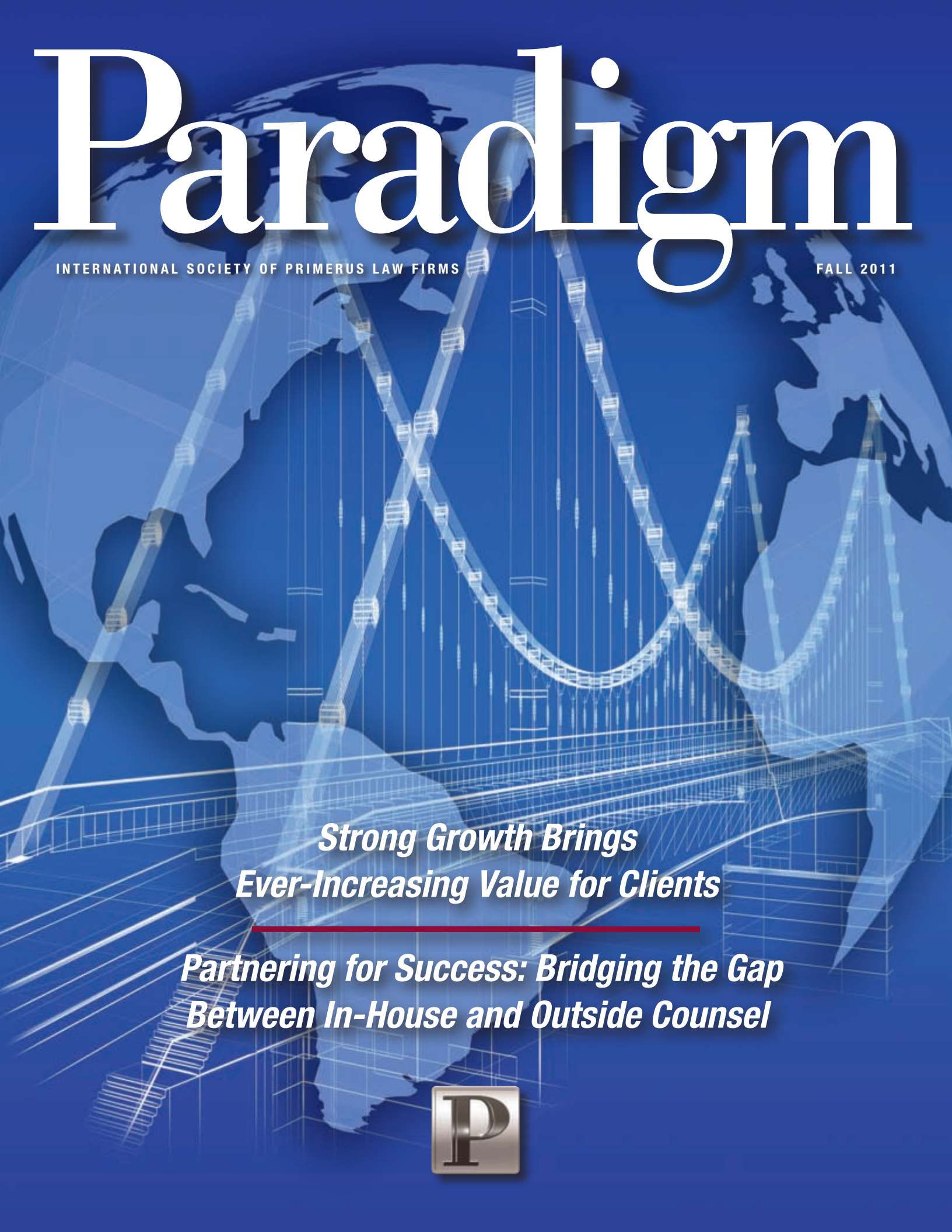
Paradigm

INTERNATIONAL SOCIETY OF PRIMERUS LAW FIRMS

FALL 2011



Strong Growth Brings Ever-Increasing Value for Clients

Partnering for Success: Bridging the Gap Between In-House and Outside Counsel

Every lawyer in Primerus shares a commitment to a set of common values known as the Six Pillars:

Integrity
Excellent Work Product
Reasonable Fees
Continuing Legal Education
Civility
Community Service

For a full description of these values, please visit www.primerus.com.

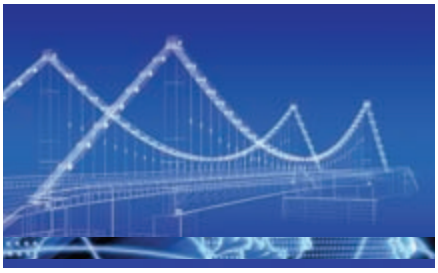
About our cover

In the expanding Primerus organization, new connections are springing up around the globe, linking members with corporate clients and with other members – regionally, nationally, and internationally. The bridge graphics on the cover reflect the new global partnerships highlighted in this issue of *Paradigm*.

Primerus
Built on Integrity, Driven by Innovation.

Publisher & Editor in Chief: **John C. Buchanan**
Managing Editor: **Chad Sluss**

The Primerus Paradigm – Fall 2011



President's Podium

John C. Buchanan

Strong growth brings ever-increasing value for clients

Thus far, 2011 has been a year of tremendous growth for Primerus. In fact, our society of 180 law firms with about 2,800 member attorneys is growing larger every week. At the beginning of 2010, we had member firms in four countries, and by August of this year we had grown to 34 countries. We're on track to be in at least 40 countries by the end of 2011.

No matter where we go, the Primerus model is met with enthusiasm – both from law firms and from representatives of corporations around the world, including many of you. On page 5, you can read about the senior counsel of a billion-dollar company who attended last year's Primerus Business Law Institute Symposium in Chicago and who now uses Primerus law firms for her company's legal work whenever possible.

In addition, on page 16, Primerus member Bob Brown, of Donato Minx Brown & Pool in Houston, Texas, shares in his own words how the Primerus model can work, and is working, for clients around the world.

In essence, these five points reflect what Primerus is all about:

1. Quality work product. Our society's boutique law firms have a reputation for delivering quality work. Before they are welcomed into the Primerus society, firms are carefully screened for quality. As more and more corporate clients choose Primerus as their go-to source for legal needs wherever they arise, they attest to the quality of the work they receive from our firms. That's what keeps them coming back.

2. Quality client service. Our client service is about more than winning or losing cases. Our attorneys believe in taking care of clients with responsiveness, integrity and kept promises.

3. Reasonable fees. We know that clients are looking for value as much now as ever, so Primerus members must commit to delivering quality services for a good value.

4. Availability around the world. Our international growth means that more and more, we are able to provide Primerus lawyers wherever clients need them.

5. Full-service offerings. With more specialties than many of the world's largest law firms, Primerus has experts with proven experience in many areas of the law. Among our three institutes – The Primerus Business Law Institute, The Primerus Consumer Law Institute and The Primerus Defense Institute – we have about 20 practice groups.

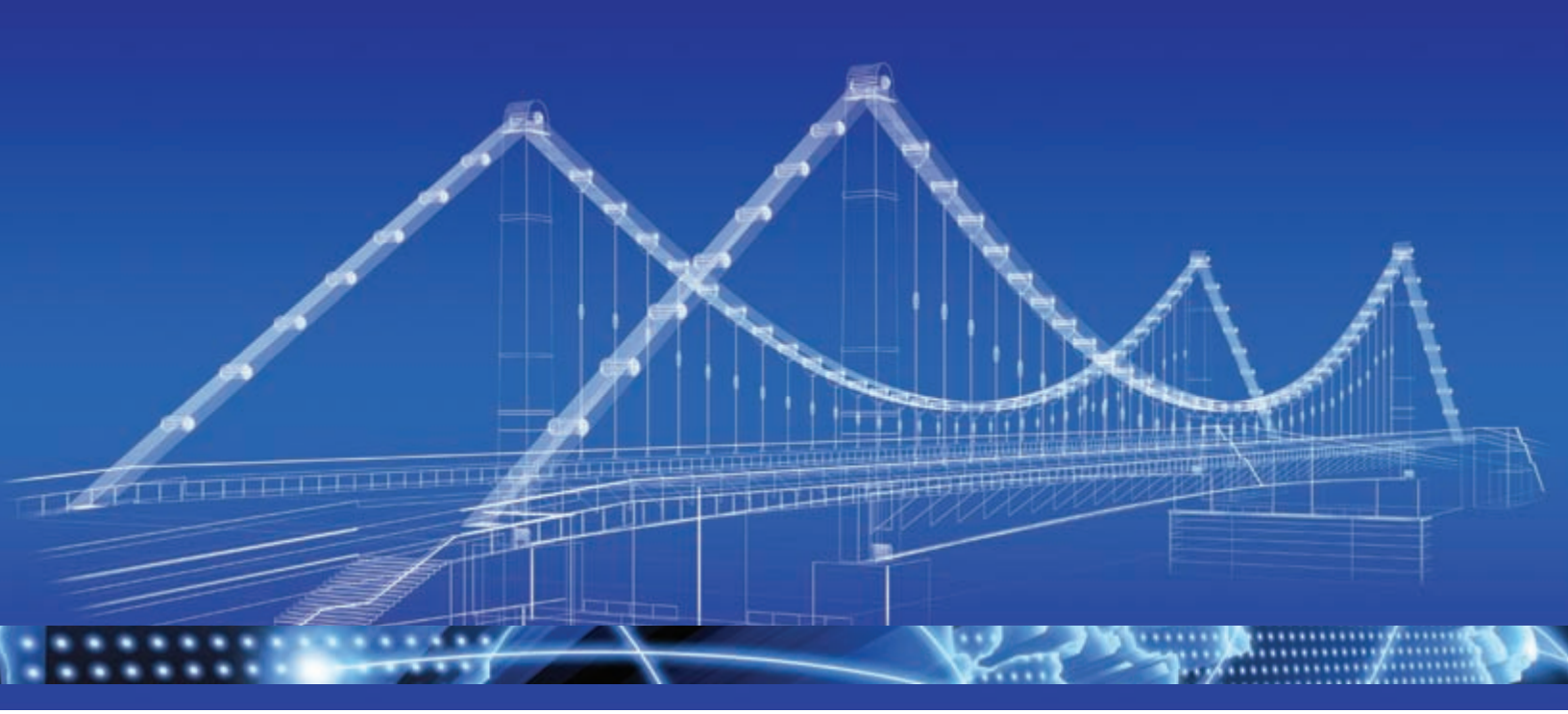
As you will read in the article that follows, it's critical for in-house counsel to find outside lawyers they can rely on to provide value, quality work, trust and respect. This is exactly what's at the heart of the Primerus brand, summed up in the words "Built on Integrity. Driven by Innovation." We're constantly innovating in order to bring great value to the lawyer-client relationship. For example, the Primerus Defense Institute works to help clients reduce their liability costs in numerous ways through its practice groups, client advisory boards, seminars, webinars and compendiums.

Beyond that, Primerus goes a step further, helping lawyers build relationships as trusted advisors and strategic partners with clients. These relationships are about much more than being knowledgeable and winning cases. They're about understanding a client's long-term needs, putting the client's interests ahead of their own, building trust and truly caring about clients as people.

Because we have a strong presence of lawyers around the world, once you develop a trusted relationship with one Primerus lawyer, you have access to other lawyers internationally who share the same values.

And because we have a strong presence of lawyers around the world, once you develop a trusted relationship with one Primerus lawyer, you have access to other lawyers internationally who share the same values and who take care of one another's clients.

I'm proud of the ways Primerus is helping in-house and outside counsel around the world forge successful partnerships, and I hope you can join us at a Primerus event soon to learn more. For more information about those events, visit www.primerus.com.



Partnering for Success: Bridging the Gap Between In-House and Outside Counsel

Imagine your ideal relationship between in-house and outside counsel. When Ashley Wilson, vice president and senior counsel of California-based ValleyCrest Companies, retains outside counsel, she looks for the following qualities:

- Someone who knows her company's operations well.
- Someone who keeps her informed about legal trends affecting her industry.
- Someone who ensures that bills are correct and fair.

"I like it when outside counsel feels like part of our company," said Wilson, who has worked for ValleyCrest for two and a half years. ValleyCrest is the largest landscape services company in the United States, with more than 12,000 employees.

As one of only two attorneys working in-house for ValleyCrest, Wilson frequently relies on outside counsel. One place she has found that ideal relationship is with Frank Melton of Primerus member firm Rutter Hobbs & Davidoff in Los Angeles.

"I have worked with Frank for nearly eight years, and he knows my company and my priorities in a way that makes me feel like someone is looking out for me, even when I don't have him on the phone," Wilson said.

For Wilson and other in-house corporate counsel around the world, successful partnering between legal departments and outside counsel is critical. Here, we examine some key aspects of that relationship – including finding value and trust.

Trust, Respect and the Little Things

For Wilson, a positive relationship with an outside law firm begins as early as the first phone call. She is immediately turned off by law firms that assume her company is a small landscape company, rather than the billion-dollar company it is. "I dislike not having phone calls returned because a law firm assumes I work for a fly-by-night landscape company," Wilson said. "I don't like to have to prove that we're good enough for a law firm to pick up our work."

She also wants to know her employees are going to be treated with respect. ValleyCrest has a diverse workforce, from landscape architects to field workers, who Wilson calls the most important

company assets. "We are the type of company that wants to do things right for all of our employees, so I want to know my workers will be treated respectfully," she said.

Trust also is critical. "One of the biggest ways to win trust with a client is to do good work, and I'm extremely loyal to those attorneys who do good work," she said.

It's equally important to Melton to reach out to clients in this way. "My approach to lawyering has always been that I want to be a good human being and a regular person," he said. "People have choices about who they work with, so having a relationship that goes a little beyond business to getting to know one another is important. And frankly, it makes the day a lot more enjoyable. We want to make our clients look good and make their jobs and lives easier."

Beyond that, she points to the little things that make a big difference.

"I am a very relationship-driven person," she said. "I like knowing that someone has our company in mind and will just pick up the phone to see how we're doing. I would like to think they are doing that for client relations and not just to bill us. That kind of follow-up goes a long way with me."

She also appreciates a lawyer who takes a personal interest, as Melton has done. "Frank knows the names of all my family members, and he asks about them. When I'm having a busy day, that puts a smile on my face. I don't necessarily need an attorney who does that, but I like it. It's that human touch that shows someone is just as interested in making sure you're successful as a person as they are in billing you."

This reflects the Primerus model of building attorney-client relationships as strategic partners, trusted advisors and good friends, according to Primerus President and CEO John C. Buchanan. "As a strategic partner, the Primerus attorney understands not only the client's business and its short-term needs, but also understands how one transaction fits into the larger picture and the client's long-term needs," Buchanan said.

"As trusted advisors, Primerus attorneys put the client's interests ahead of their own. And as a good friend, an attorney truly cares about a client as not only a client, but also a person."

Knowledge and Professionalism

Jack Else, claims attorney with United Fire & Casualty Company, retained a Primerus firm for the first time after experiencing a major breach of trust with a non-Primerus law firm his company had retained. Else had already met Aaron Pool and Bob Brown of Primerus firm Donato Minx Brown & Pool in Houston, so when he knew he needed new litigators for a case, he called Brown for a recommended law firm in Tennessee. Else ended up with Primerus firm Spicer Rudstrom in Memphis, and saw a tremendous result in the case, he said.

"Ever since that time, if we have a lawsuit in a jurisdiction where we don't have an approved attorney on our list, I don't go through Martindale-Hubbell anymore. I just click on the Primerus website. And I always make a point of telling them I am calling because they are Primerus members," he said. "I am proud to say I have engaged Primerus counsel on a routine basis. Basically, they make me look good."

So what's the difference Else sees in Primerus firms? The lawyers are easy to work with, detail-oriented, knowledgeable about the law, excellent litigators and are consummate professionals, he said.

"They know how to litigate and are not afraid of the courtroom," Else said. "They may face judges and plaintiff

lawyers who they personally may not like, but you never get that impression. That's very important to me because if a judge and plaintiff's lawyer look with favor upon my counsel, that judge and lawyer are going to be more reasonable in whatever demands they make. That will rebound to my insured's benefit, and ultimately, I have to protect the interest of my insured."

Mirroring 2009 results, the survey showed that law firms placed their own desire for change at a median of five (on a scale of zero to 10) and placed law firms' seriousness about changing their delivery model at three on the same scale.

The survey also showed that 63 percent of chief legal officers responding had increased their internal corporate legal department budgets, 41 percent planned to hire more lawyers to staff those departments in the next 12 months and 29 percent planned to decrease their use of outside counsel.

Altman Weil principal Daniel J. DiLucchio said in a press release that a search for value lies at the heart of these trends. "These results highlight a shift of perspective among CLOs," he said. "Law departments are still going to rely on outside counsel for many things, but they are increasingly serious about finding more cost-effective ways to serve their clients – and that includes adding more internal resources."

Organizations such as the Association for Corporate Counsel (ACC) have recognized these trends and have tried to lead the legal industry in changing old patterns in attorney-client relations. In 2008 the ACC launched its Value Challenge to "reconnect value for the cost of legal services."

ACC literature says, "Believing that solutions must come from a true dialogue and a willingness to change things on both sides, the ACC Value Challenge is based on the concept that firms can greatly improve the value of what they do, reduce their costs to corporate clients and still maintain strong profitability. Our task is to help shift the discussion to a focus on value and to find solutions that work for all sides."

The Value Equation

Even with the strong foundation of a positive working relationship, a successful engagement between legal departments and outside counsel often comes down to one crucial element: value. With ongoing pressure from corporations to lower legal costs, it's as important as ever for purchasers and providers of legal services to reach common ground on this important issue.

In the 2010 Chief Legal Officer Survey, conducted and published by Altman Weil, Inc. in September and October 2010, respondents were asked to "rate how much pressure corporations are putting on law firms to change the value proposition in service delivery, and in turn how serious law firms are about changing their service delivery model."

The organization went a step further by creating the ACC Value Index, an online tool that allows ACC members to share assessments of the firms they engage and to search a database of fellow in-house counsels' assessments. The index uses a five-point scale to measure categories such as:

- Understands objectives/expectations
- Legal expertise
- Efficiency/process management
- Responsiveness/communication
- Predictable cost/budgeting skills
- Results delivered/execution

The tool also asks in-house counsel to respond to the question, Would you use this firm again? The ACC website states that the index currently includes over 3,000 reviews of more than 900 firms.

ACC board member Norman Wain, general counsel and chief of business affairs for the nonprofit USA Track & Field, Inc., believes that efforts such as the ACC Value Challenge are helping in-house counsel become better educated about the options available to them.

"Value is not easily measured by the going rate, or fixed fee, or blended rate or whatever the flavor of the day happens to be," Wain said. "It all goes back to developing relationships with the people you are doing business with. Do they truly understand what your needs are?"

The 2010 Chief Legal Officer Survey showed that use of alternative fee arrangements is on the rise. In 2010, 81 percent of respondents said they will use at least some alternative pricing for work done by outside counsel, up from 77 percent in 2009. On average, 11.9 percent of outside counsel fees were based on non-hourly pricing in 2009, and in 2010, respondents estimated that would rise to 14.5 percent.

Almost half of chief legal officers, when asked why they don't always request alternative fee arrangements, said non-hourly pricing was not appropriate for all types of matters, such as litigation, specialty work and urgent matters, the survey said.

Whether using alternative fee arrangements or not, Wain said it's vitally important for in-house and outside counsel to have what he calls the "get naked" conversation at the beginning of a matter. "You need to get down to, 'Now that you understand my issue, how are we going to frame the relationship so you can help me address it in a mutually successful manner?' If they say, 'Well, our standard rate is $600 per hour, but we will knock it down 20 percent for a nonprofit,' right off the bat, I start thinking that's nice, but you're not paying attention," Wain said.

"If I have a case that involves $50,000 in exposure but we end up paying $50,000 in outside legal fees, then I am not serving the needs of my client. We need to quickly establish a shared understanding of what success is going to be."

Wain said reaching common understanding of value between outside attorneys and in-house legal departments requires time and commitment from both sides. "It's like watching evolution happen. It attacks the core of the outside private practice attorney. That's where your bread is buttered, so of course you're going to be very protective of that, and that's where the issue comes from."

Wain is hopeful, thanks to efforts like the ACC Value Challenge. "I think it's a great genesis for something that forces both inside and outside counsel to reexamine the relationship and have better dialogue," he said.

For his part, Else has been pleased with Primerus firms' pricing arrangements. He said his general counsel once told him to expect a visit from the company's auditors to review invoices for various cases. When the auditors never came, Else asked his general counsel why. "He said, 'Well, Jack, they looked over the invoices and all of your notes, and they didn't have any questions.' The Primerus firm made me look good, because it wasn't anything I had done," Else said.

"Their fees are entirely reasonable and they're smaller firms, so when I want to talk to a senior partner, I can. They also understand that while associates can do some things at a lower cost, there are circumstances which a more experienced lawyer needs to handle."

Buchanan said finding value comes down to whether the client feels good about the bill they receive: "Do they feel it's fair? Do they feel they received good value for the work performed?"

Outside Endorsements

Tools such as the ACC Value Index bring the J.D. Power and Associates customer-satisfaction mindset to rating law firms.

Wain said endorsements such as these coming from a community of people in the same boat are invaluable. "It's better than opening Martindale-Hubbell, which is the way people used to do it," he said. The index also allows users to contact the person who posted the law firm review to ask questions, lending even more credibility to the process.

ValleyCrest's Wilson found the same kind of help finding quality law firms from Primerus. At Melton's invitation, she attended the first annual Primerus Business Law Institute Symposium in Chicago in June 2010 – an event that provided Primerus attorneys and clients a chance not only to network with one another, but also to participate in education programs offered by attorneys, executives and in-house counsel.

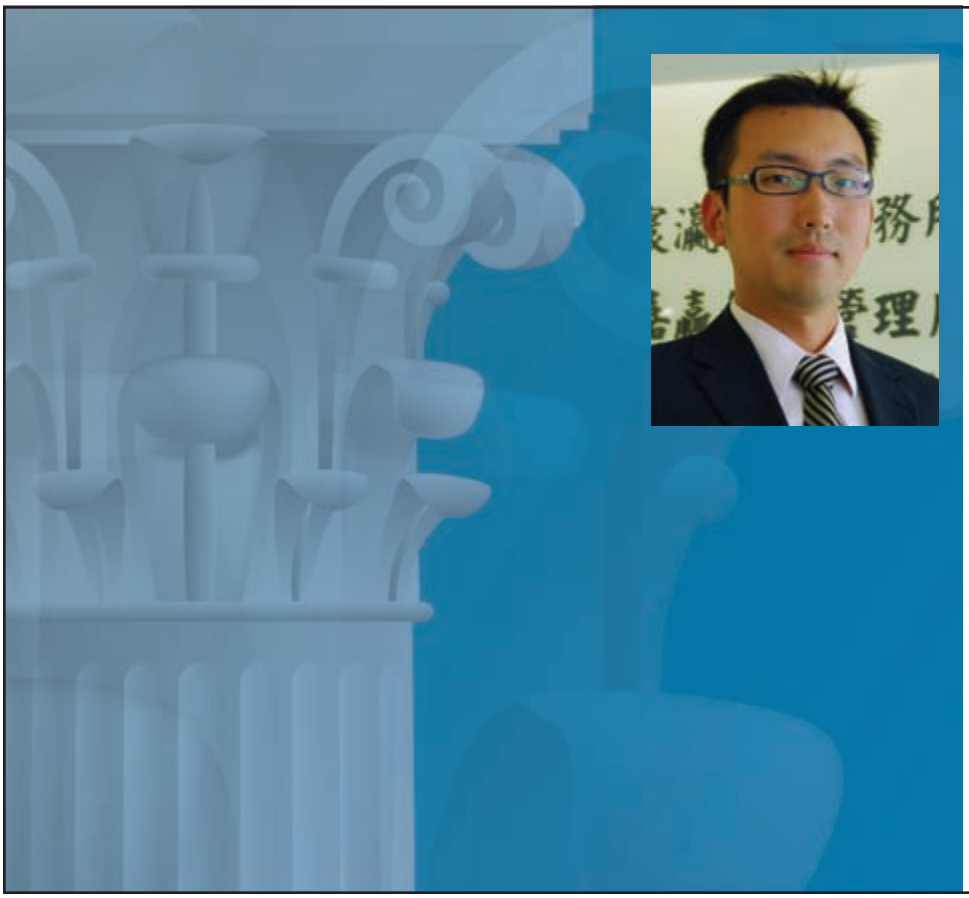
At the event, Wilson said she met at least 50 attorneys from around the world, providing her with great resources to call on for her business. Knowing they were vetted by Primerus for quality gave her confidence to work with them.

