legal side, but also technology and staffing. Making sure deals are fair on both sides is another hurdle for emerging franchisors to keep an eye on."

Like Pendrith, Tuneski sees AI as the next



▲ Alexander Tuneski



▲ Colin Pendrith

2024 Hall of Fame

Daniel Warshawsky
Warshawsky Seltzer

Alejandro Brito
Brito PLLC

Alexander Tuneski
DLA Piper

Josh Brown
Taft Law

Elizabeth Sigety
Fox Rothschild

big thing for franchise attorneys to worry about. With regulations changing rapidly and clients already utilizing the technology, research and understanding are key to keeping ahead of future legal hiccups.

"We're seeing it now where a lot of franchisors are dipping their toes into it and starting to get an idea of what the possibilities might be," said Tuneski. "I would expect that would continue to expand as we look at the regulatory environment."

Sigety and Tuneski are also paying attention to stricter joint employer regulations. Since the National Labor Relations Board's final decision is coming into play, learning how franchisors and franchisees will be impacted is crucial.

"You really have to have the forethought and frankly the legal budget in order to comply with all of those laws, because it's huge," said Sigety. "I think that's something people are going to be grappling with in all businesses, including franchising." ^{FT}

2024 New Class

Cecilia Miranda
Brito PLLC

Ryan Schildkraut
Winthrop & Weinstine, P.A.

Stuti Murarka
Cheng Cohen LLC

Keri McWilliams
Nixon Peabody LLP

David B. Ramsey
Kaufmann Gilden
& Robbins LLP

Christine Jackson
Osler Hoskin
& Harcourt LLP

Todd Jones
Snell & Wilmer

Andrew Donovan
Cheng Cohen LLC

Derek Colvin
Waldrop & Colvin

Cassie Doult
Lathrop GPM

Christopher Horkins
Cassels

Jonathan Labukas
Quarles & Brady

Laura Lewis
Canada Lewis

**Michelle
Murray-Bertrand**
Kaufmann Gilden
& Robbins LLP

Clark Harrop
Dale & Lessman LLP

Colin Pendrith
Cassels

Kristen Cherry
Baker & McKenzie LLP

Hashim Elwazir
Baker & McKenzie LLP



SAVE THE DATE!

RESTAURANT FINANCE MONITOR'S
RESTAURANT FINANCE & DEVELOPMENT CONFERENCE
NOVEMBER 11-13, 2024 • FONTAINEBLEAU • LAS VEGAS



Staffing talk, plus interesting cases

Labor and staffing issues have created a lot of challenges for every business. What kind of legal issues do you see coming out of the labor world, and how are you navigating those?

“At a minimum, all new staff of a franchisor that will have any contact with a prospective or new franchisee should be educated about the Franchise Rule and become familiar with the disclosures made in the FDD.”

—Jill Klein, Akerman

“My advice when it comes to labor and employment issues is, generally, to document everything. Every incident, complaint or disciplinary issue should be recorded and kept in a file.”

—Elliot Ginsburg,
Garner, Ginsburger & Johnsen

“Labor issues continue to be a problem across franchising. The principals of franchisees are being called upon to spend more time operating their businesses themselves because they cannot recruit qualified and willing employees to do it for them. This can be a real source of friction between franchisees and franchisors.”

—Idan Erez, Hoffer Adler



“One of the labor and staffing issues that evolved, in significant part, by the COVID pandemic, was the more frequent movement of workers and staff members into and out of employment venues, with shorter tenures, than in the past. A side effect of this movement has been that employees may take information with them.

One of the means to protect against that occurrence has been the use of confidentiality or non-disclosure agreements. We are using them more regularly and at lower levels than what was typical before. The use of these protective documents creates not only a practical barrier, but also a disincentive, which is helpful in protecting against this transfer of meaningful information and data.”

—Richard Rosen,
Rosen Karol Salis

“Keeping tabs on the everchanging rulings that come out of the National Labor Relations Board—and I keep an employment lawyer at the firm on speed dial.”