She keeps the book of symposium attendees handy. "Anytime I have an issue in any part of the country, I look at my book and make a call. If it's not the right person, they have been very helpful in ushering me on to the next person. I'm actually working with six Primerus law firms right now, one in Mexico and five in the United States."

Wilson also frequently contacts Melton or the Primerus office when she needs a referral. "Ashley has reached out to me or Chad Sluss of the Primerus staff on several occasions to determine whether we have recommendations in countries or U.S. jurisdictions not yet covered by the Primerus network," said Melton. "My partners and I also provide recommendations as needed for lawyers and other professionals in various locales, as we want to be a great resource for our valued clients."

In turn, Primerus firms have a strong track record of taking care of clients referred to them, Melton said. "There is a spirit among Primerus lawyers to take special care of those who are referred to us from other Primerus lawyers."

He was shocked at Wilson's experience with non-Primerus firms that asked her to establish her company's worth as a client. "We don't start with the premise of 'Prove yourself,'" Melton said. "Even if your needs are limited now, you may need more in the future, and we want to build a relationship with you. We're here to serve, and we enjoy working with a whole variety of companies."



Chi-Che Tung

Mr. Chi-Che Tung obtained a Master of Intellectual Property from the Franklin Pierce Law Center (U.S.) and M.S. and B.S. degrees from National Taiwan University (Taiwan). Mr. Tung has vast experience in patent prosecution, patent search, infringement analysis, invalidation and litigation in many technical fields. These include mechanical, electromechanical, electrical, software, communication, construction and civil engineering. In addition to Taiwan, Mr. Tung specializes in patent prosecution in China, the United States, Japan and Europe as well as the Patent Cooperation Treaty.

Formosan Brothers
8F, No. 376 Section 4, Jen-Ai Road
Taipei 106, Taiwan
+886-2-2705-8086 Phone
+886-2-2701-4705 Fax
al@mail.fblaw.com.tw
www.fblaw.com.tw

Patent Amendment Practice in Taiwan: The Impact of Recent Changes to the Practice of Patent Amendments and to the Patent Examination Guidelines

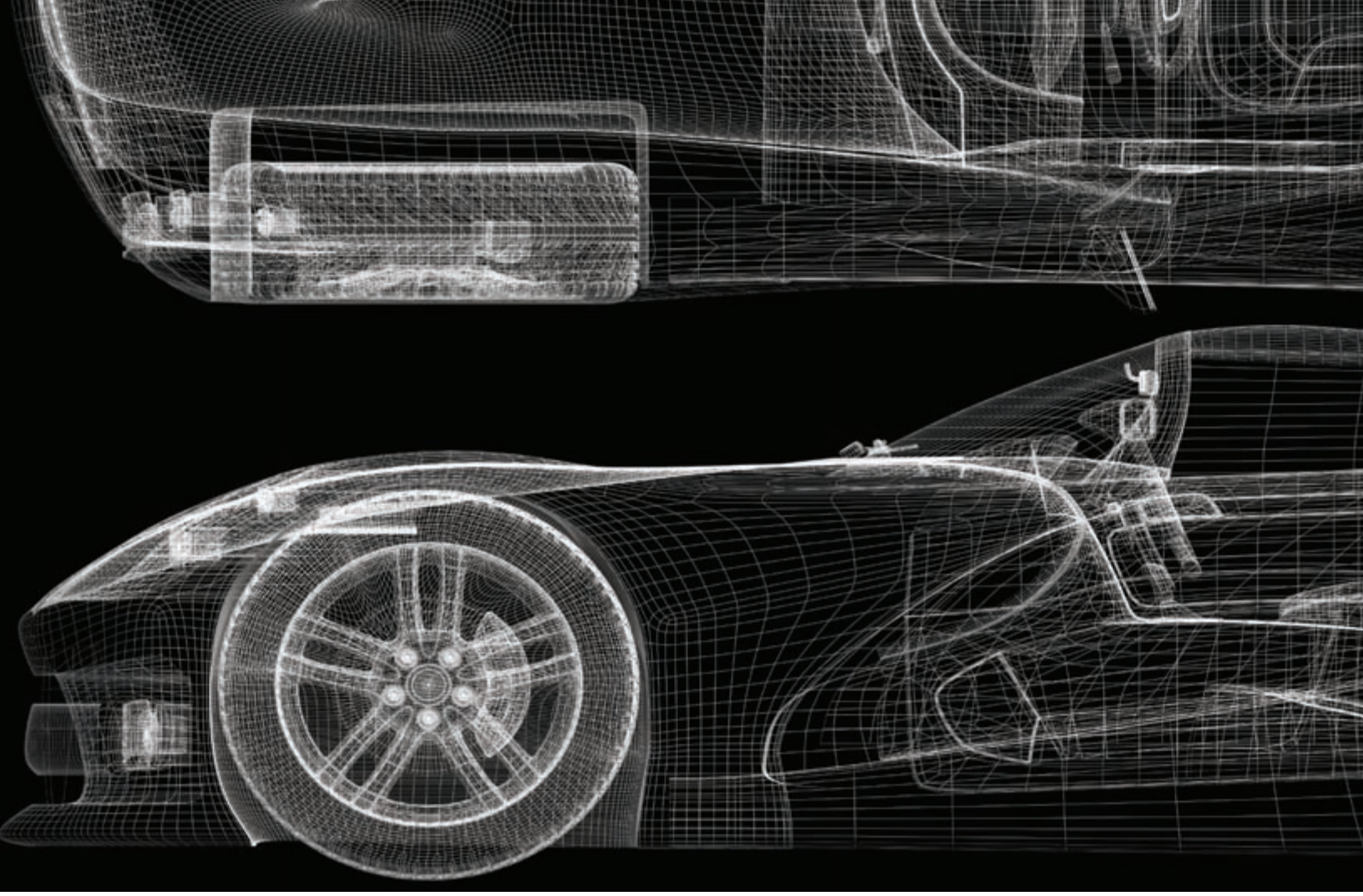
On the battlefield of Taiwanese patent litigation, the amendments of issued patent claims often decide the outcome of the litigation. On the one hand, patent owners must amend the claims to the extent permitted by the Patent Act, so as to maintain the validity of the patent. On the other hand, the patent owners must take into consideration whether the allegedly infringing products would still fall within the scope of the amended patent claims, so as to achieve the objective of patent enforcement.

Therefore, during the course of litigation, patent owners are often required to carefully assess whether amendments should be made and whether the amendments are flexible enough to maintain patent validity while keeping the claims broad enough to protect the inventions.

However, patent amendments are closely connected to the public interest, as explained in the footnotes of the Consolidated Patent Act edited by the Taiwan Intellectual Property Office: "If patent owners are allowed to amend the specifications or drawings at will, so as to expand and alter the scope of patent protection that patent owners are entitled to, such behavior will necessarily affect the public interests and breach the fairness and justice of the patent regime. Therefore, there must be certain restrictions imposed on the proposed amendments of the specifications or drawings."

Standards and Restrictions

Therefore, there are strict standards and restrictions regarding whether an application for amendment will be granted or rejected. According to Article 64 of the current Patent Act, the restrictions



imposed on the amendment to a patent include the following:

1. The application for amendment must include one of the three permissible causes for amendment prescribed under Article 64 Paragraph 1.
2. The amendment shall not exceed the scope of contents disclosed in the original specification or drawings when the patent application was first filed.
3. The amendment shall not substantially expand or alter the scope of the patent claims.

This third criterion, which restricts an amendment from substantially expanding or altering the scope of the patent claims, is often the key to whether an application for amendment is granted. Based on the administrative judgments rendered by the Taiwan Intellectual Property Court in 2010, it can be observed that applications for amendment of an issued patent are rejected in approximately 75 percent of the cases on the basis that such amendment sought to substantially expand or alter the scope of the patent claims.

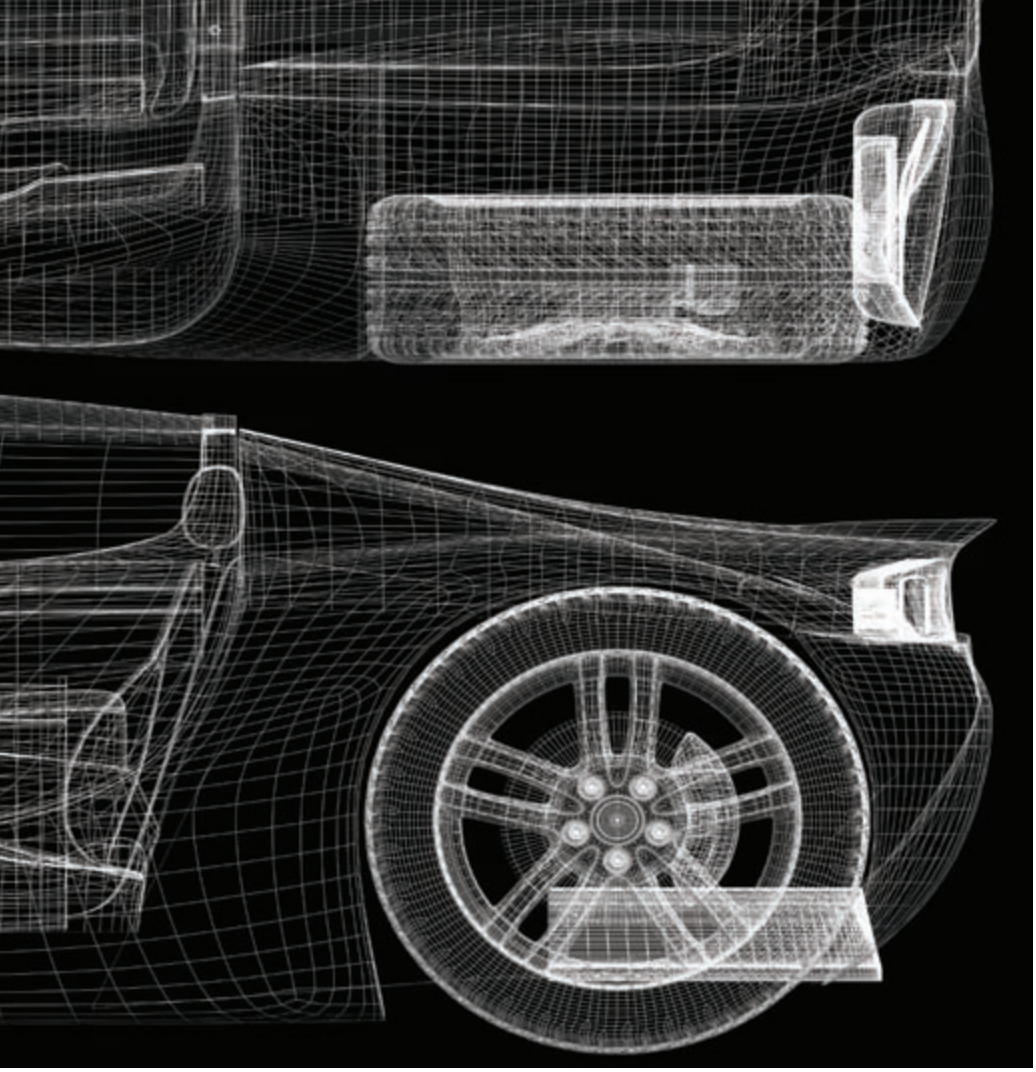
In most such cases, the issue arises when the applicant tries to include "additional-element type" technical features of a dependent claim under an independent claim, and as a result, the other dependent claims of the said independent claim have been substantially altered.

For example, in the case of the judgment 99-Xing-Zhuan-Su No. 2 (2010), the patent owner had incorporated claims 7 and 9, which are dependent on the independent claim 1, into claim 1 – and there are other claims in the said patent (claims 3 to 5 and claims 12 to 15) that are directly or indirectly dependent on the independent claim 1, all of which are dependent claims with additional elements.

In the end, the court held that "Claims 3 to 5 and claims 12 to 15 of the amended patent claims have, in addition to adding technical features under independent claim 1 of the original patent, *further included dependent technical features*. As such, claims 3 to 5 and claims 14 to 17 of the original patent claims have been substantially altered as a result of the amendments made to the heat dissipation unit" (emphasis added). This judgment demonstrates an actual case whereby the other dependent claims of an independent claim were substantially altered as a result of the patent amendment.

Recently Amended Provisions

Moreover, the Taiwan Intellectual Property Office has amended the relevant provisions on patent amendments under Part 2, Chapter 6 of the Patent Examination Guidelines, which came into force on May 1, 2011. The key amendments include the following:



1. To loosen the standards of review with respect to the permissible causes of the application for patent amendments.
2. To loosen the standard for determining whether the patent amendment has substantially altered the patent claims.
3. To include examples as illustrations.

Among the amended provisions, points 2 and 3 are expected to have the largest impact on the practice of patent prosecution. The main changes to the Patent Examination Guidelines are the loosening of restrictions imposed on the introduction of technical features to further define the technical features under the patent claims prior to the patent amendment (for example, to further define that component A includes components a1 and a2). This is an example of further-description type of technical features.

If such further definition does not alter the problem that the invention sought to resolve prior to the patent amendment, the patent claims will not be considered to have been substantially altered. Moreover, the amended Patent Examination Guidelines provide examples of situations where the introduction of an additional technical feature in the specifications or the original patent claims after amendment would otherwise result in substantial alteration.

Recommendations

Based on the foregoing changes in the patent practice and the amendments to the Patent Examination Guidelines, in terms of drafting specifications and patent claims, we would recommend the following:

1. If a particular additional-element type technical feature may be patentable, it is recommended that such technical feature be included as a dependent claim. If such technical feature is not included in the patent claims and appears only in the specifications, such technical feature might not be allowed in the amended patent claims.
2. Since a dependent claim with additional-element type technical features, when being incorporated under an independent claim, may result in substantial alteration of other dependent claims with additional-element type technical features, we recommend that the relationship between the patent claims be arranged in advance so as to reduce the possibility of such substantial alteration. For example, if two dependent claims are both considered as including additional-element type technical features, and if those additional-element type technical features of the two dependent claims may be composite or coexistent, the applicant may consider filing multiple dependent claims.
3. The applicant may consider incorporating the dependent claims with additional-element type technical features under different sets of independent claims with different subject matter as dependent claims with further-description type of technical features.
4. The applicant should ensure that the technical features of the dependent claims are in line with the purpose of the invention.
5. When incorporating dependent claims (whether further-description type of technical features or additional-element type of technical features) into the independent claims during the patent amendment, the patent owner should assess whether the combination of such claims with the other dependent technical features is supported by the specification. Therefore, when drafting the specification, it is advisable to include various embodiments that demonstrate as much potential combination of technical features as possible.

Keith Sieczkowski

Keith Sieczkowski is the senior labor and employment lawyer at Branscomb, PC, a Corpus Christi-based law firm providing solutions for businesses, executives and families with tax, real estate, oil and gas, estate planning, probate, corporate, employment and litigation matters.

Branscomb, PC
802 N. Carancahua, Suite 1900
Corpus Christi, Texas 78470
361.888.9261 Phone
361.888.8504 Fax
ksieczkowski@branscombpc.com
www.branscombpc.com

US Supreme Court Ruling Likely to Further Increase Retaliation Claims

Employers face increased exposure to retaliation claims in the wake of another recent U.S. Supreme Court ruling expanding which employees are protected under Title VII's retaliation provisions.

Title VII prohibits employers from discriminating on the basis of race, color, sex, national origin and religion. It also prohibits employers from retaliating against "employees or applicants … because [the employee or applicant] has opposed any … unlawful employment practice …, made a charge, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under this subchapter."

Based on this language, courts have limited Title VII retaliation claims to only persons who actually engage in one of the enumerated protected activities found in the statute. Consequently, if an employee experienced some negative action by an employer because of his/her relationship with someone who engaged in protected activity, a claim of retaliation was often disallowed because the aggrieved employee did not actually participate in any enumerated protected activity. This is the situation reviewed in the recent decision of *Thompson v. North American Stainless*, L.P., 131 S. Ct. 863 (2011).

Thompson and his fiancé both worked for the same employer. Shortly after Thompson's fiancé filed a charge alleging sex discrimination against their joint employer, Thompson was fired, allegedly in retaliation for his fiancé's protected activity. The district court and the court of appeals dismissed Thompson's retaliation claim because, although Thompson may have suffered an adverse employment action, he did not engage in any of the protected activities enumerated in the statute. That is, the retaliation was not because *he* opposed any practice, filed a charge or assisted in any investigation.

The Supreme Court reversed. The Court concluded there is no doubt that if the facts as alleged are true, Thompson was a victim of retaliation because of his fiancé's protected conduct. More importantly, the Court determined that retaliation claims are not limited to those who actually engage in the protected conduct. Instead, so long as the person

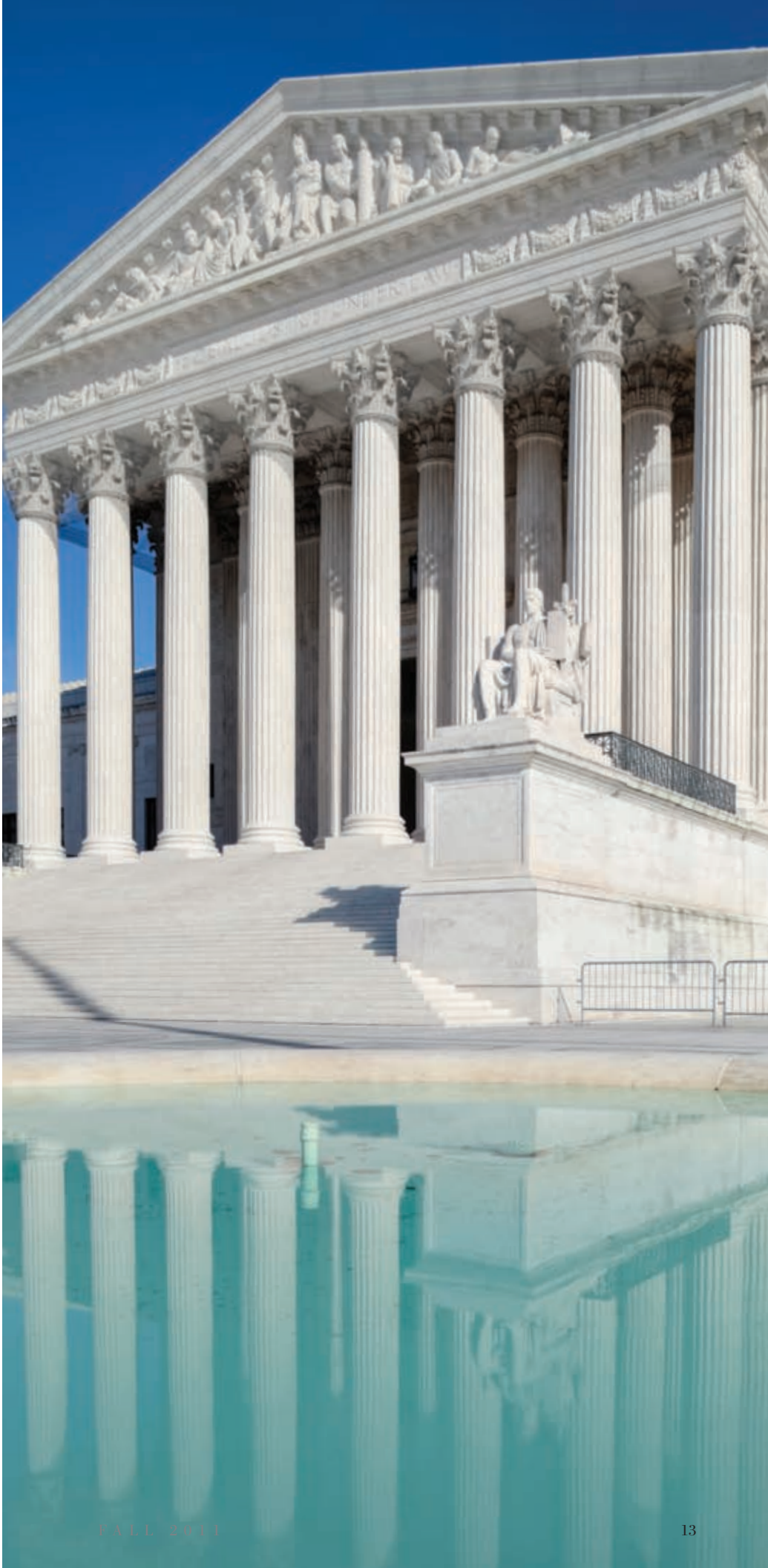
allegedly retaliated against is within the "zone of interest" with respect to the person who did engage in protected activity, he or she may establish a claim of retaliation under Title VII as a "person aggrieved."

Absent from the decision is any clear guidance as to what the "zone of interest" is for asserting retaliation claims. Instead, the Court announced that "any plaintiff" with an interest "arguably [sought] to be protected" may be able to assert a retaliation claim. On the other hand, if a person's interests are "so marginally related to or inconsistent with" the statute, he or she will be outside the zone of interest for protection.

Although these precise parameters will undoubtedly be the subject of refinement by courts, it appears that nearly any co-employee with a relationship to a person who engages in protected activity may be able to claim retaliation for an adverse employment decision, even if he or she never engages in any of the activities listed in the statute. Effectively, a person who engages in protected activity cloaks those with whom he or she has a relationship within Title VII's protective shield.

The *Thompson* decision marks the second recent decision of the U.S. Supreme Court expanding retaliation claims under Title VII. In *Burlington N. & S.F.R. Co. v. White*, 548 U.S. 53 (2006), the Court held that retaliation can take many forms and is not limited to "ultimate employment" decisions. Instead, any action that might dissuade a reasonable worker from making or supporting a charge could be considered retaliatory. After *Burlington*, the number of retaliation claims expanded significantly.

As a result of both of these cases, employers must be vigilant to ensure all employment-related decisions are supportable against claims of discrimination or retaliation. P



Seth Weinberg

Seth M. Weinberg is an appellate associate with Lewis Johs Avallone Aviles, LLP. He handles all forms of civil appeals before the appellate courts of the New York metropolitan area.

Lewis Johs Avallone Aviles, LLP
61 Broadway. Suite 2000
New York, New York 10006
631.755.0101 Phone
631.755.0117 Fax
smweinberg@lewisjohs.com
www.lewisjohs.com

Negligent Hiring: Employer Obligations in the Social Media Age

Negligent hiring and negligent retention are two closely related torts that are based heavily on an employer's knowledge of the behavior of its employees. These twin torts have evolved in an age when most information was out of an employer's reach. The world has changed at a much faster rate than the law has. Now, unlike when these torts first developed, information is not only easily accessible, but it is also cheaply accessible. This may lead to a duty being placed on employers to search the Internet for information about their prospective and current employees.

Prior to the Internet age, defendants in negligent hiring and retention cases mounted successful defenses by arguing there was no reasonable way for them to know of an employee's potential to injure third parties. Even if such information was available, it was so expensive to obtain that it was unreasonable to do so. As the Internet has developed, access to information has increased, while costs have decreased.

The next wave of litigation in negligent hiring/retention will not involve the relationship between the parties, but will reformat the discussion of what information an employer should reasonably know both before hiring a person and while employing him or her. The new paradigm will not revolve around the ability to access information, as it did before the Internet age, but whether or not an employer has a duty to obtain information from easily accessible and cheap sources.

The elements of negligent hiring are:

1. The defendant's employee behaved in a tortious manner.
2. The employer had knowledge of facts that would cause a reasonable, prudent person to further investigate.
3. The employer could reasonably have anticipated that the employee's history would indicate likely injury to others.
4. The defendant failed to use reasonable care in hiring the employee. (N.Y. PJI 2:240)

The elements of negligent retention are:

1. The defendant's employee behaved in a tortious manner.
2. The employer had knowledge of facts that would cause a reasonable, prudent person to further investigate.
3. The employer could reasonably have anticipated that the employee's

conduct would indicate likely injury to others.

4. The defendant failed to use reasonable care in retaining the employee. (N.Y. PJI 2:240)

The Twin Torts in the Typewriter Age

Stevens v. Lankard, 31 A.D.2d 602 (N.Y. App. Div. 2d Dep't 1968), is a prime example of how pre-Internet practices could be used as a shield to employers. In this case, an employer who conducted regular pre-hiring background checks was not aware of a prospective employee's prior conviction for sodomy in Pittsburgh, Pa. The only negative history the defendant employer was aware of was a report that the employee purchased alcohol for minors. The employee then sexually assaulted a young customer, and his employer was sued for negligent hiring/retention. The case was dismissed because the court concluded that forcing a duty on employers to do detailed background checks would have a chilling effect on business.

The Twin Torts in the Internet Age

At least one court has applied the pre-Internet restatement approach to an Internet-age fact pattern. In *Doe v. XYC Corporation*, 887 A.2d 1156, 2005 (N.J. App. Div. 2005), the court imposed a duty on an employer that allowed its employee to access child pornography on a company computer. In this case, the employee not only viewed child pornography on the company computer, but also transmitted pornographic photographs of his stepdaughter. The child's mother sued the employer for negligent retention. After reviewing the employer's knowledge of the employee's activities, the employer's ability to monitor the employee's activities and the employer's choice not to intervene, the court held that the employer owed the plaintiff a duty:

> Returning to [Restatement] § 317, all of the requirements for liability in that section are present here. The servant was 'using a chattel of the master' and the master both 'knows or has reason to know that he has the ability to control his servant' and 'knows or should know of the necessity and opportunity for exercising such control.' Under these circumstances, a risk of harm to others was 'reasonably within the master's range of apprehension.' (*XYC Corp*., 887 A.2d at 1168)

What is perhaps more interesting than the outcome of this case is the analytical approach taken by the court. The *XYC Corp*. court was able to make a high-speed Internet peg fit into a typewriter-style hole. Courts may take such an approach in the future.

Imagine that an employee had a Facebook page on which he wrote about himself, "My name is John Doe and I'm an alcoholic. I work for ABC Trucking, and odds are I can beat you in a fistfight." Or that just before leaving a bar in a company car, he posts a tweet from his cell phone that says, "Just finished beer 6 and I'm driving home." What happens when the employee drives a company car while drunk? Under the logic of *XYC*, a court could allow such a case to go to a jury. The employee used the employer's car, and a plaintiff could argue that had the employer simply typed the employee's name into Google, he would have known that the employee drove drunk on prior occasions and should have taken action.

Prior to the age of the Internet and social media, it was difficult, if not impossible, to search an employee's background in a cost-effective manner. This has changed. What used to be an onerous task can now be attempted with nothing more than a smartphone. As employees post more information about their personal lives on social media sites – information that could warn an employer of problems down the road – courts and juries may start to ask why the employer did not take less than five minutes to search for a Facebook or Twitter account.

This potential exposure to litigation should be considered by businesses of all types and sizes when looking for new employees and evaluating current ones. P

Bob Brown

Bob Brown has tried more than 50 cases, including death and serious injury cases, insurance bad faith and insurance coverage. He has also handled multiple appeals in the Texas courts and the Fifth Circuit.

Donato Minx Brown & Pool, P.C.
3200 Southwest Freeway, Suite 2300
Houston, Texas 77027
713.877.1112 Phone
713.877.1138 Fax
bbrown@donatominxbrown.com
www.donatominxbrown.com

How Primerus Can Work for You

Imagine you need a lawyer in a location where you have no existing relationship with a firm. Worse, imagine you need a lawyer in a location, and your existing relationship there just isn't working. You don't have three months to conduct a search to determine the best lawyer in the area.

Now picture yourself with access to a mega-firm with 180 offices and nearly 3,000 lawyers in more than 30 countries. Each one of those offices has been rigorously audited for quality. Inquiries have been made to the office's governing body and to the office's malpractice carrier, opponents and co-counsel have been interviewed, local judges have been interviewed – and the office is not allowed to open until all of these inquiries come back with stellar reviews of the lawyers in the office. Once the office is opened, its lawyers are audited annually to ensure that their performance lives up to their reviews. I assume that this sounds great but that some readers may have had bad experiences with the billing rates at mega-firms.

Now imagine you have access not to a mega-firm, but to an alliance of 180 independent boutique law firms. Each and every one of those firms has committed to the Six Pillars of Primerus, the pillars all clients seek when hiring an attorney – integrity, excellent work product, reasonable fees, continuing education, civility and community service.

Imagine getting partner-level service in many instances for the price of a junior associate at mega-firms. Imagine being associated with the very best lawyers in each community. Picture yourself building professional and personal relationships with lawyers who feel honored to have you as a client, as opposed to those who think you should be honored to have them as your lawyer.

Envision a relationship with a society of firms that has an unparalleled breadth of expertise. In the litigation arena, find firms that specialize in transportation, hospitality, professional liability, insurance bad faith, labor and employment, intellectual property, products liability, toxic tort, environmental law and general insurance defense. In the business world, imagine a relationship with firms specializing in mergers and acquisitions, employee stock ownership programs, real estate, bankruptcy, banking, trusts and estates, immigration, contracts, securities, international trade, patents and copyrights, and investments.

Now, stop imagining. Start building a relationship of trust, respect and friendship with the lawyers of Primerus. Primerus is a society of law firms around the world offering the highest-quality legal

services for reasonable fees. Primerus firms have joined forces to provide geographical coverage that not even the biggest firms can offer – without the big firm cost. Smaller firms mean lower overhead; lower overhead means lower rates. Lower rates mean you get high-quality service at a price that recognizes the current economy and the need to save money on outside legal counsel.

Unlike with other law firm alliances, joining Primerus is not as simple as writing a check. Primerus licenses are limited geographically. That means there is competition in each jurisdiction to be the Primerus firm. It also means Primerus can be selective as to which firms are allowed to be members:

- Every member firm is subjected to in-depth analysis before being allowed to apply for membership.
- The prospective members are then screened to ensure they meet the Six Pillars of Primerus through interviews with their bar associations, professional liability carriers and peers and judges in their community.
- If they receive passing marks from all of these inquiries, they go before an independent accreditation board before being allowed to be a member.
- Annually they are audited to ensure they uphold the high standards demanded of Primerus firms.

What does this mean to prospective clients? It means you can call any Primerus firm with confidence that you will be provided the absolute best representation in that area, at reasonable prices, from a well-respected firm. It means you do not have to rely upon Martindale-Hubbell, although Primerus firms in the U.S. and Canada are AV-rated by Martindale Hubbell. Outside North America, Primerus firms are listed in respected resources such as the Chambers Global guide, Legal 500 EMEA and IFLR1000. It means you can go directly to the Primerus website, find a firm in the area of need and contact a partner who can help you. It means saving time and money, and adding to the profitability of your company both through lower fees and better results.

On a final note, each and every Primerus firm has committed to not accept a referral if they do not have the expertise to handle a file. If one firm takes a case for which it is not qualified and the client has a bad experience, everyone in Primerus looks bad. I myself have turned down more than 10 referrals because they were not in an area of law I believed I had sufficient experience in to properly and expeditiously handle. In each of those circumstances, I referred the case to another Houston-area (non-Primerus) firm that did have expertise in that area of the law.

The goal of Primerus is to ensure that the client gets the absolute best lawyer to handle the legal matter. Most of the time, a Primerus firm fits the bill. However, you can have confidence that if your matter needs the expertise of someone outside a Primerus firm, you will be made aware of that fact. We want every experience with a Primerus firm to be successful, and we want clients to be loyal to the Primerus society. To make sure that happens, every Primerus-referred case is handled as if it is the most important one in our file cabinet.

Christian Seyfert

Dr. Christian Seyfert focuses his legal work on U.S., German and international intellectual property law and entertainment law. He has broad legal expertise in film, music, Internet and software law issues. Dr. Seyfert is also a specialist in competition law, enforcing his clients' privacy and publicity rights in and out of court, and representing German and international businesses concerning relevant competition law issues. He completed his legal education in both the U.S. and Germany.

WINHELLER Attorneys at Law
Corneliusstr. 34
60325 Frankfurt am Main
Germany
+4969 7675 7780 Phone
+4969 7675 77810 Fax
c.seyfert@winheller.com
www.winheller.com

Managing IP Issues Unique to Foreign Products

Intellectual property (IP) refers mainly to patents, trademarks and copyrights. All of these rights are invisible and cannot be touched. They exist only in an "intellectual" world and are protected only to the extent to which the national law of a country grants protection to the creator.

The territorial scope of IP protection matches the territory of each sovereign country. Each country can structure its patent law, trademark law and copyright law according to its own wishes and principles. This is called the territorial principle of IP law: Each country has its own national patent, trademark and copyright protection system. The scope of protection depends solely on the national law of each country.

If a music CD is shipped from the United States to Canada, Canadian law applies to the music copyrights as soon as the CD crosses the border to Canada. Therefore, an author may grant the U.S. copyright to his musical work to a different copyright transferee than his Canadian, German, French or Japanese copyright.

International IP Law

Each country is sovereign in deciding whether and to what extent foreign authors and inventors should be given national IP law protection. In their legislation, most countries follow the principle of reciprocity: Country A grants IP protection to citizens of country B only to the extent to which country B grants protection to citizens of country A. This ensures that the citizens of each of the two countries can exploit their IP for money in both countries.

Countries that do not follow the principle of reciprocity in their relationship with each other may pirate the IP of the authors and inventors of the other country. Because countries like Iran, Iraq and Afghanistan currently do not follow the IP principle of reciprocity in their relationships with most foreign countries, in particular not the U.S., each of these countries may freely pirate the works and inventions of authors and inventors of other countries.

National Treatment

To protect the works and inventions of authors and inventors internationally, multilateral IP treaties have combined the principle of reciprocity with the principle of national treatment: Each member country of the treaty shall accord to the nationals of other member countries treatment no less favorable than the treatment it accords to its own

nationals with regard to the protection of intellectual property. This means that every foreigner shall have at least the same scope of IP rights protection in the foreign country as the citizens of that foreign country.

The most prominent multilateral IP treaty in this respect is the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). All member countries of the World Trade Organization (WTO) are member countries of TRIPS. The WTO administers TRIPS.

Patents

Inventors should think about in which countries they want to protect their inventions with a patent. Patent protection requires registration in every single country where the inventor wants protect an invention. Pirating an invention is legal in countries where the invention is not registered as a patent.

Thus, the use of marketing material containing an invention made in a foreign country requires a look into the national patent registers of all countries where the product will be distributed. In addition, a U.S. company can only legally import an inventive foreign product to the U.S. if the invention has not already been registered as a patent in the U.S.

Trademarks

Most countries – although not the U.S. – require trademarks to be registered for trademark protection to take effect. In the U.S., the first use of the trademark in trade is sufficient according to common law, but U.S. registration according to the Lanham Act is still possible and advisable.

A trademark is violated if another trademark is confusingly similar to the one already existing in the respective country. It is often wise to hire an IP attorney based in the country in which the trademark of a new product will be established. The foreign attorney will provide a fair estimation on two principal questions:

- Will the prospective trademark be legal in the foreign country?
- Will the meaning of the brand name be suitable in the foreign country?

For example, Procter & Gamble would have a hard time selling Puffs tissues in Germany, because *Puffs* is the German word for whorehouses.

Copyrights

Unlike patents and trademarks, copyrights do not need to be registered to gain protection. In most countries, copyright registration is not even possible. According to the territorial principle, numerous national copyrights automatically come into existence at the time of the creation of the work. Currently, there are basically two different types of copyright systems worldwide: the U.S. copyright system and the European system. All other countries follow one of these two systems.

The U.S. copyright system defines copyrights as mere economic rights that can freely be transferred. In European countries, copyrights consist of two elements: the economic rights and the moral rights. While the economic rights can be freely transferred like in the U.S., the moral rights stick to the author and cannot even be waived. Moral rights are, specifically, the right to be named as an author, the right to decide about when the created work will first be published and the right to prevent any distortions of the created work.

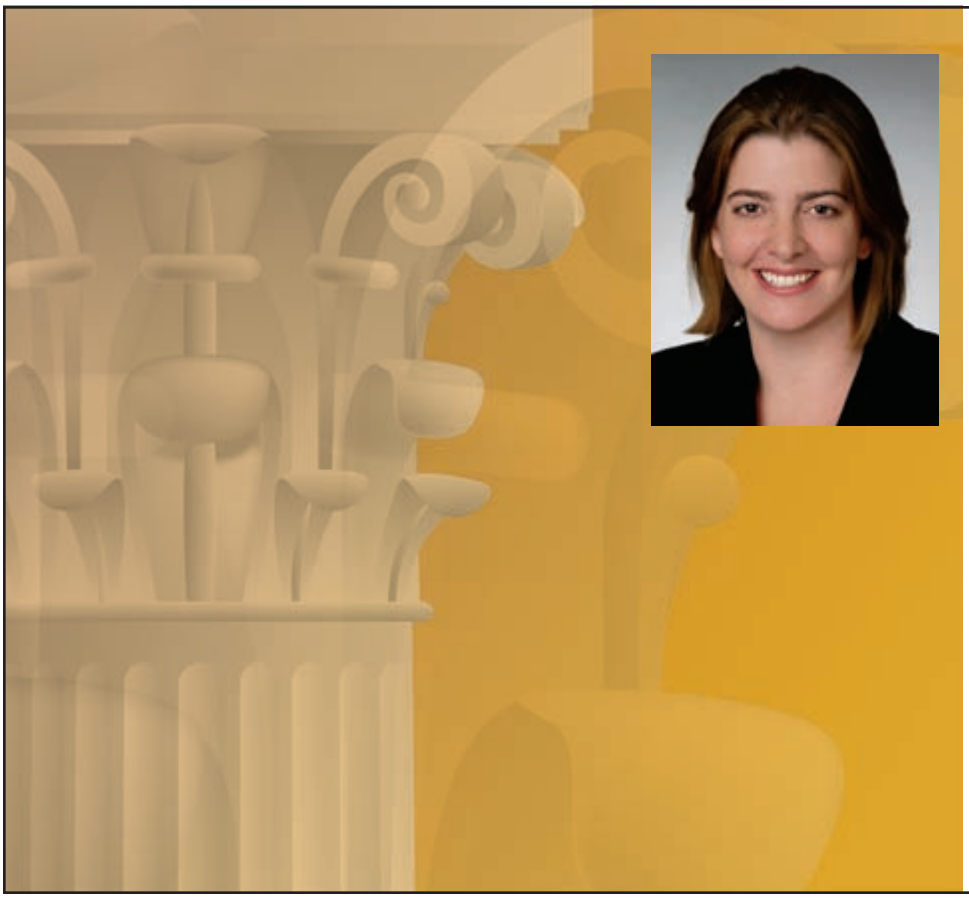
This difference leads to a different handling of, for example, ringtones. In the U.S., the company that offers ringtones only has to pay a licensee fee to the publisher of each song heard in the ringtone, while in European countries ringtones are considered distortions of the musical work. This results in a double payment:

- A license fee to acquire the economic right.
- A licensee fee to the author for approval to distort the musical work.

Conclusion

Importing and exporting products that contain some form of IP may mean entering shallow water in foreign countries. The territorial principle requires companies to look at the IP system of each sovereign country individually. IP systems in countries outside the U.S. regularly follow significantly different IP principles.

Establishing stable international business success therefore often implies the need for legal expertise from a network that covers all economically significant countries individually. However, once their international efforts are properly established, companies should find it easy to profit from the still-rising global IP market.



Risa Morris

Risa Morris is a litigator with experience in commercial litigation, employment law and representing lawyers. She is a member of the California State Bar's Standing Committee on Professional Responsibility and Conduct. The opinions expressed in this article are the author's only and do not represent the position of the California State Bar.

Rutter Hobbs & Davidoff Incorporated
1901 Avenue of the Stars, Suite 1700
Los Angeles, California 90067
310.286.1700 Phone
310.286.1728 Fax
rmorris@rutterhobbs.com
www.rutterhobbs.com

Strategies for Successful Client-Attorney Collaboration

As an experienced litigator who has represented clients ranging from individuals to Fortune 500 companies, I know that every client – no matter how big or small – shares a single goal when engaging a lawyer: success. Therein lies a problem that can drive conflict between clients and attorneys and, in worst-case scenarios, result in malpractice litigation. Attorneys and clients often fail at the fundamental task of collaboratively defining success at the outset of the engagement.

The following five simple strategies help both clients and attorneys build a working relationship that will accomplish the client's goals and avoid conflict:

1. Establish Objectives From Day One.

From the outset, both the lawyer and client need to define success. Often, success doesn't require total victory. It is important for a client to consider why he or she is hiring a lawyer. In litigation, the client typically wants to recover money or defend a claim for money. However, the client may also want to mend a relationship, solve a business problem or send a message to an audience. An experienced litigator will be careful to explore all of the client's goals at the beginning of the engagement. Particularly in litigation, a client may view the possible outcomes as a stark choice between winning and losing. Experienced litigators know, however, that there can be many shades of gray between perceived "victory" and "defeat" that would meet the client's goals.

For example, I represent business owners in trade secret cases. A business owner who has experienced the theft of a customer list by a former employee may have several objectives, including:

- Recover the customer list.
- Stop the employee from exploiting the list.
- Recover damages from the employee.
- Limit any damage to the business's reputation by the employee.

However, if the employee has no money, pouring legal fees into trying to collect damages is unlikely to be productive. A targeted effort to stop the

employee's misconduct and recover the customer list is likely a better use of the company's time and money. In this fashion, exploring the client's specific objectives will help the lawyer craft a strategy that is more likely to lead to true success, as defined by the client.

2. Discuss the Economics of Success.

If total success means exorbitant legal fees, the client must understand this fact from the outset. Once a client has articulated her objectives, she should request an explanation of the likely costs associated with that objective. The attorney should discuss not only legal fees, but also likely costs associated with the engagement.

For example, I also often handle litigation involving the dissolution of closely held businesses. Such litigation can often require expert analysis of the value of the business at issue and my client's damages. This type of expert analysis can be extremely costly, sometimes even rivaling the legal fees. If expert testimony will be required in litigation, the attorney should always confirm that the client understands that those costs may be a significant additional expense. In turn, clients must understand that lawyers often have only limited control over the expense of an engagement. Actions by opposing counsel or courts can, and often do, rapidly escalate costs.

3. Be Willing to Listen to Hard Advice.

Sometimes, a client's chances of total success, as defined by the client, are slim. A lawyer should be a strong advocate for his clients, but this does not mean being a yes-man. Successful advocates tell their clients the hard truths and help their clients craft winning strategies within the limitations of the applicable facts and law. Conversely, clients need to be willing to listen to tough advice. If a situation has advanced to litigation, this often means that a client has become deeply wedded to a particular stance. It can be very difficult to hear that there are weaknesses in that position. But, to achieve true success, it is essential to discuss the reality of the situation.

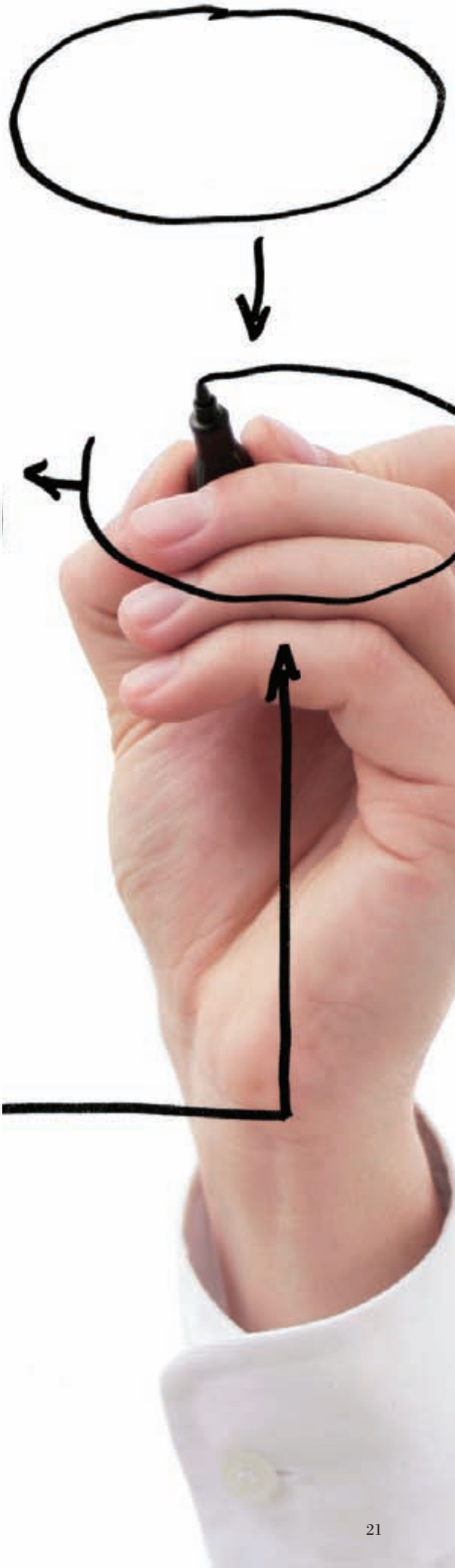
4. Discuss the Division of Labor.