—Deborah Coldwell,
Haynes & Boone

What has been your most interesting case or transaction lately, and how did you work through it?

“We are working with a new concept that intends to franchise a luxury carshare service which we are working on to create a franchise system.”

—Christina Fugate, Ice Miller

“Very interesting case involving a franchisor who called the agreements ‘licenses’ and complied with no franchise laws whatsoever. And, to top it off, it was operating a bank in violation of state banking laws.”

—Howard Bundy,
Bundy & Fichter

“Representing a multi-national equestrian sports league with a limited franchise offering and negotiating the terms of each franchise sale with highly sophisticated purchasers.

A second: Advising franchisors on franchisee matters following an acquisition of a franchise system where the predecessors have made widespread operational mistakes, such as permitting franchisees to continue to operate as holdovers under expired franchise agreements, waiving requirements for franchisees to perform any obli-



gations under the franchise agreement, including establishing a franchised business, making but failing to keep any record in the predecessor’s files of promises and waivers granted to franchisees.”

—Jill Klein, Akerman

“We have worked with an industry leading, multi-branded franchisor in several transactions where existing franchisees have sold their business to private equity companies. These transactions have been a life-changing event for the selling franchisees and create tremendous opportunities for the franchisor and private equity groups to take their businesses and the brands to the next level. Our role has been to be fully aligned with our franchisor client to find solutions to unique issues raised by having private equity groups as franchise owners.”

—Brian Schnell, Faegre Drinker



Ari N. Stern

255 State St, 7th Floor
Boston, MA 02109
(617) 570-3545
ans@riw.com

Practice Areas:

- Franchise and Distribution Law
- Business Fraud/Unfair Trade Practices Litigation and Arbitration
- Commercial Litigation and Arbitration
- Employment Litigation and Arbitration
- Professional Liability

Ruberto, Israel & Weiner

riw.com

Ari Stern zealously advocates for franchise entities and other business clients in high-stakes, sensitive matters throughout the United States and internationally. He specializes in representing franchisors (two-tier and three-tier systems), master franchisees/regional franchisors, franchisees (multi-unit and single unit), and franchisee associations in a wide range of commercial and employment disputes.

Ari's cases often involve claims of unfair and deceptive acts and practices, bad faith, breach of contract, termination/non-renewal, and non-competition. Clients also retain Ari to negotiate and draft agreements, perform internal investigations, advise on risk management, and act as settlement counsel.

Ari is an active member of the American Bar Association – Forum on Franchising. He regularly presents and writes on franchise law issues.



Amanda D. Dempsey, Esq.

Shareholder and Co-Chair,
Franchising, Licensing
and Distribution
(484) 218-9202
add@saxtonstump.com

Practice Areas:

- Franchising, Licensing and Distribution
- Business and Corporate
- Mergers and Acquisitions
- Intellectual Property
- Intellectual Property Litigation
- Litigation

Saxton & Stump

saxtonstump.com

Amanda D. Dempsey, Esq. concentrates her practice on the representation of emerging and middle-market franchise brands. She assists U.S. and international franchisors with all aspects of owning and operating franchise businesses, including the drafting and negotiation of franchise agreements, preparation and registration of franchise disclosure documents, regulatory compliance and dispute resolution.

Amanda also represents franchise clients in mergers and acquisitions and other corporate transactions involving franchise businesses. Amanda also focuses on intellectual property matters including IP asset protections, portfolio management, U.S. and International trademark protection and brand development strategies.



Nicole Liguori Micklich, Esq.