Lawyers can't work in the absence of direction from their clients. They also can't work effectively when faced with a barrage of conflicting directions from multiple representatives of a client. Every lawyer has a horror story about a client who failed to respond in a timely fashion to requests for information, resulting in negative consequences for the client's case. Both sides should discuss from the outset what responsibilities the client will have in the shared effort to achieve success. Their collaborative efforts will be much more effective if both the attorney and client have a clear understanding of the division of labor.

5. Communicate, Communicate, Communicate!

The simple act of picking up the phone and talking on a regular basis works wonders in building a collaborative relationship. Under the rules of professional conduct that govern lawyers in California, every attorney is required to report to his or her clients any significant events in a representation. Attorneys throughout the country must follow similar rules.

Effective communication, however, is deeper than those basic reports. Clients should be involved in decision-making throughout the engagement. Many corporate clients find it helpful to receive a monthly status report of ongoing litigation, which can be shared with key personnel as necessary. Smaller clients may find these types of reports helpful as well. However, status reports are no substitute for regular communication throughout the life of an engagement. At all times, effective communication is the touchstone of successful attorney-client collaboration, and the first line of defense against conflict between an attorney and client. P



Gabriela Ivancu

Gabriela Ivancu is an associate within the Corporate Practice Group of the Romanian law firm Pachiu & Associates. Her area of expertise covers competition law, intellectual property law and commercial law. She is a member of the Bucharest Bar Association and of the Romanian National Bar Association. She is also a contributor to several reviews and legal publications, national and international, covering competition law and intellectual property law. She is fluent in Romanian, English and French, and is conversant in Spanish.

Pachiu & Associates
4-10 Muntii Tatra Street, 5th floor
Bucharest 1, RO-011022
Romania
+40 (21) 312 10 08 Phone
+40 (21) 312 10 09 Fax
gabriela.ivancu@pachiu.com
www.pachiu.com

The First Competition Enforcement of the Commitments Procedure in Romania Targets Football

Editor's note: The references to football in this article refer to what American readers know as soccer.

On Jan. 5, 2011, the guidelines on the commitments procedure issued by the Romanian Competition Council were published in the Official Gazette No. 11. This enactment is the national transposition and detailing of Article 9 of the Regulation 1/2003[1]. It offers a legal framework for the proposal of commitments by the parties under investigation – commitments which, once accepted by the competition authority, become legally binding.

Enforcement of the competition law traditionally relies on fines. Recent legal trends of the European authorities involve negotiated procedures, including leniency programs, direct settlements and the commitments procedure.

The Commitments Procedure

The commitments procedure enables parties to an investigation to make voluntary commitments in order to address issues that might infringe national and/or European Union (EU) competition law. The initiative of proposing commitments to the competition authority belongs exclusively to the undertakings subject to an ongoing competition law infringement investigation.

The commitments procedure represents an exception to the general enforcement of competition legislation. Therefore, it should be limited to certain cases in which, in accordance with the initial assessment of the Romanian competition authority, the implementation of such commitments could effectively restore competition on the relevant market. Moreover, the benefits of the commitments procedure on the competitive environment must be more tangible and should produce effects more swiftly, as compared to the standard procedure of competition legislation enforcement (i.e., the adoption of a decision imposing fines or corrective measures).

If the commitments proposed are preliminarily accepted, the summary of the case and the relevant parts of the commitments will be published by the competition authority with a view to obtaining the third parties' input (the market assessment test).

Following the issuance by the competition authority of a commitments decision (which is legally binding upon the parties), the aforementioned authority will monitor the actual implementation of the commitments of the undertakings. Failure to implement such decision may lead to sanctions of the envisaged undertakings, as follows:

- Failure to fulfill the commitments may lead to penalties (between 0.5 percent and 10 percent of the previous year turnover).
- Late implementation of the commitments may lead to fines (of up to 5 percent of average daily turnover of the previous year).
- Failure to comply with any aspect of the competition authority's requirements imposed upon the parties by means of its decision may also lead to the reopening of the investigation.

Football in the Competition Practice

According to DG Competition's official website, the impact of sports in the EU can be outlined in numbers as €407 billion in 2004 (3.7 percent of EU GDP) and 15 million persons employed (5.4 percent of the labor force). Such impact has continued to grow, primarily due to the revenue-generating activities connected with sports, such as media rights, ticket sales and the regulatory or organizational aspects of sports.

The first Romanian competition enforcement of the commitments procedure deals with the joint selling of commercial rights for football broadcasting. The alleged infringements of the competition legislation by the Romanian Football Federation (known as the FRF) and the Professional Football League (known as the LPF) regard Article 101 of the Treaty on the Functioning of the European Union and its national correspondent – Article 5 of the Romanian Competition Law No. 21/1996 as further amended[2].

This case is the first time a market test has been launched based on the new guidelines. The Romanian Competition Council has accepted and made legally binding the commitments submitted by FRF and LPF by means of Decision No. 13 of April 19, 2011.

Coincidentally, the first EU commitments decision from January 2005 was also related to football – specifically, to the central marketing of the media rights of the Bundesliga[3]. The European Commission had been concerned that the exclusive selling of commercial broadcasting rights by the German Football League may have infringed Article 101 of the Treaty on the Functioning of the European Union in respect of cartels and restrictive business practices. The commitments liberalized the central marketing arrangements and increased the availability of rights for television and new media.

After the Bundesliga decision, the European Commission set forth the main principles in respect of joint sale of sports media rights in the UEFA Champions League and the FA Premier League decisions.

In Romania, the FRF and LPF commitments mirrored the EU cases, especially in respect of the sale of sports media rights through open and transparent tender procedures, a limitation of the rights' duration (not exceeding three years) and the breaking down of the media rights into different packages to allow several competitors to acquire such rights. Furthermore, the marketing of sports media rights for the second league matches will be the exclusive prerogative of each football club and not of the FRF (as practiced until the commitments).

After some important decisions ended with significant fines (the last one in the Orange and Vodafone case, of €34.5 million and €28.3 million, respectively), the Romanian Competition Council's decision represents a precedent that could impact all ongoing investigations pending before the Romanian competition authority.

[1] Council Regulation 1/2003 of Dec. 16, 2002, on the implementation of the rules on competition in Articles 81 and 82 of the Treaty on the Functioning of the European Union.

[2] The Competition Law No. 21/1996, published in the Romanian Official Journal, Part I, No. 88 of April 30, 1996, was further amended by means of the Emergency Government Ordinance No. 75 of July 6, 2010.

[3] Case COMP/C.2/37.214 – joint selling of the media rights to the German Bundesliga (OJ L 134, 27.05.2005, page 46).

Larisa Tenberg

Larisa Tenberg focuses her legal practice in immigration law. She provides counsel and representation to corporations and individuals with immigration needs throughout the United States and before U.S. embassies and consulates worldwide.

Gallagher Malloy & Georges
1760 Market Street, Suite 1100
Philadelphia, Pennsylvania 19103
215.963.1555 Phone
215.963.9104 Fax
larisa@gallagher-law.com
www.gallagher-law.com

How to Bring Foreign Talent to the United States

The majority of people in the United States can trace at least part of their roots to places like Ellis Island – a port of entry for many immigrants to the New World. As President John F. Kennedy once said, "The contribution of immigrants can be seen in every aspect of our national life. We see it in religion, in politics, in business, in the arts, in education, even in athletics and in entertainment. There is no part of our nation that has not been touched by our immigrant background."

As the world becomes more integrated, open and arguably more dangerous, the United States' immigration policy tries to play catch-up with the new reality and complexity posed by our increasingly globalized existence. As a result, today's immigration policy is a web of complex and sometimes vague regulations that must be followed in order to navigate in the uneasy waters of immigration law.

Individuals with Extraordinary Ability

Our law firm often faces questions from U.S. companies as well as individuals outside of the country concerning how to bring foreign talent to the United States. These inquiries usually involve prominent scientists, educators, athletes, artists or businesspeople.

The first step is to secure competent immigration counsel. There are many so-called consultants, immigration centers and general practice lawyers offering to help individuals and companies with their immigration needs. Handling an immigration matter is in a way similar to performing a surgery – you only get one chance to do it right. Any mistake can result in status denial for many years or even a ban from visiting the U.S. in the future.

Qualifying a person as having extraordinary ability is not an easy task and requires deep knowledge of the law as well as creativity. A person with extraordinary ability can apply to remain in the U.S. permanently (through a green card based on extraordinary ability) or temporarily (via an O or a P visa). Whether the intention is a permanent or temporary stay, the burden of proof is similar – the person must have sustained national or international acclaim in the field of science, art, education, business or athletics, which must be supported by extensive documentation. We guide

our clients through the complexities of federal regulations to achieve the desired result in the most efficient and expeditious manner.

Other Visa Options

Obviously, not everyone can meet the high burden of proving extraordinary ability. Professionals with at least a baccalaureate degree may still come and work in the U.S. in H-1B status. Many U.S. employers recruit worldwide for foreign talent in fields such as information technology, engineering and academics. The H-1B visa is the most common nonimmigrant visa in the United States and is preferred by many U.S. companies. The major benefit for professionals on the H-1B visa is that it may lead to permanent residence in the U.S. if so desired.

The L-1 visa was created to allow companies operating both in the U.S. and abroad to transfer certain managers, executives or specialized knowledge staff to the U.S. operations for up to seven years. The L-1 visa can also be used by non-U.S. companies to expand their business by creating a branch, subsidiary or affiliate in the United States. A non-U.S. company would have to transfer one of its existing executives with direct knowledge of operations to the newly created office. As with a H-1B visa, the L-1 visa may lead to permanent residence in the U.S.

Another option that interests some of our clients is the investment EB-5 visa, through which an investor and his or her family can obtain permanent residence in the U.S. The amount of investment must be at least $1 million in an existing or a newly created business and should create full-time employment for at least 10 U.S. workers. The investment need only be $500,000 if it is to be made in a targeted employment area. A targeted employment area is a rural area or an area that has experienced high unemployment of at least 150 percent of the national average.

The United States also welcomes less significant investments, which would allow foreign investors to live and work in the U.S. temporarily. E-1 and E-2 visas (also known as treaty visas) were introduced into law to promote trade and investment between the United States and other treaty countries. The international trade must be "substantial," meaning there is a sizable and continuing volume of trade.

Even though there is no set minimum level of investment, our experience indicates that any investment below $100,000 would need very strong proof to support it. Once the treaty investor or trader obtains the E visa, he or she can petition to obtain E visas for qualifying employees, such as executives, managers or essential skilled workers, in order to further develop and direct the trade or investment.

There are multitudes of other visas available to foreign nationals interested in coming to the U.S. Whatever the immigration need may be, we work individually with each potential client to develop a unique approach to his or her case.

Remaining in Compliance

Once in the United States, foreign nationals and their employers need assistance to make certain they continue to be in compliance with immigration laws. Often we get urgent calls from foreign nationals who find themselves in removal (deportation) proceedings due to overstaying the term of an approved nonimmigrant visa or otherwise violating immigration laws.

Alfredo Cantilo

Alfredo Cantilo is a partner of Fornieles Abogados and specializes in corporate transactional work and international investments. He has broad experience in stock exchange listings, mergers and acquisitions, joint ventures, restructurings and other corporate and commercial arrangements. He also advises on the establishment and operation of foreign investments in Argentina. Mr. Cantilo spent a year as a foreign associate of a large law firm in Atlanta, Georgia.

Fornieles Abogados SRL
Leandro N. Alem 712, 10th Floor
Buenos Aires C1001AAP
Argentina
+54 11 4313 7000 Phone
+54 11 4313 7001 Fax
afc@fornielesabogados.com.ar
www.fornielesabogados.com.ar

An Introduction to the Argentine Legal Environment

Argentina is located in South America and is organized into 23 provinces and the city of Buenos Aires. As the eighth largest country in the world and the second largest in South America, it has a population of 40 million people, one-third of whom live in the greater Buenos Aires area.

Argentina obtained its independence from Spain in 1816, but it was not until 1853, after several internal wars, that the Constitution was enacted, adopting a federal regime with three branches: executive, legislative and judicial. The executive branch is headed by a President elected by direct vote for a maximum of two consecutive four-year terms. The legislative branch is composed of the Chamber of Senators and the Chamber of Deputies. The judicial branch is headed by the Supreme Court and is divided into federal and provincial courts. In addition, each province enacts its own constitution and elects its own authorities.

Argentina is well known not only because of soccer, tango and polo, but also because of the abundance of its natural resources. Consequently, the most important industries are those related to agribusiness. Other main industries are those related to food and beverages, chemicals, petrochemicals and vehicles. The federal government and certain local authorities have created incentive regimes and tax-free zones to develop different industries.

Argentina is a member of Mercosur, a political and trade agreement with Brazil, Paraguay and Uruguay, which promotes free trade and fluid movement of goods, services and people among its members. Bolivia, Chile, Colombia, Ecuador, Peru and Venezuela have associate member status. Most of Argentina's exports are to Mercosur countries, followed by Europe, the United States and Asia.

Argentina has also entered into several treaties for the protection and promotion of foreign investments with a number of countries, including Australia, Austria, Belgium, Canada, Chile, China, Denmark, France, Germany, Italy, Japan, the Netherlands, New Zealand, Spain, Sweden, Switzerland, the United Kingdom and the U.S.

The Argentine Foreign Investments law states, as a general principle, that foreigners enjoy the same rights and obligations as locals; however, foreigners experience restrictions in some areas,

such as controlling broadcasting companies or purchasing borderline land.

Foreigners may carry on non-isolated business in Argentina by setting up a subsidiary or registering a branch office. The two most commonly used types of subsidiaries are the sociedad anónima, or SA (a kind of corporation), and the sociedad de responsabilidad limitada, or SRL (a kind of limited liability company).

Usually, big projects are organized as SAs and smaller ones are set up as SRLs. Though both types of entities require a minimum of two partners, an SRL may not have more than 50. There are no restrictions for foreign companies and/or individuals becoming partners of an SA or SRL; however, foreign companies must previously register their constitutional documents. Also, foreign individuals can participate in boards of local companies, provided that the majority of the members of the board reside in Argentina.

Both types of entities are taxed at the same level; however, certain U.S. investors use SRLs even for big projects because SRLs are considered pass-through entities by the U.S. system.

SA and SRL liability is limited to the stock subscribed by their partners. Branch offices do not have such advantage and, if sued, the assets of their headquarters may be subject to liability. This is the reason why foreign companies usually operate through subsidiaries.

Argentina operates a complex foreign currency exchange regime. Companies and individuals, whether residents or not, can buy, sell or transfer foreign currency only through the Mercado Unico Libre de Cambios (FX market). Foreign financing is subject to a one-year freeze in a non-remunerated bank account equal to 30 percent of the financing. Some exceptions apply to this regime (for example, loans granted for investments in fixed assets and inventory, and capital contributions duly registered in the Registry of Commerce).

Companies and individuals may freely transfer abroad up to $2 million per month. Access to the FX market for the purchase of foreign currency is otherwise restrictive. Only certain transactions are authorized, such as the payment of foreign loans, the payment of dividends, the repatriation of registered capital, etc. In addition, as a general rule, moneys derived from exports of goods and services must be brought in and sold in the FX market.

Taxes are imposed at two levels, federal and provincial. The most relevant taxes imposed by the federal legislative branch are as follows:

- **Income tax**. Argentine individual residents are subject to a progressive tax on their worldwide income ranging between 9 and 35 percent. (The corporate income tax rate is 35 percent). Nonresidents are subject to tax on Argentine-source income. Certain fixed deductions can be applied to this tax. A great deal of local financial income is exempt (for example, dividends, time deposits on local banks, sale of shares or bonds, etc.). Nonresidents are subject to income tax only on Argentine-source income, usually levied in the form of a final withholding tax.
- **VAT**. The value-added tax is applied to the net price of the transaction on services and goods; it is imposed at a rate of 21 percent, though certain activities have reduced or increased rates. Exports are not charged with VAT.
- **Personal assets tax**. This tax is imposed on all assets located in Argentina and in foreign countries. Similar tax paid overseas on assets located in foreign countries is creditable against personal assets tax. The rate varies from 0.5 to 1.25 percent on the taxable base.

On the provincial side, other taxes and levies are imposed, such as the turnover tax, stamp tax, land tax and vehicle taxes.

Argentina has signed treaties for the avoidance of double taxation with a number of countries, including Australia, Austria, Belgium, Bolivia, Brazil, Canada, Chile, Denmark, Finland, France, Germany, Italy, Mexico, the Netherlands, Norway, Russia, Spain, Sweden and the United Kingdom.

Reinier Russell

Reinier Russell assists domestic and foreign businesses in the Netherlands with matters such as business formation and reorganization, corporate governance, insolvency law, employment issues and all aspects of liability and contract law. He also serves as Honorary Consul of Brazil in Amsterdam. Russell Advocaten is a top Dutch firm in the European Legal 500 for all-around strength of service to corporate clients and is equipped to assist parties in declaring collective settlements binding.

Russell Advocaten B.V.
Reimersbeek 2
1082 AG Amsterdam
The Netherlands
+31 20 301 5555 Phone
+31 20 301 5678 Fax
reinier.russell@russell.nl
www.russell.nl

Amsterdam, the Place to Settle

The unique possibility to declare collective settlements in class action cases binding upon all aggrieved parties only exists in the Netherlands. This possibility is based on the Dutch Collective Settlements Act (known as WCAM). Recently, the Amsterdam Court of Appeal has even opened its doors for cases that bind mostly non-Dutch nationals. To foreign (including American) companies, it can be an attractive alternative solution to settle claims from victims residing in different countries, because it is a choice opportunity that can be used to end cross-border mass disputes.

Converium Case

In 2001 Zürich Financial Services Ltd. (ZFS) sold all of its shares in its daughter company Swiss Reinsurer Converium Holding AG, currently known as SCOR, through an initial public offering. The shares were listed in Switzerland and (as American Depository Shares) on the New York Stock Exchange.

After a succession of events, Converium announced that it was forced to increase its reserve. The value of Converium shares then plummeted. This led to several securities class actions starting in 2004. Approximately 12,000 investors all around the world were involved, including 200 Dutch, 8,500 Swiss and 1,500 United Kingdom investors.

The actions resulted in a settlement agreement that was eventually consolidated on Dec. 12, 2008, before the United States District Court for the Southern District of New York. But according to the court in New York, this settlement applied only to the purchasers domiciled in the U.S. and the purchasers of shares on the U.S. stock market. The so-called "F-cubed" cases were excluded: Non-U.S. persons who had purchased their shares of a non-U.S. company on a non-U.S. exchange market were left empty-handed.

The decision of the United States Court for the Southern District of New York in the Converium case that it had no jurisdiction with regard to the F-cubed actions was confirmed by the Supreme Court in its judgment in the case of *Morrison vs. National Australia Bank* on June 24, 2010. The court thereby acknowledged that the American courts do not have jurisdiction to pass judgment on the F-cubed actions in security class actions.

The Road to Amsterdam

With regard to the non-U.S. purchasers, Converium and ZFS had to find an alternative solution. They concluded a settlement in the Netherlands with the Stichting Converium Securities Compensation Foundation (founded on Feb. 18, 2009, for the Dutch victims) and the VEB (association of stockholders).

Parties asked the Amsterdam Court of Appeal to declare the settlement agreement binding for everyone who was not part of the American settlement. The court first examined whether it had jurisdiction to effectuate this international and mainly F-cubed settlement (only 200 of the over 10,000 claimants are Dutch). Based on the articles 1, 2 and 5 of the *Regulation on jurisdiction and enforcement of judgments in civil and commercial matters*, the court concluded that it had jurisdiction because, among others, the VEB and the Stichting Converium Securities Compensation Foundation were founded and residing in the Netherlands.

Once the court had determined that it had jurisdiction, it could hear the case with regard to all victims included in the settlement. In contrast to the United States and all other countries, the declaration of the Amsterdam Court that a settlement is collectively binding therefore also applies to cases that are F-cubed.

WCAM

The WCAM entered into force in July 2005. The immediate reason for the introduction was the Dutch "DES daughters" case. In this case, the pharmaceutical product DES (diethylstilbestrol) had led to certain physical abnormalities in children, mainly girls, born to women who had taken DES during pregnancy.

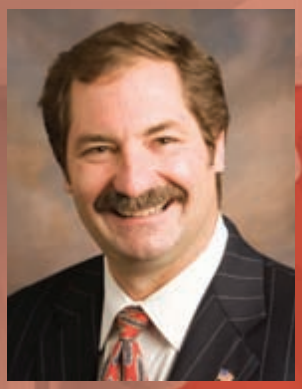
These "DES daughters" started their individual claims for damages in 1986. It wasn't until 2000 that a collective agreement for payment of compensation was concluded between the DES Center (the interest group of DES daughters) and the involved pharmaceutical companies, which provided compensation. Based on the WCAM, the Dutch court declared the settlement binding on all victims. Only one of the tens of thousands of daughters used the facility to opt out. Due to the WCAM, this settlement could also be made to apply to future DES claims, even until today.

The most important aspect of the WCAM is that it binds the entire group of victims, wherever they are domiciled and whether or not they were part of the settlement negotiations. As soon as an agreement on the payment of compensation is concluded, both parties can file a joint request to have the agreement declared binding by the Court of Appeal in Amsterdam. This court has sole jurisdiction to hear WCAM cases. Once the agreement has been declared binding, it is no longer possible for individual victims to file a claim for compensation, unless a victim has explicitly chosen to opt out in time, based on a period to be set by the judge.

Finally, it should be noted that the WCAM applies only to settlement agreements. Dutch law does not allow for damage claims to be filed collectively. Damages can only be claimed individually.

Conclusion

The possibility to declare collective settlements binding upon all aggrieved parties, irrespective of their nationality, exists only in the Netherlands – specifically, in Amsterdam. The Amsterdam Court of Appeal has exclusive jurisdiction to end cross-border mass disputes, giving certainty to both the company and the victim. However, there must always be at least a slight link between one of the parties of the settlement and the Netherlands. P



Christopher C. Kailas

Christopher Kailas heads the attorneys and collectors of KMK Collections, a division of Kohner, Mann & Kailas, S.C. He leads the recovery of commercial debt and assets from debtors located throughout North America. He manages a network of over 150 local associate counsel throughout North America and coordinates the sharing of legal information and tactical insights within the network.

Kohner, Mann & Kailas, S.C.
Washington Building,
Barnabas Business Center
4650 N. Port Washington Road
Milwaukee, Wisconsin 53212
414.962.5110 Phone
414.962.8725 Fax
ckailas@kmksc.com
www.kmksc.com

Stephen D.R. Taylor

Stephen Taylor is a British national with nearly two decades of experience in business and financial management, including establishing operations, markets and revenues in the United States. An attorney, he holds a diploma in international trade from the UK Institute of Export and an MBA from the University of Surrey. His practice with Kohner, Mann & Kailas, S.C. focuses on international business and transactions.

Kohner, Mann & Kailas, S.C.
Washington Building,
Barnabas Business Center
4650 N. Port Washington Road
Milwaukee, Wisconsin 53212
414.962.5110 Phone
414.962.8725 Fax
staylor@kmksc.com
www.kmksc.com

Collecting Commercial Debt in the US Need Not Be Daunting

Recovering debt from commercial creditors located in the United States is supposedly particularly problematic. This is an odd notion when one considers that U.S. businesses recover debt every day. Unfortunately, overseas creditors are often unaware of the solution that many U.S. businesses choose.

The Source of Confusion

The U.S. comprises 55 distinct legal systems: the federal system and those of each state and territory. Attorneys are admitted to practice by a state bar, which does not grant the right to practice in other states; most attorneys are admitted in only one state. Federal jurisdiction is limited in scope, with state law determining many issues, including contracts, even if federal jurisdiction is available.

Bankruptcy, however, is a federal matter. The result can be a bewildering choice of venue, law and procedure, and the choices made can significantly impact the cost and likelihood of success. Sometimes a dispute can require action in state and federal courts, and actual recovery may require recognition by another jurisdiction where assets are located.

Common Responses

Four alternatives are often considered by creditors outside the U.S.:

- Submit a claim to a collection agency for collection, but write off the debt if amicable collection fails.
- As above, but allow the non-lawyer collector to select a lawyer licensed in the place(s) where suit must be brought.
- Personally engage individual collection lawyers in each jurisdiction where representation becomes necessary.
- Retain a mega law firm with offices and attorneys throughout the U.S.

Unfortunately, each of these has drawbacks:

- Writing off debt whenever non-lawyer collection fails produces unnecessary losses.
- Relying on a collector to choose local counsel entrusts complex, strategic legal choices of venue, law and other critical issues to non-lawyers.
- Retaining law firms across the U.S. on an ad hoc basis is both time consuming and costly to manage.

- Large law firms typically have a cost base that filters through into higher fees.

The Alternative: National Practice Commercial Law Firms

U.S. law firms that focus on liquidating debt are called commercial law firms. In loose terms, these are hybrid law-and-collection operations. Hybrid firms differ from most law firms in that they handle large volumes of claims and employ non-lawyer collectors in addition to dedicated collection attorneys and commercial litigators. Significantly, they offer success-related fee options, allaying the cost fears overseas companies often associate with U.S. law firms.

Such firms represent a one-stop resource able to manage all commercial debt recoveries in the U.S., for both creditors and collection houses. Despite typically having few offices, hybrid firms have acquired a multistate capacity to collect delinquent debts through the following:

- A long-established network of local collection counsel across the United States.
- A strong record of collection recoveries throughout the U.S., with and without legal action.
- A U.S.-wide client base.
- A significant practice in associated areas of business litigation and transactional law, including bankruptcy.

While these firms often secure out-of-court resolutions, regular activity in multiple jurisdictions supplies the current knowledge essential to making the best decisions on issues that can be dispositive should court action be required.

What to Look For

Before obtaining verifiable client references, look for evidence of the above characteristics. In addition, remember that good U.S. lawyers are expected to publish, so review websites for articles related to collection, contract documentation and enforcement, and the differences between U.S. practices and those of other legal systems. Transnational legal advice needs to identify and address such differences if costs and misunderstandings are to be avoided. P

Leslie A. Allen
Abbott Marie Jones

Leslie Allen and Abbott Jones are attorneys with Christian & Small, LLP. Leslie is a member of the firm's labor and employment practice group, as well as its business and commercial litigation and health care practice groups. Abbott is chair of the Primerus Young Lawyers Section (YLS) newsletter committee and editor of the YLS quarterly publication *Stare Decisis*. She is a member of the firm's appellate, post-verdict and briefing practice group.

Christian & Small, LLP
Financial Center, Suite 1800
505 North 20th Street
Birmingham, Alabama 35203
205.795.6588 Phone
205.328.7234 Fax
laallen@csattorneys.com
amjones@csattorneys.com
www.csattorneys.com

US Supreme Court Ruling Opens the Door to Potential Liability for Discrimination by Non-Decision Makers Who Influence Employment Decisions

Relatively early in the 2010 term, the United States Supreme Court issued two significant employment decisions that signal potentially expanding pitfalls of liability for employers. In January 2011, the Court expanded the scope of persons entitled to protection from retaliation under Title VII.[1] See *Thompson v. North American Stainless*, LP, 131 S. Ct. 863 (Jan. 24, 2011). To read more about this case, see also Keith Sieczkowski's article titled "U.S. Supreme Court Ruling Likely to Further Increase Retaliation Claims" on page 12.

Second, in March, the Court expanded the scope of persons whose discriminatory actions and conduct can create liability for employers under the cat's paw theory. See *Staub v. Proctor Hospital*, Case No. 09-400, 2011 WL 691244 (U.S. March 1, 2011). The Court was unanimous in the outcomes of both cases.[2] Just how far the impact of these new pitfalls will extend remains to be seen in subsequent cases.

In this article, we will look more closely at the *Staub v. Proctor Hospital* case, which involves the Uniformed Services Employment and Reemployment Rights Act (USERRA). The Act makes it unlawful to discriminate against an employee because of his membership in the military or his performance of military duties, if the military service is "a motivating factor in the employer's action." *See* 38 U.S.C. §§ 4311 (a), (c).

Although at first glance the case seemingly has limited application, USERRA is actually very similar to Title VII, which prohibits employment discrimination on the basis of race, color, religion, sex or national origin, where any one of those factors "was a motivating factor for any employment practice, even though other factors also motivated

the practice." *See* 42 U.S.C. §§ 2000e-2(a), (m). Thus, *Staub* likely will have a broader impact on employment discrimination cases decided under federal laws with similar language, not only on USERRA cases.

Vincent Staub, a member of the U.S. Army Reserve, worked as an angiography technician with Proctor Hospital until he was terminated in 2004. During his employment, his supervisors were openly hostile to his military obligations and indicated to Staub's co-workers their desire to "get rid of him." (*Staub*, 2011 WL 691244, at *2.)

In January 2004, one of Staub's supervisors gave him a "corrective action" disciplinary warning, which the evidence indicated was motivated by discriminatory animus. A few months later, the supervisor reported to the hospital's vice president of human resources that Staub had violated the directive by leaving his desk without informing a supervisor. Relying in part on the supervisor's report and in part on his own review of Staub's personnel file, the vice president of human resources decided to fire Staub.

Staub unsuccessfully challenged his firing through the hospital's grievance process and ultimately sued the hospital under USERRA, claiming that his discharge was motivated by hostility to his obligations as a military reservist. The jury agreed and awarded Staub damages. The Seventh Circuit reversed, holding that the hospital was entitled to judgment as a matter of law because the decision maker had relied on more than the report of the supervisor in making her decision.

The Supreme Court granted *certiorari* to consider whether an employer may be liable for employment discrimination based on the discriminatory animus of a supervisor who influenced, but did not make, the ultimate employment decision. *Id*. Prior to *Staub*, the circuits had been applying different standards when considering so-called cat's paw cases.[3]

Reversing the Seventh Circuit, the Supreme Court upheld the cat's paw theory of liability but clarified the circumstances when it is properly imposed: "if a supervisor performs an act motivated by antimilitary animus that is *intended* by the supervisor to cause an adverse employment action, and if that act is a proximate cause of the ultimate employment action, then the employer is liable under USERRA." *Id*. at *6 (emphasis in original).

Notwithstanding the Court's resolution of the issue of the cat's paw theory of liability, a number of questions remain after *Staub*. First, the Court remanded the case for the Seventh Circuit to determine whether the difference between the Court's standard for liability and the jury instruction, which only required a finding that military status was a motivating factor in the discharge decision, was harmless error or mandated a new trial.

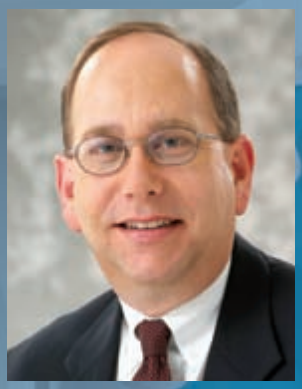
Additionally, the Court specifically left open the question of whether cat's paw liability could be imposed if a co-worker, rather than a supervisor, committed the discriminatory act that influenced the ultimate employment decision. What is now clear after *Staub* is that, if a supervisor has unlawful bias against an employee and intentionally influences an employment decision, the employer can be held liable, even if someone else within the organization carried out the decision; the bias does not have to be held by the one with the ultimate decision-making authority.

Truly understanding the impact of these decisions will be a challenging task left for courts and juries in future cases, as they test the limits of these holdings under different facts and circumstances. Without question, however, these decisions at a minimum raise issues that employers and those advising employers should consider carefully when making employment decisions. P

1 Title VII is an anti-discrimination statute that prohibits discrimination on the basis of race, color, religion, sex and national origin with respect to compensation, terms, conditions or privileges of employment and also discriminatory practices that would deprive any individual of employment opportunities or otherwise adversely affect his status as an employee. See 42 U.S.C. § 2000e-2(a).

2 In *Staub*, two justices agreed with the result but concurred in the judgment based on different reasoning than relied on in the opinion. *Staub*, 2011 WL 691244, at *7.

3 "Cat's paw" liability occurs when an employer is held liable for the animus of a supervisor who was not charged with making the ultimate adverse employment decision. *Id*. at *3. The term derives from a 17th century fable about a monkey who persuaded a cat to pull chestnuts from a fire, leaving the cat to get burned while the monkey made off with the chestnuts. *Id*. at *3 n.1.



Darryl J. Horowitt

Darryl J. Horowitt is a litigation partner at Coleman & Horowitt, LLP, emphasizing complex business, construction and real estate litigation, commercial collections, casualty insurance defense, insurance coverage and alternative dispute resolution. He is a member of the Fresno County Bar Association, Los Angeles County Bar Association, American Bar Association, Association of Business Trial Lawyers, California Creditors Bar Association, NARCA and the Commercial Law League of America.

Coleman & Horowitt, LLP
499 West Shaw Avenue,
Suite 116
Fresno, California 93704
559.248.4820 Phone
559.248.4830 Fax
dhorowitt@ch-law.com
www.ch-law.com

Helen E. Omapas

Helen E. Omapas is a law clerk in the litigation department of Coleman & Horowitt, LLP. She is licensed to practice in the state of New York and a graduate of New York Law School and the University of California, Irvine. She is a member of the New York and American Bar Associations.

Coleman & Horowitt, LLP
499 West Shaw Avenue,
Suite 116
Fresno, California 93704
559.248.4820 Phone
559.248.4830 Fax
homapas@ch-law.com
www.ch-law.com

Supreme Court Determines Retailers May Not Collect ZIP Codes in Credit Card Transactions

Many years ago, the California Legislature adopted the Song-Beverly Credit Card Act ("the Act"; Civil Code § 1747, et seq.). The intent was to make sure that credit card companies maintained consumer information in a confidential manner for the protection of cardholders. (*Florez v. Linens & Things, Inc*. (2003) 108 Cal. App. 4th 447, 450.) The Act prohibits credit card companies from collecting personal information (for example, names, addresses and telephone numbers) at the point of sale. (Civil Code § 1747.08.) Nothing in the Act, however, specifically stated that a retailer could not ask customers for their ZIP codes.

After the Act was enacted, retailers asked customers for their ZIP codes. The stated purpose was to determine where customers were coming from so the retailer would know where new stores should be opened and how to attract business from those customers in the future. Williams-Sonoma was one such store. One of its customers, Jessica Pineda, sued Williams-Sonoma for asking for her ZIP code, claiming it was a violation of the Act.

In the complaint, Pineda alleged, on behalf of a class of consumers, that taking the ZIP codes violated the Act because, when obtained during a credit card transaction, the retailer can look up the name of the purchaser using a reverse directory, in violation of the Act. Williams-Sonoma demurred to the complaint, claiming that taking the ZIP codes did not violate the Act. Pineda also sued for violation of privacy.

Both the trial court and appellate court found that asking for the ZIP code was not a violation of the Act. The California Supreme Court granted review and reversed the trial and appellate courts. (*Pineda v. Williams-Sonoma Stores, Inc*. (Feb. 10, 2011) ____ Cal. 4th ___, 2011 WL 446921, 2011 Daily Journal D.A.R. 2278.)

Because the court was reviewing the sustaining of a demurrer, it did so by accepting that the facts in the complaint were true. Its job was thus to determine whether the facts as alleged (i.e., the

collection of ZIP codes) were the collection of personal identification information in violation of Civil Code § 1747.08 of the Act. The court found that they were. It determined that a ZIP code is part of a person's address and is further specific to an individual. The court further determined that its interpretation of the Act was consistent with the legislative intent.

Williams-Sonoma argued that finding its conduct violated the Act was a violation of its due process rights, as it would result in penalties that would approach "confiscation of [its] entire business." This was rejected by the court finding that no set penalties are set forth in the Act.

Williams-Sonoma also sought to restrict any decision to prospective acts of retailers. The court rejected this, as well as determining that the Act provided "adequate notice of the proscribed conduct, including its reference to a cardholder's address as an example of personal identification information." It thus determined the ruling could be applied retroactively.

This is an important decision that affects all retailers that previously asked for ZIP codes for their credit sales. Even those retailers that asked for ZIP codes for all purchases will be affected as to those customers who provided ZIP codes for credit purchases.

What should a retailer do? Stop asking for ZIP codes when a credit transaction takes place.

Does this affect retailers that invite customers to receive emails and/or mailings from a retailer? It might, if the request is proximate to the time a credit transaction takes place. To avoid this, a retailer should consider separately placing a sign-up sheet next to the register for customers who want to add their name for emails and mailings. This may be enough to show that a request for personal identification information is not being sought in connection with a credit transaction.

Care should be taken because exposure to damages on a class-wide basis is not worth the limited information obtained when asking for ZIP codes. When coupled with the fact that the amount of damages that *could* be awarded is significant when applied to a class, and attorney's fees are recoverable for such a claim, retailers should not seek such potentially confidential information.

A number of other states have similar consumer privacy laws, but none that prohibit the collection of ZIP codes. The effect of *Pineda v. Williams* on other states remains to be seen, but retailers in other states should begin to reevaluate how they do business within California. California is a leading state in passing laws intended to protect consumers. Thus, attorneys are looking to determine whether the case can be tested in other states with similar statutes.

Connie E. Carrigan

Connie Elder Carrigan, a partner at Smith Debnam, concentrates her practice in business law, assisting clients in the areas of employment law, business advice and litigation, construction law, equipment leasing and creditor bankruptcy. She has been practicing in the field of small business representation since 1990. She has lectured on topics including employment compliance issues, bankruptcy, collection, equipment leasing and construction law, and is the author of manuscripts and materials prepared for attorneys and businesses.

Smith Debnam Narron Drake Saintsing & Myers, LLP
4601 Six Forks Road, Suite 400
Raleigh, North Carolina 27609
919.250.2000 Phone
919.250.2211 Fax
ccarrigan@smithdebnamlaw.com
www.smithdebnamlaw.com

United States Department of Justice Implements New ADA Rules

Revised regulations implementing the Americans with Disabilities Act (ADA) took effect on March 15, 2011. The revised rules are the Justice Department's first major revision of its guidance on accessibility in 20 years.

The Department of Justice (DOJ) estimates that more than 50 million Americans – 18 percent of our population – have disabilities. In addition, approximately 71.5 million baby boomers will be over the age of 65 by the year 2030 and will be demanding products, services and environments that meet their age-related physical needs. ADA regulations apply to the activities of more than 80,000 units of state and local government and more than seven million places of public accommodation, including stores, restaurants, shopping malls, sporting arenas, movie theaters, doctors' and dentists' offices and hotels. Nearly all businesses that serve the public are covered by the ADA's regulations, regardless of the size of the business or the age of its building(s).

Businesses covered by the ADA are required to take reasonable measures to modify their business practices and procedures when necessary in order to serve customers with disabilities and to take steps to communicate effectively with customers with disabilities. The ADA also requires businesses to remove architectural barriers in existing buildings and to make sure that newly built or altered facilities are constructed to be accessible to individuals with disabilities.

Commercial facilities, such as office buildings, factories, warehouses or other facilities that do not provide goods or services directly to the public are subject to the ADA's requirements only for new construction and alterations. The rules were signed by Attorney General Eric Holder on July 23, 2010.

On March 16, 2011, the DOJ released a new 16-page document, "ADA Update: A Primer for Small Business" to assist small businesses with understanding the new and updated accessibility requirements. This document provides valuable guidance and specific examples of measures that would serve to comply with the new rules, which expand accessibility in a number of areas and, for the

first time, provide detailed guidance on how to make business facilities, including recreational facilities, accessible.

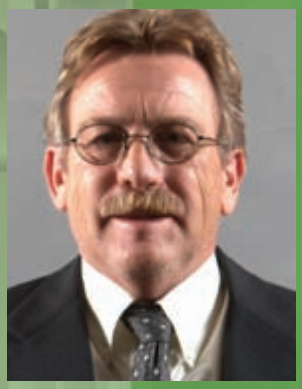
The new ADA rules adopt the 2010 ADA Standards for Accessible Design, which the DOJ intended to be more user friendly for building code officials, builders and architects and to be more in harmony with state and local accessibility codes than the former standards, adopted in 1991. In addition to adopting the 2010 accessibility standards, the amended regulations contain many new or expanded provisions pertaining to general nondiscrimination policies, including the use of service animals, the use of wheelchairs and other power-driven mobility devices, providing interpreter services through video conferencing and the effect of the new regulations on existing facilities.

The publications made available on March 16 are the first of several planned publications from the DOJ aimed at helping businesses understand their obligations under the ADA.

If a business facility was built or altered in the past 20 years in compliance with the 1991 standards promulgated by the DOJ, or if a company removed barriers to specific elements in compliance with those standards, the new standards provide a "safe harbor" such that the business would not need to make further modifications, even if the new standards contain different requirements. For example, the 2010 standards lower the mounting height for light switches and thermostats from 54 inches to 48 inches. If a company's light switches are already installed at 54 inches in compliance with the 1991 standards, the company is not required to lower them to 48 inches.

However, if the business chooses to alter elements that had been in compliance with the 1991 standards, the business would thereafter need to comply with the 2010 standards. For example, the 1991 standards require one van-accessible space for every eight accessible parking spaces. The 2010 standards require one van-accessible space for every six accessible spaces. If a business has complied with the 1991 standards, it is not required to create additional van-accessible spaces in order to meet the 2010 standards. However, if the company chooses to restripe its parking lot, which is considered an alteration, it would need to provide the ratio of van-accessible spaces required in the 2010 standards.

An alteration is defined as remodeling, renovating, rehabilitating, reconstructing, changing or rearranging structural parts or elements, changing or rearranging plan configuration of walls and full-height partitions, or making other changes that affect the usability of the facility. Examples provided in the small business primer include moving walls, moving a fixed ATM to another location, installing a new sales counter or display shelves, changing a doorway entrance or replacing fixtures, flooring or carpeting. Normal maintenance, such as reroofing, painting or wallpapering, is not considered an alteration.



Ray McElfish

Ray McElfish is the owner and founder of McElfish Law Firm. He has represented national and regional motor carriers, trucking companies, TPAs and insurers, including primary, excess and reinsurers, in the fields of transportation and insurance law. He handles all aspects of transportation and insurance litigation including personal injury, product liability, coverage and regulatory.

McElfish Law Firm
1112 N. Sherbourne Drive
Los Angeles, California 90069
310.659.4900 Phone
310.659.4926 Fax
rmcelfish@mcelfishlaw.com
www.mcelfishlaw.com

Jeffrey Lynn

Jeffrey Lynn has over 25 years of experience in transportation law and coverage litigation. He has represented customs brokers, interstate and intrastate motor carriers, cargo carriers and operators, non-vessel operating common carriers, trucking and marine insurance companies and overnight and expedited shippers in all types of claims.

McElfish Law Firm
1112 N. Sherbourne Drive
Los Angeles, California 90069
310.659.4900 Phone
310.659.4926 Fax
jlynn@mcelfishlaw.com
www.mcelfishlaw.com

The Graves Amendment, Across the Country and in California

This article originally appeared in *Transportation Lawyer*.

Vicarious liability state laws across the country relating to the liability of rental car companies and lessors of tractors and trailers are experiencing challenges presented by the enactment of the Graves Amendment in 2005. It appears that companies are raising the Graves Amendment as a defense in states where state laws are not consistent with Graves. It also appears that other states, including California, are responding to Graves and enacting or amending statutes to avoid federal preemption by the Graves Amendment.

The Graves Amendment

After several constitutional challenges based on equal protection and congressional power, the Graves Amendment to the Safe, Accountable, Flexible, Efficient Transportation Equity Act, *49 U.S.C. § 30106* (2005) essentially eliminated vicarious liability for rental car companies. The Amendment provides in pertinent part:

> (a) An owner of a motor vehicle that rents or leases the vehicle to a person (or an affiliate of the owner) shall not be liable under the law of any State or political subdivision thereof, by reason of being the owner of the vehicle (or an affiliate of the owner), for harm to persons or property that results or arises out of the use, operation, or possession of the vehicle during the period of the rental or lease, if –
>
> (1) the owner (or affiliate of the owner) is engaged in the trade or business of renting or leasing motor vehicles; and
>
> (2) there is no negligence or criminal wrongdoing on the part of the owner (or an affiliate of the owner).

In essence, the Graves Amendment "was enacted to protect the vehicle rental and leasing industry against claims for vicarious liability where the leasing or rental company's only relation to the claim was that it was the technical owner of the car." *Rein v. CAB East LLC*, 209 WL 1748905 (S.D.N.Y 2009).

Federal Preemption Across the Country

Courts across the country addressing the issue have consistently found that the Graves Amendment passes constitutional muster and preempts state law.

For example, the court in *Green v. Toyota Motor Credit Corp*., 605 F. Supp.

2d, 430 (2009 E.D.N.Y.) determined that a New York statute creating a cause of action predicated on a theory of vicarious liability against remote title owners and lessors of motor vehicles was preempted by the Graves Amendment.

Furthermore, the Graves Amendment was found to preempt a Florida statute that created an exception to the common law dangerous instrumentality doctrine for lessors of motor vehicles. *Garcia v. Vanguard Car Rental USA, Inc*., 540 F. 3d 1242 (2008).

Finally, the court in *Canal Insurance Company v. Kwik Kargo, Inc*., 2009 WL 1086524 (D. Minn.) stated that any attempt to impose vicarious liability on the lessor of a tractor or trailer is precluded by the Graves Amendment in the absence of allegations of negligence or criminal wrongdoing on the part of that lessor.

It appears based on recent decisions that the Graves Amendment will continue to preempt state law until state statutes are in compliance with the Graves Amendment. Indeed, it also appears based on recent decisions that many lessors are becoming more aware of the application of the Graves Amendment, and as such, are raising the statute as a defense on a more regular basis.

Consistency of California Law with the Graves Amendment

As originally enacted in the 1970s, California Insurance Code Section 11580.9 expressed the total public policy of the state respecting the order in which two or more liability insurance policies covering the same loss would apply. Section 11580.9 identified four different circumstances under which two or more policies of automobile or motor vehicle insurance may afford liability insurance applicable to the same loss. The statute, which creates a conclusive presumption, sets forth the statutory priorities that determine which policy provides primary coverage and which provides excess coverage in each of several defined circumstances.

Originally, subdivision (b) stated in part that a policy issued to a named insured "engaged in the business of

renting or leasing motor vehicles without operators" was excess. Subdivision (b), as amended in 2006, now states:

> Where two or more policies apply to the same loss, and one policy affords coverage to a named insured ***who in the course of his or her business rents or leases motor vehicles without operators***, it shall be conclusively presumed that the insurance afforded by that policy to a person other than the named insured or his or her agent or employee, shall be excess over and not concurrent with, any other valid and collectable insurance applicable to the same loss….