85 Beach St., Bldg. C,
Westerly, RI 02891
(401) 596-7751
nicolemicklich
@ulmlawfirm.com

Practice Areas:

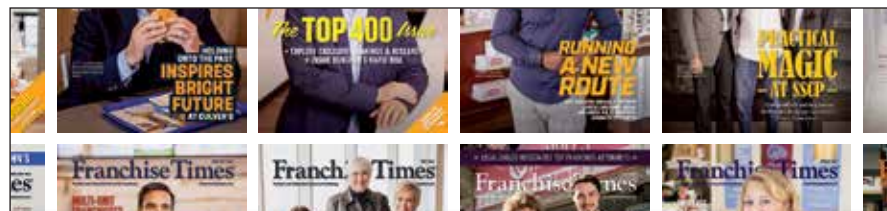
- Franchise
- Commercial Litigation
- Alternative Dispute Resolution

Urso, Liguori & Micklich, P.C.

ulmlawfirm.com

Nicole Liguori Micklich has earned a reputation for successfully representing franchisees at every step of the franchise relationship and in litigation and arbitration with franchisors. Ms. Micklich has represented franchisees in a variety of disputes, including regarding disclosures, compliance issues, royalty payment disputes, other alleged breaches of contract and termination. It is important to Ms. Micklich that her clients' claims are handled efficiently. She regularly represents clients in mediation and has favorably settled numerous cases on behalf of franchisees. Ms. Micklich also advises clients regarding the transfer of franchise agreements and other transactions. Ms. Micklich is a frequent author and presenter on franchise law topics. She co-authored *Annual Franchise and Distribution Law Developments 2021*, contributed to *Representing Franchisees* published in 2023, and is a member of the Governing Committee of the American Bar Association Forum on Franchising.

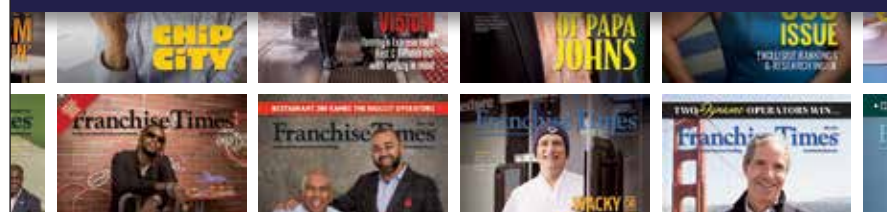
URSO | LIGUORI | MICKLICH
ATTORNEYS AT LAW



A YEAR'S WORTH OF OPPORTUNITIES

TELL YOUR STORY IN FRANCHISE TIMES

To advertise or subscribe, visit www.franchisetimes.com



Exclusive Research From Franchise Times Takes You Inside Top-Performing Brands



Fast & Serious details the 40 smartest-growing franchisors



Zor Awards names the best franchises in 10 hot sectors



Dealmakers recognizes the best M&A deals in franchising



Restaurant 200 ranks the largest U.S. restaurant franchisees



Franchise Times Top 400 ranks the largest franchise systems by worldwide sales

Subscribe Today - www.franchisetimes.com

Keep tabs on these notable issues

What is a legal topic more people in franchising need to know about?

“The rise of the ‘franchise influencer,’ who is really an unregistered broker, should be giving franchisors and regulators nightmares. About a third of the prospective franchisees I speak with are relying on statements about franchise systems, usually sales or profit information, that they heard from a ‘small business coach’ or ‘lifestyle consultant.’ My clients are shocked to learn that the coach or consultant was likely a broker and compensated by the franchisor, and that the statements were likely false and illegal. Often the statements are made on X, YouTube or LinkedIn and would count as ‘advertisements’ in the states that regulate them. Of course, neither the broker nor the advertisements are on file with the regulators.”

—Caroline Fichter, Bundy & Fichter

“I have always been a proponent of the view that real estate, and its related issues, including location, territory and expansion rights, are high on the list of key business priorities in franchising. In that context, the franchisee’s lease, and its negotiation, will play a significant part in a multiplicity of matters that will impact both the franchisee and the franchisor.

The lease ... will affect the ability to sell the franchisee’s business in many ways, including the circumstances under which the tenant can assign the lease, as well as the circumstances

under which the landlord may be required to consent to a lease assignment or not.