It should be noted that subsection (b) also requires that the motor vehicle qualify as a "commercial vehicle," which means a type of vehicle that is:

- used or maintained for the transportation of persons for hire, compensation, or profit; and
- designed, used or maintained primarily for the transportation of property;

or that the vehicle has been leased for a term or six months or longer.

Prior to the amendment to subdivision (b), the court in *Wilshire Insurance Company, Inc. v. Sentry Select Insurance Company*, 124 Cal. App. 4th 27, 21 (2004), dealt specifically with subdivision (d) of the statute, which states:

> (d) Except as provided in subdivisions (a), (b), and (c), where two or more polices afford valid and collectible liability insurance apply to the same motor vehicle or vehicles in an occurrence out of which a liability loss shall arise, it shall be conclusively presumed that the insurance afforded by the policy in which the motor vehicle is described or rated as an owned automobile shall be primary and the insurance afforded by any other policy or policies shall be excess.

The *Wilshire* decision and its applicability to the trucking industry in

California was significant in that it established that in the case of a tractor trailer unit, in which both the tractor and the trailer were specifically scheduled on their respective policies, the combined unit was to be considered one vehicle for purposes of applying the statute, thus requiring that each insurer have an equal obligation to contribute to the defense and indemnification of a covered loss.

However, in 2006 the California Legislature added new subdivision (h) to Section 11580.9 [and redesignated former subdivision (h) as subdivision (i)]. This was arguably done to address the fact that the *Wilshire vs. Sentry* decision was in inherent conflict with the Graves Amendment. Subdivision (h) now states:

> (h) Notwithstanding subdivision (b), when two or more policies affording valid and collectible automobile liability insurance apply to a power unit **and** an attached trailer or trailers in an occurrence out of which a liability loss shall arise, and one policy affords coverage to an insured in the business of a **trucker**, defined as any person or organization engaged in the business of transporting property by auto for hire, then the following shall be conclusively presumed: If at the time of the loss, the power unit is being operated by any person in the business of a trucker, the insurance afforded by the policy to the person engaged in the business of a trucker **shall be primary for both power unit and trailer or trailers**, and the insurance afforded by the other policy shall be excess.

Subdivision (h) clarifies which of two policies responds for losses arising from a trucking accident in which one policy schedules the power unit and a different policy schedules the trailer(s) involved in the accident. The addition of this subdivision is significant in California, as it arguably resolves the inconsistencies between prior California case law, i.e., *Wilshire*, and the Graves Amendment. Moreover, subdivision (h) appears to be consistent with the Graves Amendment when applied to leased tractors and/or trailers.

Conclusion

Having found the Graves Amendment to be in the interests of equal protection and within the power of Congress, federal courts addressing vicarious liability for rental car companies and lessors of tractors and trailers are clearly preempting inconsistent state laws.

Accordingly, in the absence of negligence or criminal wrongdoing, rental companies and lessors, and ultimately consumers, will benefit from the enactment and interpretation of the Graves Amendment, as well as subsequent, consistent state law.

Charles L. Appleby IV

Charles Appleby is a member of the Collins & Lacy, P.C. employment and construction practice groups. Collins & Lacy is a business defense law firm with offices in Columbia, Greenville and Myrtle Beach. The firm's primary focus is defense litigation, representing local, regional and national clients in the areas of construction, employment law, hospitality/retail & entertainment law, insurance/bad faith, products liability, professional liability, commercial transportation and workers' compensation. Collins & Lacy is committed to upholding the highest standards for integrity, civility and community service.

Collins & Lacy, P.C.
1330 Lady Street, 6th Floor
Columbia, South Carolina 29201
803.256.2660 Phone
803.771.4484 Fax
cappleby@collinsandlacy.com
www.collinsandlacy.com

Facebook, Twitter and the NLRB – Your Employees' New Entourage

Facebook, Twitter and other social media are everywhere. They provide users with a means to keep in touch with friends, share ideas and even market their business. According to the National Labor Relations Board (NLRB), Facebook and other social media outlets also may provide a haven for employees to bash their boss.

This year the NLRB has filed multiple complaints on behalf of employees who were fired for posting comments about their employers on Facebook and Twitter. The NLRB's position on these cases indicates that businesses will need to carefully review their current social media policies and be aware that disciplining an employee for what he or she said on a social media site may not be allowed.

The Facebook, Twitter and NLRB entourage was first formed in a nationally publicized case in which the NLRB accused an employer of violating federal labor law by firing an employee after she criticized her supervisor on her Facebook page. American Medical Response of Connecticut, Inc. (AMR), an ambulance service, had an Internet policy that stated, among other things:

> Employees are prohibited from making disparaging, discriminatory or defamatory comments when discussing the company or the employee's supervisors, co-workers and/or competitors.

After a disagreement at AMR between an employee and her supervisor, the employee, from her home computer, wrote on her Facebook profile, "Love how the company allows a 17 to become a supervisor." (A "17" is the company's term for a psychiatric patient.) The remark drew supportive responses from her co-workers, and it led to further negative comments about the supervisor from the employee. The employee was suspended and later terminated for her Facebook postings because such postings violated the company's Internet policies. You may be thinking: The employee understood the policy, violated it and was fired – what's the problem?

An NLRB investigation found that the employee's Facebook postings constituted protected "concerted activity" and that the company's blogging and Internet posting policy contained unlawful provisions, including one that prohibited employees from making disparaging

remarks when discussing the company or supervisors and another that prohibited employees from depicting the company in any way over the Internet without company permission. Based on the investigation, the NLRB issued a complaint against AMR on Oct. 27, 2010.

The National Labor Relations Act (NLRA) protects not only union employees but also non-union employees who engage in protected "concerted activity." Concerted activities are the activities of two or more employees attempting to improve working conditions. This includes communication about wages, hours and other employment conditions. A company violates the NLRA if it interferes with, restrains or retaliates against individuals engaged in those activities. According to the NLRB, the provisions in AMR's policies constitute interference with employees in the exercise of their right to engage in protected concerted activity.

An administrative law judge was scheduled to hear the case on Jan. 25, 2011, but the hearing was postponed to allow the NLRB and AMR to discuss a possible settlement. The NLRB and AMR reached a settlement the night before the hearing.

According to the NLRB news release:

> Under the terms of the settlement approved today by Hartford Regional Director Jonathan Kreisberg, the company agreed to revise its overly-broad rules to ensure that they do not improperly restrict employees from discussing their wages, hours and working conditions with co-workers and others while not at work, and that they would not discipline or discharge employees for engaging in such discussions.
>
> The company also promised that employee requests for union representation will not be denied in the future and that employees will not be threatened with discipline for requesting union representation. The allegations involving the employee's discharge were resolved through a separate, private agreement between the employee and the company.

Jonathan Kreisberg, the NLRB regional director in Hartford who approved the settlement, said, "The fact that they agreed to revise their rules so that they're not so overly restrictive of the rights of employees to discuss their terms and conditions with others and with their fellow employees is the most significant thing that comes out of this."

According to NLRB acting general counsel Lafe Solomon, the bottom line is that employees are allowed to discuss the conditions of their employment with co-workers – at a water cooler, at a restaurant or on Facebook. Unfortunately, since there was no hearing, there was no official ruling as to how far an employee can go when posting comments on social media sites.

Further NLRB Activity

The AMR case was the first time the NLRB had taken the position that employee criticism of management through social media may be a protected activity. Since the settlement agreement in the AMR case, the NLRB has continued to aggressively pursue companies with overbroad social networking policies in an attempt to limit what they perceive as unfair enforcement of activity protected under the NLRA.

In April 2011, the NLRB handled a complaint filed by a terminated employee of the Arizona Daily Star newspaper in *Lee Enterprises, Inc. d/b/a Arizona Daily Star*, Case 28-CA-23267. The newspaper publisher terminated the employee, a crime reporter, after the employee posted a series of messages on his Twitter account. The newspaper initially encouraged the employee to set up a Twitter account identifying the employee as a reporter for the newspaper and including a link to the newspaper's website.

When the employee began commenting about other departments at the newspaper in his tweets, the newspaper, while not having a formal social media policy, told the employee he was prohibited from airing his grievances or commenting about the newspaper in any public forum. When the employee continued sending inappropriate tweets, including one that called a local radio station "stupid," he was suspended and ultimately terminated.

While acknowledging that the reporter's complaint had some merit under Section 7 of the NLRA, the NRLB nevertheless refused to rule in his favor, instead finding that the employee was terminated for "engaging in misconduct" by posting unprofessional tweets after receiving several warnings.

On May 9, 2011, the regional NLRB director in Buffalo, N.Y., filed a complaint against the nonprofit organization Hispanics United of Buffalo, Inc. (HUB). In this case an employee of HUB posted a message from a co-worker suggesting that employees did not do enough to assist the organization's clients. The remark ignited an online discussion covering job performance and working conditions, and it resulted in the termination of five employees, which the NLRB alleges was unlawful.

On May 20, 2011, the NLRB filed a complaint against Chicago car dealership Karl Knauz Motors, Inc. and Robert Becker individually. The complaint alleged an employee was illegally terminated for posting several concerns from other employees on his Facebook page about the dealership's handling of a sales event, which could impact the employees' earnings.

The NLRB also threatened to file a complaint against Thomson Reuters Corp. for having a Twitter policy that illegally restricted employee speech. The NLRB further alleged Reuters applied the illegal policy when it verbally disciplined an employee, who was a member of The Newspaper Guild of New York ("Guild"), after the employee tweeted that Reuters should "deal honestly with Guild members." It is important to note that the NLRB may preemptively file suit over a company's policy irrespective of whether the company has chosen to discipline an employee under that policy.

The NLRB has said, following the provisions of the NLRA, that its interest in these cases arises because they "[involve] a conversation among coworkers about their terms and conditions of employment, including their job performance and staffing levels." However, based on the recent decisions, the law on social networking issues is certainly in flux, and NLRB's Office of General Counsel even acknowledged this fact in a 2011 internal memorandum. See Office of the General Counsel, Memorandum GC 11-11, April 12, 2011.

As the NLRB continues its effort to define the regulation of social networking, it is striving to make decisions by local NLRB chapters congruent on a national level. The NLRB is requiring all regional directors to submit complaints related to social networking issues to the Division of Advice for clarification and direction prior to hearing the complaint. While the NLRB is attempting to harmonize the decisions of its local chapters, due to the new composition of the NLRB, which changed under the Obama administration, the tune it sings will most likely sound sweeter to employees.

Notes for Employers

The bottom line is that employers need to start carefully reviewing their policies and actions with regard to social media:

- First, remember that NLRA Section 7 protects employees' ability to work together to make changes in the workplace, even if they are not members of a union or engaged in a formal union-organizing campaign.
- Second, avoid including overbroad rules in company policies.
- Finally, avoid disciplining an employee for 1) social media content relating to the terms and conditions of employment or 2) an employee's attempt to involve other employees in issues related to employment. P

Lawyer Goes to Prison for a Cause

Jim Robichaux feels safer in the McConnell Unit, a maximum security prison in Beeville, Texas, than anywhere else in the world – the result of his involvement in prison ministry for the past 11 years. He refers to the inmates as his "brothers in white." All inmates in Texas wear white uniforms.

"Being a lawyer, I knew that most inmates despised lawyers, since it was lawyers who either prosecuted them or failed to get them acquitted," Robichaux said. "Like most first-time volunteers, I went to the prison the first time skeptical and tentative. But within a few hours of face-to-face interaction, the anxiety melted away."

What changed was his ability to see the human side of the inmates. "I do not diminish nor discount the crimes that they have committed. Nor do they," he said. "What I do see is absolute, fundamental change in their lives."

Robichaux's work with prisoners began in 2000, when he served on a the steering committee to establish a faith-based program designed to establish mentoring relationships with youth offenders incarcerated in the Juvenile Justice Center boot camp in Corpus Christi. After that, he started worked with Kairos Prison Ministry International, a faith-based program that hosts four-day events in prisons across the country for 42 inmates per event. Following the four days, representatives of Kairos return weekly to meet with the participants.

According to Robichaux, the results of the program are rewarding. He said studies have shown that if inmates are provided no educational, vocational or religious training in prison, they have a recidivism rate of more than 75 percent. With educational, vocational and/or faith-based programs made available to them in prison, that rate drops below 50 percent. With Kairos, he said, some reports indicate a drop to about 10 percent.

"As a result of the Kairos program, the McConnell Unit has gone from being one of the most violent units in the entire Texas system to being one of the most docile and nonviolent units," he said. "The Kairos program has been such a success that for each program we put on, there are several hundreds of inmates applying for the 42 spots.

Some have submitted their application 10 or more years in a row before being accepted."

Robichaux recalls one Kairos session when he shared with the group about his faith, mentioning that he is a lawyer. Afterwards, Robichaux said one inmate told him he had been determined to get him alone and beat him up. But, the inmate said, "You got to me. I didn't cry when I was convicted or when both my parents died, but I cried when you were talking to me as a fellow human being."

Robichaux said his prison work has left him with a new attitude about people and a new perspective on being a lawyer. "Don't be too quick to judge. At the end of the day, we're all human, no matter what we might have done or said. As a lawyer, I use my skills to hold people accountable for what they have done, but not to demonize them." P

Member Spotlight

Jim Robichaux, a litigator in the Corpus Christi, Texas, office of Branscomb, PC, focuses on complex business disputes, eminent domain, oil and gas litigation, banking and fiduciary litigation, and personal injury defense in toxic tort and premises liability cases. His practice includes cases in state and federal trial and appellate courts and before arbitration panels.

He is president and board chairman of McConnell Prison Ministries, Inc., as well as a member of the board of directors of South Texas Prison Ministries, Inc. Robichaux also is the immediate past president and a member of the board of directors of the Corpus Christi Symphony Orchestra. He and his wife, Rebecca, live in Corpus Christi and enjoy competing in triathlons and participating in long-distance cycling events for charity.

Branscomb, PC
802 N. Carancahua, Suite 1900
Corpus Christi, Texas 78470
361.888.9261 Phone
361.888.8504 Fax
jrobichaux@branscombpc.com
www.branscombpc.com

Community Service

Terry Stewart, managing partner of Stewart and Stewart in Washington, D.C., received a Department of Defense Patriot Employer Award for his firm's exceptional support of employee Tom Davis, a Marine Corps reservist.

When Staff Sergeant Tom Davis, an employee at Primerus member firm Stewart and Stewart in Washington, D.C., was deployed to Afghanistan as a Marine Corps reservist, he left with a team of supporters back home.

Beginning with a meeting with the firm's managing partner, Terence (Terry) Stewart, Davis was assured that his administrative staff position would be secure when he returned, and that the firm would support him however they could.

"Our country is dependent on the people who volunteer to serve in the armed forces, so I believe as an employer we have a moral responsibility to be supportive of them," Stewart said.

Stewart took that responsibility so seriously that when Davis returned to the States after his seven-month deployment, he nominated Stewart for a Patriot Employer Award, given by the U.S. Department of Defense. The award honors employers that have shown exceptional support for their employees who are in the U.S. National Guard and Reserves.

"It's nice to get the award, but the real story is the service of people like Tom to our country," Stewart said.

Davis joined the Marines in 1985 in active duty, serving in the first Gulf War and in two deployments to the Mediterranean. In 1986 he joined the Reserves, serving in Bosnia, Iraq, Kosovo and most recently Afghanistan, where he and the rest of the Fourth Civil Affairs Group managed civil affairs in the town of Now Zad in the Helmand province.

According to Davis, this area was virtually abandoned in 2009 due to violence in the region. Now, the area is being rebuilt with help from the Marines and concerned American citizens, including those at Stewart and Stewart. Last December, the firm's employees and family members donated seven boxes of humanitarian aid, including blankets, children's clothing, school supplies and basic first aid and hygiene items.

Before Davis left for Afghanistan, Stewart not only assured him that he would have a job waiting for him but said he should take as much time off as he needed when he returned from active duty, to readjust to his day-to-day routine in civilian life. Firm employees then sent him care packages containing everything from "cigars to non-perishable food," all welcome treats in the remote area of Afghanistan where he served, Davis said.

"There have been horror stories of Reservists being deployed and their employers not being supportive of it,"

Davis said. "I never got that impression from Terry or anyone here. In fact, they even refer to me as 'Sergeant.'"

In his nomination of Stewart for the award, Davis wrote that the firm's moral and material support made a difficult deployment less so, and made his readjustment to civilian life quicker and easier. He returned to his job at Stewart and Stewart in October 2010.

Stewart said the firm's commitment to community service started with his father, who founded the firm in 1958 and was actively involved throughout his career in pro bono projects in the Washington area, including the design, implementation and management of a low-income housing project in the city.

In addition to their support of Davis and the residents of the Helmand province, the firm is involved in various other community outreach efforts.

Stewart and Stewart is devoted to The Sankofa Project, a nonprofit organization that promotes the participation of female students in school-based team sports and encourages the enforcement of Title IX, the federal law that prohibits discrimination by educational institutions that receive federal funding. This past summer, for the fourth year in a row, Sankofa sent high school-level participants to work as interns at Stewart and Stewart, where they gained experience in a professional work environment.

The firm also donated funds to help cover the cost of Sankofa's second annual Title IX Conference and Banquet, where Russlynn Ali, assistant secretary of the Office of Civil Rights at the U.S. Department of Education, and Lara Kaufmann, senior counsel at the National Women's Law Center, addressed more than 160 female students, coaches and parents.

The firm participates in the Primerus Liberty in Law Program, a local and national competition for high school scholarships based on student essays, and it has ongoing efforts to mentor law students.

The firm has also provided donations to Toys for Tots and the Capital Area Food Bank, and members periodically serve food to the needy at locations around the city in conjunction with So Others Might Eat (SOME), an interfaith organization that cares for the homeless. In addition, firm members have for several years written and spoken about global food crisis issues and areas needing government attention.

In response to the Japanese earthquake and tsunami, the firm, which has two employees with Japanese relatives, has organized to solicit contributions on an ongoing basis. With help from the employees' relatives in Japan, they identified organizations that are most likely to maximize relief efforts for those in need.

Stewart and Stewart employees also have found support from the firm for their personal commitments to various causes, including the Montgomery County (Maryland) Humane Society and the Avalon Theater Project.

According to Elizabeth Argenti, an associate with the firm, "We wouldn't be able to support these causes if we didn't have the support of Terry at the top. I have found the firm's commitment to community service to be inspiring and something I really appreciate." P

Primerus Institutes and Practice Groups

Fall 2011

The International Society of Primerus Law Firms contains three main institutes, allowing clients and attorneys to gather for educational and social events including conferences, webinars and conference calls.

The Primerus Business Law Institute (PBLI) brings together top-quality law firms to meet the challenges businesses face in a global economy. With broad legal expertise in locations around the world, the PBLI offers the same resources as large law firms, along with the value businesses today demand. PBLI member firms are based in countries and territories including Argentina, Australia, Austria, Belize, Brazil, British Virgin Islands, Canada, Chile, China, Cyprus, Ecuador, England, France, Germany, Greece, Hungary, Japan, Mexico, Panama, Poland, Puerto Rico, Romania, Russia, South Korea, Spain, Switzerland, Taiwan, The Netherlands, the United States and Turkey. If you're seeking an attorney outside the United States, the PIBLI has the experienced, trusted legal advisors you need to thrive in a global economy.

The Primerus Consumer Law Institute (PCLI) is a group of plaintiff and consumer law firms dedicated to meeting the needs of their clients. With broad expertise and law firms in multiple jurisdictions, PCLI members share a commitment to continuing legal education, knowing that improving their expertise helps them win cases for clients.

The Primerus Defense Institute (PDI) includes more than 800 of the world's finest independent defense attorneys with expertise in nearly every aspect of corporate defense litigation. Formed for the purpose of lowering business litigation costs and reducing clients' exposure to liability, the PDI is a valuable resource for corporations seeking outside counsel around the world.

Within these institutes, Primerus member firms provide partner-level service at reasonable fees through 19 practice groups:

- Bankruptcy
- Commercial Law
- Energy and Environmental Law
- Family and Matrimonial Law
- Insurance Coverage and Bad Faith
- Intellectual Property
- International Dispute Resolution
- International Operational Services
- International Transactional Services
- Labor and Employment
- Liquidation of Commercial Debt
- Product Liability
- Professional Liability
- Real Estate
- Retail, Hospitality, Entertainment Liability
- Securities
- Transportation
- Workers' Compensation
- Young Lawyers Section

For more information about how a lawyer with expertise in one of these areas can help you, visit www.primerus.com or contact Primerus at 800.968.2211.

2011 Member Listing – International Society of Primerus Law Firms

- Primerus Business Law Institute
- Primerus Consumer Law Institute
- Primerus Defense Institute

United States Firms

Alabama

Briskman & Binion, P.C. ● ●
205 Church Street
P.O. Box 43
Mobile, Alabama (AL) 36602
Contact: Mack B. Binion
Phone: 251.433.7600
Fax: 251.433.4485
www.briskman-binion.com

Christian & Small, LLP ● ●
Financial Center, Suite 1800
505 North 20th Street
Birmingham, Alabama (AL) 35203
Contact: Duncan Y. Manley
Phone: 205.795.6588
Fax: 205.328.7234
www.csattorneys.com

Arizona

Burch & Cracchiolo, P.A. ● ●
702 East Osborn, Suite 200
Phoenix, Arizona (AZ) 85014
Contact: David M. Villadolid
Phone: 602.274.7611
Fax: 602.234.0341
www.bcattorneys.com

Arkansas

Atchley, Russell, Waldrop & Hlavinka, L.L.P. ● ●
1710 Moores Lane
P.O. Box 5517
Texarkana, Arkansas (AR) 75505
Contact: Jeffery C. Lewis
Phone: 903.792.8246
Fax: 903.792.5801
www.arwhlaw.com

2011 Member Listing – International Society of Primerus Law Firms

California

Brayton Purcell LLP ●
222 Rush Landing Road
PO Box 6169
Novato, California (CA) 94948
Contact: Alan R. Brayton
Phone: 415.898.1555
Fax: 415.898.1247
www.braytonlaw.com

Brydon Hugo & Parker ●
135 Main Street, 20th Floor
San Francisco, California (CA) 94105
Contact: John R. Brydon
Phone: 415.808.0300
Fax: 415.808.0333
www.bhplaw.com

Coleman & Horowitt, LLP ● ●
499 West Shaw Avenue, Suite 116
Fresno, California (CA) 93704
Contact: Darryl J. Horowitt
Phone: 559.248.4820
Fax: 559.248.4830
www.ch-law.com

The Drakulich Firm, APLC ●
2727 Camino del Rio South, Suite 322
San Diego, California (CA) 92108
Contact: Nicholas J. Drakulich
Phone: 858.755.5887
Fax: 858.755.6456
Contact: Nicholas J. Drakulich
www.draklaw.com

Ferris & Britton, A Professional Corporation ●
401 West A Street, Suite 2550
San Diego, California (CA) 92101
Contact: Michael R. Weinstein
Phone: 619.233.3131
Fax: 619.232.9316
www.ferrisbritton.com

McElfish Law Firm ●
1112 N. Sherbourne Drive
West Hollywood (Los Angeles), California (CA) 90069
Contact: Raymond D. McElfish
Phone: 310.659.4900
Fax: 310.659.4926
www.mcelfishlaw.com

Neil, Dymott, Frank, McFall & Trexler APLC ●
1010 Second Ave., Suite 2500
San Diego, California (CA) 92101
Contact: Hugh A. McCabe
Phone: 619.238.1712
Fax: 619.238.1562
www.neildymott.com

Niesar & Vestal LLP ●
90 New Montgomery Street, Ninth Floor
San Francisco, California (CA) 94105
Contact: Gerald V. Niesar
Phone: 415.882.5300
Fax: 415.882.5400
www.nvlawllp.com

Rick C. Quinlivan, Attorney at Law ●
1920 Main St., Suite 1000
Irvine, California (CA) 92614
Contact: Rick C. Quinlivan
Phone: 949.756.0684
Fax: 886.298.9254

Robinson, Calcagnie & Robinson ●
620 Newport Center Drive, 7th Floor
Newport Beach, California (CA) 92660
Contact: Mark P. Robinson, Jr.
Phone: 949.720.1288
Fax: 949.720.1292
www.orangecountylaw.com

Rutter Hobbs & Davidoff Incorporated ●
1901 Avenue of the Stars, Suite 1700
Los Angeles, California (CA) 90067
Contact: Brian L. Davidoff
Phone: 310.286.1700
Fax: 310.286.1728
www.rutterhobbs.com

Wilke, Fleury, Hoffelt, Gould & Birney, LLP ●
400 Capitol Mall
Twenty-Second Floor
Sacramento, California (CA) 95814
Contact: Kelli M. Kennaday
Phone: 916.441.2430
Fax: 916.442.6664
www.wilkefleury.com

Colorado

Robinson Waters & O'Dorisio, P.C. ●
1099 18th Street, 26th Floor
Denver, Colorado (CO) 80202
Contact: John W. O'Dorisio, Jr.
Phone: 303.297.2600
Fax: 303.297.2750
www.rwolaw.com

Starrs Mihm LLP ●
707 Seventeenth Street, Suite 2600
Denver, Colorado (CO) 80202
Contact: Michael T. Mihm
Phone: 303.592.5900
Fax: 303.592.5910
www.starrslaw.com

Zupkus & Angell, P.C. ●
555 East 8th Avenue
Denver, Colorado (CO) 80203
Contact: Rick Angell
Phone: 303.894.8948
Fax: 303.894.0104
www.zalaw.com

Connecticut

Brody Wilkinson PC ●
2507 Post Road
Southport, Connecticut (CT) 06890
Contact: Thomas J. Walsh, Jr.
Phone: 203.319.7100
Fax: 203.254.1772
www.brodywilk.com

Mayo Crowe LLC ●
CityPlace II
185 Asylum Street
Hartford, Connecticut (CT) 06103
Contact: David S. Hoopes
Phone: 860.275.6800
Fax: 860.275.6819
www.mayocrowe.com

Szilagyi & Daly ●
118 Oak Street
Hartford, Connecticut (CT) 06106
Contact: Frank J. Szilagyi
Phone: 860.904.5211
Fax: 860.471.8392
www.sdctlawfirm.com

Delaware

Ferry, Joseph & Pearce, P.A. ● ●
824 Market Street, Suite 904
P.O. Box 1351
Wilmington, Delaware (DE) 19899
Contact: Robert K. Pearce
Phone: 302.575.1555
Fax: 302.575.1714
www.ferryjoseph.com

District of Columbia

Bode & Grenier, LLP ●
1150 Connecticut Avenue, N.W., Ninth Floor
Washington, District of Columbia (DC) 20036
Contact: William H. Bode
Phone: 202.828.4100
Fax: 202.828.4130
www.bode.com

The Law Offices of Stewart & Stewart ●
2100 M Street, N.W., Suite 200
Washington, District of Columbia (DC) 20037
Contact: Terence P. Stewart
Phone: 202.785.4185
Fax: 202.466.1286
www.stewartlaw.com

Thompson O'Donnell, LLP ●
1212 New York Avenue, N.W., Suite 1000
Washington, District of Columbia (DC) 20005
Contact: Matthew W. Carlson
Phone: 202.289.1133
Fax: 202.289.0275
www.thompson-odonnell.com

2011 Member Listing – International Society of Primerus Law Firms

Florida

Bivins & Hemenway, P. A. ●
1060 Bloomingdale Avenue
Valrico (Tampa/Brandon area), Florida (FL) 33596
Contact: Robert W. Bivins
Phone: 813.643.4900
Fax: 813.643.4904
www.bhpalaw.com

Diaz, Reus & Targ, LLP ●
2600 Bank of America Tower
100 Southeast 2nd Street
Miami, Florida (FL) 33131
Contact: Michael Diaz, Jr.
Phone: 305.375.9220
Fax: 305.375.8050
www.diazreus.com

Mateer & Harbert, PA ● ●
Two Landmark Center, Suite 600
225 East Robinson Street
Orlando, Florida (FL) 32801
Contact: Kurt E. Thalwitzer
Phone: 407.425.9044
Fax: 407.423.2016
www.mateerharbert.com

Milam Howard Nicandri Dees & Gillam, P.A. ●
14 East Bay Street
Jacksonville, Florida (FL) 32202
Contact: G. Alan Howard
Phone: 904.357.3660
Fax: 904.357.3661
www.milamhoward.com

Milton, Leach, Whitman, D'Andrea & Milton, P.A. ●
815 South Main Street, Suite 200
Jacksonville, Florida (FL) 32207
Contacts: Joseph Milton / Joshua Whitman
Phone: 904.346.3800
Fax: 904.346.3692
www.miltonleach.com

Nicklaus & Associates, P.A. ●
4651 Ponce de Leon Boulevard
Suite 200
Coral Gables, Florida (FL) 33146
Contact: Edward R. Nicklaus
Phone: 305.460.9888
Fax: 305.460.9889
www.nicklauslaw.com

Ogden, Sullivan & O'Connor, P.A. ●
113 South Armenia Avenue
Tampa, Florida (FL) 33609
Contact: Tim V. Sullivan
Phone: 813.223.5111
Fax: 813.229.2336
www.ogdensullivan.com

Phoenix Law PLLC ● ●
12800 University Drive, Suite 260
Fort Myers, Florida (FL) 33907
Contact: Charles PT Phoenix
Phone: 239.461.0101
Fax: 239.461.0083
www.corporationcounsel.com

Saalfield, Shad, Jay, Stokes & Inclan, P.A. ●
50 N. Laura St., Suite 2950
Jacksonville, Florida (FL) 32202
Contact: Clemente J. Inclan
Phone: 904.355.4401
Fax: 904.355.3503

Vaka Law Group ●
One Harbour Place, Suite 300
777 South Harbour Island Boulevard
Tampa, Florida (FL) 33602
Contact: George A. Vaka
Phone: 813.549.1799
Fax: 813.549.1790
www.vakalaw.com

Georgia

Fain, Major & Brennan, P.C. ●
100 Glenridge Point Parkway, Suite 500
Atlanta, Georgia (GA) 30342
Contact: Thomas E. Brennan
Phone: 404.688.6633
Fax: 404.420.1544
www.fainmajor.com

Hull Barrett, PC ● ●
801 Broad Street, Seventh Floor
Augusta, Georgia (GA) 30901
Contact: George R. Hall
Phone: 706.722.4481
Fax: 706.722.9779
www.hullbarrett.com

Krevolin & Horst, LLC ●
1201 West Peachtree Street, NW
One Atlantic Center, Suite 3250
Atlanta, Georgia (GA) 30309
Contact: Douglas P. Krevolin
Phone: 404.888.9700
Fax: 404.888.9577
www.khlawfirm.com

Tate Law Group, LLC ●
2 E. Bryan St., Suite 600
Savannah, Georgia (GA) 31401
Contact: Mark A. Tate
Phone: 912.234.3030
Fax: 912.234.9700
www.tatelawgroup.com

Hawaii

Roeca, Luria & Hiraoka ●
900 Davies Pacific Center
841 Bishop Street
Honolulu, Hawaii (HI) 96813
Contact: Arthur F. Roeca
Phone: 808.538.7500
Fax: 808.521.9648
www.rlhlaw.com

Idaho

Trout Jones Gledhill Fuhrman Gourley, P.A. ● ●
225 North 9th Street
Suite 820
Boise, Idaho (ID) 83702
Contact: William A. Fuhrman
Phone: 208.331.1170
Fax: 208.331.1529
www.idalaw.com

Illinois

Kubasiak, Fylstra, Thorpe & Rotunno, P.C. ●
Two First National Plaza
20 South Clark Street, 29th Floor
Chicago, Illinois (IL) 60603
Contact: Steven J. Rotunno
Phone: 312.630.9600
Fax: 312.630.7939
www.kftrlaw.com

Lane & Lane, LLC ●
230 West Monroe, Suite 1900
Chicago, Illinois (IL) 60606
Contact: Stephen I. Lane
Phone: 312.332.1400
Fax: 312.899.8003
www.lane-lane.com

Quinn, Johnston, Henderson, Pretorius & Cerulo ● ●
227 NE Jefferson
Peoria, Illinois (IL) 61602
Contact: Gregory A. Cerulo
Phone: 309.674.1133
Fax: 309.674.6503
www.qjhpc.com

Williams Montgomery & John Ltd. ●
Willis Tower
233 South Wacker Drive, Suite 6100
Chicago, Illinois (IL) 60606
Contact: Raymond Lyons, Jr.
Phone: 312.443.3200
Fax: 312.630.8500
www.willmont.com

2011 Member Listing – International Society of Primerus Law Firms

Indiana

Ayres Carr & Sullivan, P.C. ●
251 East Ohio Street, Suite 500
Indianapolis, Indiana (IN) 46204
Contact: Bret S. Clement
Phone: 317.636.3471
Fax: 317.636.6575

Price Waicukauski & Riley, LLC ●
301 Massachusetts Avenue
Indianapolis, Indiana (IN) 46204
Contact: Ron Waicukauski
Phone: 317.633.8787
Fax: 317.633.8797
www.price-law.com

Iowa

Bradshaw, Fowler, Proctor & Fairgrave, P.C. ● ●
801 Grand Avenue
Suite 3700
Des Moines, Iowa (IA) 50309
Contact: Jason C. Palmer
Phone: 515.243.4191
Fax: 515.246.5808
www.bradshawlaw.com

Kansas

Klenda, Mitchell, Austerman & Zuercher, L.L.C. ● ●
1600 Epic Center
301 North Main Street
Wichita, Kansas (KS) 67202
Contact: Gary M. Austerman
Phone: 316.267.0331
Fax: 316.267.0333
www.kmazlaw.com

Kentucky

Ackerson & Yann, PLLC ●
One Riverfront Plaza
401 W. Main St., Suite 1200
Louisville, Kentucky (KY) 40202
Contact: Robert M. Yann
Phone: 502.583.7400
Fax: 502.589.4997
www.ackersonlegal.com

Fowler Measle & Bell PLLC ● ●
300 West Vine Street, Suite 600
Lexington, Kentucky (KY) 40507
Contact: John E. Hinkel, Jr.
Phone: 859.252.6700
Fax: 859.255.3735
www.fowlerlaw.com

Gary C. Johnson, PSC ●
110 Caroline Avenue
P.O. Box 231
Pikeville, Kentucky (KY) 41501
Contact: Gary C. Johnson
Phone: 606.437.4002
Fax: 606.437.0021
www.garycjohnson.com

Louisiana

Degan, Blanchard & Nash, PLC ●
6421 Perkins Road
Building C, Suite B
Baton Rouge, Louisiana (LA) 70808
Contact: Sidney W. Degan, III
Phone: 225.610.1110
Fax: 225.610.1220
www.degan.com

Degan, Blanchard & Nash, PLC ●
Texaco Center, Suite 2600
400 Poydras Street
New Orleans, Louisiana (LA) 70130
Contact: Sidney W. Degan, III
Phone: 504.529.3333
Fax: 504.529.3337
www.degan.com

Montgomery, Barnett, Brown, Read, Hammond & Mintz, L.L.P. ●
One American Place
301 Main Street, Suite 1170
Baton Rouge, Louisiana (LA) 70825
Contact: John Y. Pearce
Phone: 225.329.2800
Fax: 225.329.2850
www.monbar.com

Montgomery, Barnett, Brown, Read, Hammond & Mintz, L.L.P. ●
3300 Energy Centre
1100 Poydras Street, Suite 3300
New Orleans, Louisiana (LA) 70163
Contact: John Y. Pearce
Phone: 504.585.3200
Fax: 504.585.7688
www.monbar.com

Maine

The Bennett Law Firm, P.A. ● ●
121 Middle St., Suite 300
P.O. Box 7799
Portland, Maine (ME) 04112
Contact: Peter Bennett
Phone: 207.773.4775
Fax: 207.774.2366
www.thebennettlawfirm.com

Maryland

Dugan, Babij & Tolley, LLC ●
1966 Greenspring Dr., Suite 500
Timonium, Maryland (MD) 21093
Contact: Henry E. Dugan, Jr.
Phone: 800.408.2080
Fax: 410.308.1742
www.medicalneg.com

Massachusetts

Rudolph Friedmann LLP ●
92 State Street
Boston, Massachusetts (MA) 02109
Contact: James L. Rudolph
Phone: 617.723.7700
Fax: 617.227.0313
www.rflawyers.com

Zizik, Powers, O'Connell, Spaulding & Lamontagne, P.C. ●
690 Canton Street, Suite 306
Westwood, Massachusetts (MA) 02090
Contact: David W. Zizik
Phone: 781.320.5400
Fax: 781.320.5444
www.zizikpowers.com

Michigan

Bos & Glazier, P.L.C. ●
990 Monroe Avenue NW
Grand Rapids, Michigan (MI) 49503
Contact: Carole D. Bos
Phone: 616.458.6814
Fax: 616.459.8614
www.bosglazier.com

Buchanan & Buchanan, PLC ●
171 Monroe Avenue, NW, Suite 750
Grand Rapids, Michigan (MI) 49503
Contact: Robert J. Buchanan
Phone: 616.458.2464
Fax: 616.458.0608
www.buchananfirm.com

Calcutt Rogers & Boynton, PLLC ●
109 E. Front Street, Suite 300
Traverse City, Michigan (MI) 49684
Contact: William B. Calcutt
Phone: 231.947.4000
Fax: 231.947.4341
www.crblawfirm.com

Cardelli, Lanfear & Buikema, P.C. ●
322 West Lincoln
Royal Oak, Michigan (MI) 48067
Contact: Thomas G. Cardelli
Phone: 248.544.1100
Fax: 248.544.1191
www.cardellilaw.com

2011 Member Listing – International Society of Primerus Law Firms

Demorest Law Firm, PLLC ●
322 West Lincoln
Royal Oak, Michigan (MI) 48067
Contact: Mark S. Demorest
Phone: 248.723.5500
Fax: 248.723.5588
www.demolaw.com

Demorest Law Firm, PLLC ●
1537 Monroe St., Suite 300
Dearborn, Michigan (MI) 48124
Contact: Mark S. Demorest
Phone: 313.278.5291
Fax: 248.723.5588
www.demolaw.com

The Gallagher Law Firm, PLC ●
2408 Lake Lansing Road
Lansing, Michigan (MI) 48912
Contact: Byron "Pat" Gallagher, Jr.
Phone: 517.853.1500
Fax: 517.853.1501
www.thegallagherlawfirm.com

McKeen & Associates, P.C. ●
645 Griswold Street, 42nd Floor
Detroit, Michigan (MI) 48226
Contact: Brian J. McKeen
Phone: 313.961.4400
Fax: 313.961.5985
www.mckeenassociates.com

Minnesota

Johnson & Condon, P.A. ●
7401 Metro Boulevard, Suite 600
Minneapolis, Minnesota (MN) 55439
Contact: Dale O. Thornsjo
Phone: 952.831.6544
Fax: 952.831.1869
www.johnson-condon.com

Monroe Moxness Berg PA ●
8000 Norman Center Drive, Suite 1000
Minneapolis, Minnesota (MN) 55437
Contact: John E. Berg
Phone: 952.885.5999
Fax: 952.885.5969
www.mmblawfirm.com

Robert P. Christensen, P.A. ●
5775 Wayzata Blvd., Suite 670
Minneapolis, Minnesota (MN) 55416
Contact: Robert P. Christensen
Phone: 612.333.7733
Fax: 952.767.6846
www.rpcmnlaw.com

Mississippi

Merkel & Cocke ●
30 Delta Avenue
Clarksdale, Mississippi (MS) 38614
Contact: Ted Connell
Phone: 662.627.9641
Fax: 662.627.3592
www.merkel-cocke.com

Missouri

Foland, Wickens, Eisfelder, Roper & Hofer, P.C. ●
911 Main Street
Commerce Tower, 30th Floor
Kansas City, Missouri (MO) 64105
Contacts: Clay Crawford / Scott Hofer
Phone: 816.472.7474
Fax: 816.472.6262
www.fwpclaw.com

Gray, Ritter & Graham, P.C. ●
701 Market Street, 8th Floor
St. Louis, Missouri (MO) 63101
Contact: Patrick J. Hagerty
Phone: 314.241.5620
Fax: 314.241.4140
www.grgpc.com

The McCallister Law Firm, P.C. ●
917 W. 43rd St.
Kansas City, Missouri (MO) 64111
Contact: Brian F. McCallister
Phone: 816.931.2229
Fax: 816.756.1181
www.mccallisterlawfirm.com

Rosenblum, Goldenhersh, Silverstein & Zafft, P.C. ●
7733 Forsyth Boulevard, Fourth Floor
St. Louis, Missouri (MO) 63105
Contact: Carl C. Lang
Phone: 314.726.6868
Fax: 314.726.6786
www.rgsz.com

Spradley & Riesmeyer ●
4700 Belleview
Suite 210
Kansas City, Missouri (MO) 64112
Contact: Ronald Spradley
Phone: 816.753.6006
Fax: 816.502.7898
www.spradleyriesmeyer.com

Wuestling & James, L.C. ●
The Laclede Gas Building
720 Olive St., Ste. 2020
St. Louis, Missouri (MO) 63101
Contact: Richard C. Wuestling
Phone: 314.421.6500
Fax: 314.421.5556
www.wuestlingandjames.com

Nebraska

Gast & McClellan ●
Historic Reed Residence
503 South 36th Street
Omaha, Nebraska (NE) 68105
Contact: William E. Gast
Phone: 402.343.1300
Fax: 402.343.1313
www.gastlawfirm.com

Nevada

Barron & Pruitt, LLP ●
3890 West Ann Road
North Las Vegas, Nevada (NV) 89031
Contacts: David L. Barron / Bill H. Pruitt
Phone: 702.870.3940
Fax: 702.870.3950
www.barronpruitt.com

Laxalt & Nomura, LTD ●
9600 Gateway Drive
Reno, Nevada (NV) 89521
Contact: Robert A. Dotson
Phone: 775.322.1170
Fax: 775.322.1865
www.laxalt-nomura.com

New Jersey

Lesnevich & Marzano-Lesnevich, LLC ●
Court Plaza South, Suite 250
21 Main Street., West Wing
Hackensack, New Jersey (NJ) 07601
Contact: Walter A. Lesnevich
Phone: 201.488.1161
Fax: 201.488.1162
www.lmllawyers.com

Mandelbaum, Salsburg, Lazris & Discenza P.C. ●
155 Prospect Avenue
West Orange, New Jersey (NJ) 07052
Contact: Stuart Gold
Phone: 973.736.4600
Fax: 973.325.7467
www.mandelbaumsalsburg.com

Mattleman, Weinroth & Miller, P.C. ●
401 Route 70 East, Suite 100
Cherry Hill, New Jersey (NJ) 08034
Contact: John C. Miller, III
Phone: 856.429.5507
Fax: 856.429.9036
www.mwm-law.com

Thomas Paschos & Associates, P.C. ●
30 North Haddon Avenue, Suite 200
Haddonfield, New Jersey (NJ) 08033
Contact: Thomas Paschos
Phone: 856.354.1900
Fax: 856.354.6040
www.paschoslaw.com

New York

Coughlin & Gerhart, LLP ● ● ●
19 Chenango Street
Binghamton, New York (NY) 13902
Contact: James P. O'Brien
Phone: 607.723.9511
Fax: 607.723.1530
www.cglawoffices.com

Faraci Lange, LLP ●
Suite 1100
28 East Main Street
Rochester, New York (NY) 14614
Contact: Matthew F. Belanger
Phone: 585.325.5150
Fax: 585.325.3285
www.faraci.com

Ganfer & Shore, LLP ●
360 Lexington Avenue, 14th Floor
New York, New York (NY) 10017
Contact: Mark A. Berman
Phone: 212.922.9250
Fax: 212.922.9335
www.ganferandshore.com

Iseman, Cunningham, Riester & Hyde, LLP ● ●
9 Thurlow Terrace
Albany, New York (NY) 12203
Contact: James P. Lagios
Phone: 518.462.3000
Fax: 518.462.4199
www.icrh.com

Kent, Beatty & Gordon, LLP ●
425 Park Avenue
New York, New York (NY) 10022
Contact: Jack A. Gordon
Phone: 212.421.4300
Fax: 212.421.4303
www.kbg-law.com

Lewis Johs Avallone Aviles L.L.P. ●
61 Broadway, Suite 2000
New York City, New York (NY) 10006
Contacts: Robert J. Avallone / Fred C. Johs
Phone: 212.233.7195
Fax: 212.233.7196
www.lewisjohs.com

Schatz Brown Glassman Kossow LLP ●
250 Mill Street, Suite 309-311
Rochester, New York (NY) 14614
Contact: Robert E. Brown
Phone: 585.512.3414 x 8122
ESOPPlus.com

North Carolina

Horack, Talley, Pharr & Lowndes, P.A. ●
2600 One Wachovia Center
301 South College Street
Charlotte, North Carolina (NC) 28202
Contact: Clayton S. "Smithy" Curry, Jr.
Phone: 704.377.2500
Fax: 704.372.2619
www.horacktalley.com

Law firm of Hutchens, Senter & Britton, P.A. ● ●
4317 Ramsey Street
Fayetteville, North Carolina (NC) 28311
Contact: H. Terry Hutchens
Phone: 910.864.6888
Fax: 910.867.9555
www.hsbfirm.com

Charles G. Monnett III & Associates ●
200 Queens Road, Suite 300
P.O. Box 37206
Charlotte, North Carolina (NC) 28237
Contact: Charles G. Monnett, III
Phone: 704.376.1911
Fax: 704.376.1921
www.carolinalaw.com

Richard L. Robertson & Associates, P.A. ●
2730 East W.T. Harris Boulevard, Suite 101
Charlotte, North Carolina (NC) 28213
Contact: Richard L. Robertson
Phone: 704.597.5774
Fax: 704.599.5603
www.rlrobertson.com

Smith Debnam Narron Drake Saintsing & Myers, LLP ●
4601 Six Forks Road, Suite 400
Raleigh, North Carolina (NC) 27609
Contact: Jerry T. Myers
Phone: 919.250.2000
Fax: 919.250.2211
www.smithdebnamlaw.com