The protection of the franchisor where a default under the franchisee’s lease occurs, including the franchisor’s right to cure the franchisee’s default, should be provided for, as should the right of the franchisor to ‘step in’ and operate the franchisee’s business. The franchisor’s right to assign the lease to an affiliate of the franchisor in the event of a default under either the lease or the franchise agreement should be permitted. Let’s just say, there is a lot to know, and for most, a lot to learn.”

—Richard L. Rosen, Rosen Karol Salis

“Early dispute resolution, especially for emerging franchisors. Disputes with franchisees will happen. Conflict is not necessarily bad, as franchisors and franchisees play different roles in a system and have different responsibilities and perspectives. Other factors often in play in a dispute are breakdowns in communications, unrealistic expectations and avoiding early warning signs, often coupled with a singular focus on winning a lawsuit rather than finding solutions. Those emerging franchisors who can move early and effectively from conflict to finding solutions will have a much higher likelihood of success in building a successful and sustainable franchise system, and save tens of thousands of dollars in legal fees.”

—Brian Schnell, Faegre Drinker

“How minimum wage requirements, supposedly enacted to help workers, actually result in lost jobs. Take a look at California, where thousands of quick-serve restaurant employees were recently laid off when the \$20/hour minimum wage took effect.”

—David Kaufmann, Kaufmann Gildin & Robbins

“That it is not the same as ‘owning your own business,’ despite what franchisor marketing may say. People enter franchise agreements without understanding the substantial restrictions under which they will have to operate.”

—Elliot Ginsburg, Garner, Ginsburg & Johnsen

“Additional steps to include when designating an approved supplier: Lay out the fundamental ground rules contractually with suppliers and franchisees; ensure the terms an approved supplier offers to franchisees are commercially reasonable and consistent with the franchisor’s rights under the franchise agreement.”

—Jill Klein, Akerman

“Promises of vendor savings that prove untrue.”

—Peter Greenfeld, Law Offices of Peter N. Greenfeld





Congratulations

to our Legal Eagles!

				
Adam G. Wasch Founding Partner adam@thefranchisefirm.com (561) 680-5918	Evan M. Goldman Founding Partner evan@thefranchisefirm.com (215) 965-1553	Brett Buterick Founding Partner brett@thefranchisefirm.com (215) 965-9499	Natalie M. Restivo Founding Partner natalie@thefranchisefirm.com (561) 680-5353	Joseph C. Wasch Senior Counsel joe@thefranchisefirm.com (561) 680-5901

www.thefranchisefirm.com

YOU'VE GOT
A FRIEND AT
FRANCHISE
TIMES

Follow us on Facebook for stories, news and updates on all things franchising. Plus see what your favorite brands are up to and enjoy some behind-the-scenes looks from our editorial team. Check us out at:

[www.facebook.com/
FranchiseTimesMagazine](http://www.facebook.com/FranchiseTimesMagazine)

 **Find us on
Facebook**



**RELENTLESS. INSPIRED.
COMMITTED. AUTHENTIC.**

Joseph S. Goode & Mark M. Leitner
2024 FRANCHISE TIMES LEGAL EAGLES



Laffey, Leitner & Goode LLC

325 EAST CHICAGO STREET
SUITE 200
MILWAUKEE, WISCONSIN 53202

PH: 414-312-7003

WWW.LLGMKE.COM



Presenting
Franchise Times
LEGAL EAGLES[®]
Virtual Summit

**Tackling the Latest
Franchise Legal Issues**

April 10, 2024

Get a little pro bono legal insight from our panel of top franchise attorneys as we examine the legal landscape in 2024 and beyond. From state and federal regulatory actions to trademark protection, franchise sales compliance and the influence of AI, we'll cover key intel franchisees and franchisors need to know to position their businesses for success.

Register at www.franchisetimes.com