Teague Campbell Dennis & Gorham, L.L.P. ●
4800 Six Forks Road, Suite 300
Raleigh, North Carolina (NC) 27609
Contact: George W. Dennis, III
Phone: 919.873.0166
Fax: 919.873.1814
www.tcdg.com

Wall Esleeck Babcock LLP ●
1076 West Fourth Street, Suite 100
Winston-Salem, North Carolina (NC) 27101
Contact: Robert E. Esleeck
Phone: 336.722.2922
Fax: 336.714.7381
www.webllp.com

Ohio

Faruki Ireland & Cox P.L.L. ●
500 Courthouse Plaza, SW
10 North Ludlow Street
Dayton, Ohio (OH) 45402
Contact: Charles J. Faruki
Phone: 937. 227.3700
Fax: 937.227.3717
www.ficlaw.com

Faruki Ireland & Cox P.L.L. ●
PNC Center
201 E. Fifth Street, Suite 1420
Cincinnati, Ohio (OH) 45202
Contact: Charles J. Faruki
Phone: 513.632.0300
Fax: 513.632.0319
www.ficlaw.com

Freund, Freeze & Arnold ●
Fourth & Walnut Centre
105 East Fourth Street, Suite 1400
Cincinnati, Ohio (OH) 45202
Contact: Kevin C. Connell
Phone: 513.665.3500
Fax: 513.665.3503
www.ffalaw.com

Freund, Freeze & Arnold ●
Fifth Third Center
1 South Main Street, Suite 1800
Dayton, Ohio (OH) 45402
Contact: Kevin C. Connell
Phone: 937.222.2424
Fax: 937.222.5369
www.ffalaw.com

Lane, Alton & Horst LLC ● ●
Two Miranova Place, Suite 500
Columbus, Ohio (OH) 43215
Contact: Timothy J. Owens
Phone: 614.228.6885
Fax: 614.228.0146
www.lanealton.com

Norchi Forbes, LLC ●
Commerce Park IV
23240 Chagrin Blvd., Suite 600
Cleveland, Ohio (OH) 44122
Contact: Kevin M. Norchi
Phone: 216.514.9500
Fax: 216.514.4304
www.norchilaw.com

Perantinides & Nolan Co., L.P.A. ●
300 Courtyard Square
80 S. Summit
Akron, Ohio (OH) 44308
Contact: Paul G. Perantinides
Phone: 330.253.5454
Fax: 330.253.6524
www.perantinides.com

2011 Member Listing – International Society of Primerus Law Firms

Schneider, Smeltz, Ranney & LaFond P.L.L. ●
1111 Superior Avenue, Suite 1000
Eaton Center Building
Cleveland, Ohio (OH) 44114
Contact: James D. Vail
Phone: 216.696.4200
Fax: 216.696.7303
www.ssrl.com

Oklahoma

Fogg Law Firm ● ●
421 S. Rock Island
El Reno, Oklahoma (OK) 73036
Contact: Richard Fogg
Phone: 405.262.3502
Fax: 405.295.1536
www.fogglawfirm.com

Foliart Huff Ottaway & Bottom ●
201 Robert S. Kerr Avenue, Suite 1200
Oklahoma City, Oklahoma (OK) 73102
Contact: Larry D. Ottaway
Phone: 405.232.4633
Fax: 405.232.3462
www.oklahomacounsel.com

The Handley Law Center ●
111 South Rock Island, P.O. Box 310
El Reno, Oklahoma (OK) 73036
Contact: Fletcher D. Handley Jr.
Phone: 405.295.1924
Fax: 405.262.3531
www.handleylaw.com

James, Potts and Wulfers, Inc. ●
2600 Mid-Continent Tower
401 South Boston Avenue
Tulsa, Oklahoma (OK) 74103
Contact: David Wulfers
Phone: 918.584.0881
Fax: 918.584.4521
www.jpwlaw.com

Smiling, Miller & Vaughn P.A. ●
9175 South Yale Avenue, Suite 150
Tulsa, Oklahoma (OK) 74137
Contact: A. Mark Smiling
Phone: 918.477.7500
Fax: 918.477.7510
www.smilinglaw.com

Oregon

Haglund Kelley Jones & Wilder, LLP ●
200 SW Market St., Suite 1777
Portland, Oregon (OR) 97201
Contact: Michael E. Haglund
Phone: 503.225.0777
Fax: 503.225.1257
www.hk-law.com

Pennsylvania

Law Offices of Gallagher Malloy & Georges ●
1760 Market Street, Suite 1100
Philadelphia, Pennsylvania (PA) 19103
Contact: John J. Gallagher, Esq.
Phone: 215.963.1555
Fax: 215.963.9104
www.gallagher-law.com

Mellon Webster & Shelly ●
87 North Broad Street
Doylestown, Pennsylvania (PA) 18901
Contact: Steve Corr
Phone: 215.348.7700
Fax: 215.348.0171
www.mellonwebster.com

Rothman Gordon ●
Third Floor, Grant Building
310 Grant Street
Pittsburgh, Pennsylvania (PA) 15219
Contact: William E. Lestitian
Phone: 412.338.1100
Fax: 412.281.7304
www.rothmangordon.com

The Law Offices of Thomas J. Wagner, LLC ●
8 Penn Center, 6th Floor
1628 John F. Kennedy Boulevard
Philadelphia, Pennsylvania (PA) 19103
Contact: Thomas J. Wagner
Phone: 215.790.0761
Fax: 215.790.0762
www.wagnerlaw.net

South Carolina

Barnes, Alford, Stork & Johnson, L.L.P. ●
1613 Main Street
Columbia, South Carolina (SC) 29201
Contact: David G. Wolff
Phone: 803.799.1111
Fax: 803.254.1335
www.basjlaw.com

Collins & Lacy, P.C. ●
1330 Lady Street, Suite 601
Columbia, South Carolina (SC) 29201
Contact: Gray T. Culbreath
Phone: 803.256.2660
Fax: 803.771.4484
www.collinsandlacy.com

Roe Cassidy Coates & Price, P.A. ● ●
1052 North Church Street
P.O. Box 10529
Greenville, South Carolina (SC) 29603
Contact: Carroll H. "Pete" Roe, Jr.
Phone: 864.349.2600
Fax: 864.349.0303
www.roecassidy.com

Rosen, Rosen & Hagood, LLC ● ● ●
134 Meeting Street, Suite 200
P.O. Box 893
Charleston, South Carolina (SC) 29401
Contact: Alice F. Paylor
Phone: 843.577.6726
Fax: 843.724.8036
www.rrhlawfirm.com

Tennessee

Kennerly, Montgomery & Finley, P.C. ● ●
550 Main Street
Knoxville, Tennessee (TN) 37901
Contact: Jack Tallent, II
Phone: 865.546.7311
Fax: 865.524.1773
www.kmfpc.com

Spicer Rudstrom, PLLC ●
175 Toyota Plaza, Suite 800
Memphis, Tennessee (TN) 38103
Contact: Betty Ann Milligan
Phone: 901.523.1333
Fax: 901.526.0213
www.spicerfirm.com

Spicer Rudstrom, PLLC ●
414 Union Street, Bank of America Tower,
Suite 1700
Nashville, Tennessee (TN) 37219
Contact: Marc O. Dedman
Phone: 615.259.9080
Fax: 615.259.1522
www.spicerfirm.com

Trauger & Tuke ●
222 Fourth Avenue North
Nashville, Tennessee (TN) 37219
Contact: Robert D. Tuke
Phone: 615.256.8585
Fax: 615.256.7444
www.tntlaw.net

2011 Member Listing – International Society of Primerus Law Firms

Texas

Atchley, Russell, Waldrop & Hlavinka, L.L.P. ● ●
1710 Moores Lane
P.O. Box 5517
Texarkana, Texas (TX) 75505
Contact: Jeffery C. Lewis
Phone: 903.792.8246
Fax: 903.792.5801
www.arwhlaw.com

Branscomb, PC ●
114 W. 7th St., Suite 725
Austin, Texas (TX) 78701
Contact: Jeffrey S. Dickerson
Phone: 512.735.7801
Fax: 361.735.7805
www.branscombpc.com

Branscomb, PC ●
802 N. Carancahua, Suite 1900
Corpus Christi, Texas (TX) 78470
Contact: James H. Robichaux
Phone: 361.888.9261
Fax: 361.888.8504
www.branscombpc.com

Donato Minx Brown & Pool, P.C. ●
3200 Southwest Freeway, Suite 2300
Houston, Texas (TX) 77027
Contact: Robert D. Brown
Phone: 713.877.1112
Fax: 713.877.1138
www.donatominxbrown.com

Downs • Stanford, P.C. ●
2001 Bryan Street, Suite 4000
Dallas, Texas (TX) 75201
Contact: Jay R. Downs
Phone: 214.748.7900
Fax: 214.748.4530
www.downsstanford.com

Downs • Stanford, P.C. ●
4425 S. Mopac, Bldg. 111, Suite 500
Austin, Texas (TX) 78735
Contact: Charles Morse
Phone: 512.891.7771
Fax: 512.891.7772
www.downsstanford.com

Peterson Farris Pruitt & Parker ● ●
Chase Tower
600 S. Tyler, Suite 1600
Amarillo, Texas (TX) 79101
Contact: Barry D. Peterson
Phone: 806.374.5317
Fax: 806.374.9755
www.pf-lawfirm.com

The Talaska Law Firm, PLLC ●
1415 North Loop West, Suite 200
Houston, Texas (TX) 77008
Contact: Robert Talaska
Phone: 713.869.1240
Fax: 713.869.1465
www.talaskalawfirm.com

Thornton, Biechlin, Segrato, Reynolds & Guerra, L.C. ●
100 N.E. Loop, 410 – Fifth Floor
San Antonio, Texas (TX) 78216
Contact: Richard J. Reynolds, III
Phone: 210.342.5555
Fax: 210.525.0666
www.thorntonfirm.com

Thornton, Biechlin, Segrato, Reynolds & Guerra, L.C. ●
418 East Dove Avenue
McAllen, Texas (TX) 78504
Contact: Tim K. Singley
Phone: 956.630.3080
Fax: 956.630.0189
www.thorntonfirm.com

Utah

Prince Yeates ●
175 East 400 South, Suite 900
Salt Lake City, Utah (UT) 84111
Contact: Michael Humphries
Phone: 801.524.1000
Fax: 801.524.1098
www.princeyeates.com

Winder & Counsel, P.C. ● ●
175 West 200 South, Suite 4000
P.O. Box 2668
Salt Lake City, Utah (UT) 84110
Contact: Donald J. Winder
Phone: 801.322.2222
Fax: 801.322.2282
www.windercounsel.com

Virginia

Goodman Allen & Filetti, PLLC ●
4501 Highwoods Parkway
Suite 210
Glen Allen, Virginia (VA) 23060
Contact: Kathryn Freeman-Jones
Phone: 804.346.0600
Fax: 804.346.5954
www.goodmanallen.com

Shapiro, Cooper, Lewis & Appleton, P.C. ●
1294 Diamond Springs Rd.
Virginia Beach, Virginia (VA) 23455
Contact: James C. Lewis
Phone: 800.752.0042
Fax: 757.460.3428
www.hsinjurylaw.com

Washington

Beresford Booth PLLC ●
145 3rd Avenue South
Suite 200
Edmonds, Washington (WA) 98020
Contact: David C. Tingstad
Phone: 425.776.4100
Fax: 425.776.1700
www.beresfordlaw.com

Beresford Booth PLLC ●
1420 5th Avenue, Suite 2200
Seattle, Washington (WA) 98101
Contact: Dick Beresford
Phone: 425.776.4100
Fax: 425.776.1700
www.beresfordlaw.com

Johnson, Graffe, Keay, Moniz & Wick, LLP ●
2115 N. 30th Street, Suite 101
Tacoma, Washington (WA) 98403-1767
Contact: A. Clarke Johnson
Phone: 253.572.5323
Fax: 253.572.5413
www.jgkmw.com

Johnson, Graffe, Keay, Moniz & Wick, LLP ●
925 Fourth Avenue, Suite 2300
Seattle, Washington (WA) 98104-1158
Contact: John C. Graffe, Jr.
Phone: 206.223.4770
Fax: 206.386.7344
www.jgkmw.com

West Virginia

The Masters Law Firm L.C. ●
181 Summers Street
Charleston, West Virginia (WV) 25301
Contact: Marvin W. Masters
Phone: 800.342.3106
Fax: 304.342.3189
www.themasterslawfirm.com

McNeer, Highland, McMunn and Varner, L.C. ●
BB&T Bank Building, 400 W. Main St.
P.O. Drawer 2040
Clarksburg, West Virginia (WV) 26302-2040
Contact: James A. Varner
Phone: 304.626.1100
Fax: 304.623.3035
www.wvlawyers.com

Wisconsin

Kohner, Mann & Kailas, S.C. ●
Washington Building, Barnabas Business Center
4650 N. Port Washington Road
Milwaukee, Wisconsin (WI) 53212
Contacts: Steve Kailas / Stephen D.R. Taylor
Phone: 414.962.5110
Fax: 414.962.8725
www.kmksc.com

2011 Member Listing – International Society of Primerus Law Firms

Argentina

Fornieles Abogados SRL ●
Leandro N. Alem 712, 10th Floor
Buenos Aires, AR Argentina C1001AAP
Contacts: Mariano E. Carricart / Alfredo Cantilo
Phone: +54 11 4313 7000
Fax: +54 11 4313 7001
www.fornielesabogados.com.ar

Australia

Kells The Lawyers ●
Level 15, 9 Castlereagh Street
Sydney, NS Australia 2000
Contact: Roger Downs
Phone: (02) 9233 7411
Fax: (02) 9233 7422
www.kells.com.au

Austria

Kerres Partners ●
Schubertring 2
Vienna, AT Austria 1010
Contact: Christoph Kerres
Phone: +43 (1) 516 60
Fax: +43 (1) 516 60 60
www.kerres.at

Belize

Quijano & Associates ●
Withfield Tower, 3rd Floor, 4792 Coney Drive
P.O. Box 1825
Belize City, BZ Belize
Contact: Julio A. Quijano Berbey
Phone: +501-227-0490
Fax: +501-227-0492
www.quijano.com

Brazil

Barcellos Tucunduva Advogados ●
Alameda Itu, 852-9º e 10º andares
Sao Paulo, AC Brazil 01421-001
Contact: Patricia Hermont Barcellos
Phone: +(55 11) 3069-9080
Fax: +(55 11) 3069-9066
www.btlaw.com.br

British Virgin Islands

Quijano & Associates ●
Wickhams Cay II, Clarence Old Thomas Building
P.O. Box 3159
Road Town, Tortola, VG British Virgin Islands
Contact: Julio A. Quijano Berbey
Phone: (284) 494-3638
Fax: (284) 494-7274
www.quijano.com

Canada

Houser, Henry & Syron LLP ●
2000 – 145 King Street West
Toronto, Ontario M5H 2B6
Canada
Contact: Michael R. Henry
Phone: 416.362.3411
Fax: 416.362.3757
www.houserhenry.com

Cayman Islands

Thorp Alberga ●
103 South Church Street
PO Box 472
George Town, Grand Cayman KY1-1106
Cayman Islands
Contact: Michael L. Alberga
Phone: +1 345 949 0699
Fax: +1 345 949 8171
www.thorpalberga.com

Chile

Grupo Vial Abogados ●
Avenida El Bosque Norte 0177
Oficina 602, Piso 6
Las Condes, Santiago, CL Chile
Contact: José Miguel Olivares Padilla
Phone: (56-2) 713 9000
Fax: (56-2) 713 9099
www.grupovial.cl/en/index.php

China

Diaz, Reus & Targ, LLP ●
Plaza 66, Tower 1, 39th Floor
1266 W. Nanjing Road
Shanghai 200040
China
Contact: Xin "Joe" Zhang
Phone: +86 21 6103 7438
Fax: +86 21 6103 7439
www.diazreus.com

Cyprus

Kinanis LLC ●
12 Egypt Street
1097 Nicosia
Cyprus
Contact: Christos P. Kinanis
Phone: +357 22 55 88 88
Fax: +357 22 75 97 77
www.kinanis.com

Ecuador

Bustamante & Bustamante Law Firm ●
Avenidas Patria & Amazonas, Edificio Cofiec,
Piso 10
PO Box 17-01-02455
Quito, EC Ecuador
Contact: Kathy Camilleri
Phone: +539-2 256-2680
Fax: +539-2 255-9092
www.bustamanteybustamante.com

England

Ford & Warren ●
Westgate Point
Westgate
Leeds West Yorkshire LS1 2AX
England
Contacts: Peter McWilliams / Keith Hearn
Phone: +44 (0)113.243.6601
Fax: +44 (0)113.242.0905
www.forwarn.com

France

Vatier & Associés ●
12, rue d'Astorg
Paris F 75008
France
Contact: Ann Creelman
Phone: +33 1 53 43 15 55
Fax: +33 1 53 43 15 78
www.vatier-associes.com

2011 Member Listing – International Society of Primerus Law Firms

Germany

Brodermann & Jahn ●
Neuer Wall 71
Hamburg, DE Germany 20354
Contact: Dr. Eckart Brodermann
Phone: +49-40-37 09 05-0
Fax: +49-40-37 09 05-55
www.german-law.com/html/index.php

WINHELLER Attorneys at Law ●
Corneliusstr. 34
Frankfurt am Main, Hessen D-60325
Contact: Stefan Winheller
Phone: +49(0)69 7675 7780
Fax: +49(0)69 7675 77810
www.winheller.com

Greece

Karagounis & Partners ●
18, Valaoritou St.
Athens 10671
Greece
Contact: Constantinos Karagounis
Phone: +30 21 30 390 000
Fax: +30 21 30 390 088
www.karagounislawfirm.gr

Hungary

Fusthy & Manyai Law Office ●
Lajos u. 74-76
Budapest, Budapest H-1036
Contact: Dr. Zsolt Fusthy
Phone: +(36 1) 454 1766
Fax: +(36 1) 454 1777
www.fusthylawoffice.hu

Japan

Hayabusa Asuka Law Offices ●
4th Floor,
Kasumigaseki Building 3-2-5 Kasumigaseki
Chiyoda-ku Tokyo 100-6004
Japan
Contact: Kaoru Takamatsu
Phone: +81-3-3595-7070
Fax: +81-3-3595-7105
www.halaw.jp

Mexico

Cacheaux Cavazos & Newton ●
Torre Metrocorp, Avenida Tecamachalco No. 14-502
Colonia Lomas de Chapultepec
Mexico City, Mexico C.P. 11010
Contact: Felipe Chapula
Phone: 011 52 55 5093-9700
Fax: 011 52 55 5093-9701
www.ccn-law.com

Panama

Quijano & Associates ●
Salduba Building, 3rd Floor
East 53rd Street, Urbanizacion Marbella
Panama City, PN Panama
Contact: Julio A. Quijano Berbey
Phone: (507) 269-2641
Fax: (507) 263-8079
www.quijano.com

Poland

Traple Konarski Podrecki ●
ul. Krolowej Jadwigi 170
Krakow, (OF) POL 30-212
Contact: Elzbieta Traple
Phone: +48 12 426 05 30
Fax: +48 12 426 05 40
www.traple.pl

Puerto Rico

Ferraiuoli Torres Marchand & Rovira, LLC ●
221 Ponce de Leon Avenue
Suite 403
Hato Rey PR 00917
Puerto Rico
Contact: Eugenio Torres-Oyola
Phone: 787.766.7000
Fax: 787.766.7001
www.ftmrlaw.com

Romania

Pachiu & Associates ●
4-10 Muntii Tatra Street 5th floor
Bucharest 1 RO-011022
Romania
Contact: Laurentiu Pachiu
Phone: + 40 (21) 312 10 08
Fax: + 40 (21) 312 10 09
www.pachiu.com

Russia

Nektorov, Saveliev & Partners LLC ●
2nd Fl., Entr. 2, Build. 3
Furkasovsky Lane, Lubyanka
Moscow 101000
Russian Federation
Contact: Alexander Nektorov
Phone: +7 (495) 646 81 76
Fax: +7 (495) 646 81 76
www.nsplaw.ru

South Korea

Hanol Law Offices ●
17th and 19th Floor, City Air Tower
159-9 Samsung-Dong, Kangnam-Ku
Seoul, KR Korea, South 135-973
Contact: Yun-Jae Baek
Phone: +82-2-6004-2500
Fax: +82-2-6203-2500
www.hanollaw.com

Spain

Bartolome & Briones ●
Balmes 243, 7°
Barcelona, ES Spain 08006
Contact: Salvador Bartolome
Phone: +34.93.292.20.20
Fax: +34.93.415.66.38
www.bartolomebriones.com

Bartolome & Briones ●
Jorge Juan 30, 4
Madrid, ES Spain 28001
Contact: Salvador Bartolome
Phone: +34.91.577.47.47
Fax: +34.91.576.30.69
www.bartolomebriones.com

Switzerland

MME Partners ●
Kreuzstrasse 42
Zurich, Zürich CH-8008
Contact: Balz Hoesly
Phone: +41 44 254 99 66
Fax: +41 44 254 99 60
www.mmepartners.ch

Taiwan

Formosan Brothers ●
8F, No. 376 Section 4, Jen-Ai Road
Taipei, TW Taiwan
Contact: Li-Pu Lee
Phone: +886-2-2705-8086
Fax: +886-2-2701-4705
www.fblaw.com.tw

The Netherlands

Russell Advocaten ●
Reimersbeek 2
Amsterdam 1082 AG
Netherlands
Contact: Reinier Russell
Phone: +31 20 301 55 55
Fax: +31 20 301 56 78
www.russell.nl

Turkey

Serap Zuvin Law Offices ●
Beybi Giz Plaza, Maslak Mahallesi, Meydan
Sokak No: 1
Kat: 31 Daire: 121, Maslak, Sisli
Istanbul, TR Turkey 34398
Contact: Serap Zuvin
Phone: +90-212-2807433
Fax: +90-212-2781911
www.zuvinlaw.com.tr

Calendar of Events

2011 - 2012

September 22-23, 2011 – 2011 Primerus Defense Institute Insurance Coverage and Bad Faith Seminar
Atlanta, Georgia

October 20-23, 2011 – Primerus Annual Conference
Charleston, South Carolina

October 23-26, 2011 – Association of Corporate Counsel Annual Meeting
Denver, Colorado
Primerus will be a sponsor at this event.

November 2-4, 2011 – Professional Liability Underwriting Society Annual International Conference
San Diego, California
Primerus will be a sponsor at this event.

January 18-20, 2012 – Primerus Young Lawyer Section Deposition Skills Workshop
Miami, Florida

February 1-5, 2012 – 2012 Primerus Consumer Law Institute Winter Conference
San Juan, Puerto Rico

February 16-17, 2012 – Primerus Defense Institute Transportation Seminar
Las Vegas, Nevada

April 19-21, 2012 – Primerus Defense Institute Convocation
San Diego, California

For additional information, please contact Chad Sluss, Primerus Vice President of Services, at 800.968.2211 or csluss@primerus.com.

Primerus
Built on Integrity. Driven by Innovation.

International Society of Primerus Law Firms

171 Monroe Avenue NW, Suite 750
Grand Rapids, Michigan 49503

800.968.2211 Toll-free Phone
616.458.7099 Fax
www.primerus.com