



A NEWSLETTER FROM COLEMAN & HOROWITT, LLP, ATTORNEYS AT LAW

WWW.CH-LAW.COM  
SPRING 2013

## COLEMAN & HOROWITT, LLP, WELCOMES

NEW PARTNERS & ATTORNEYS

Coleman & Horowitz, LLP is continuing in 2013 the progress it made in 2012. The firm is pleased to announce that it has elevated Judith M. Sasaki as a partner and added Sherrie M. Flynn, Gary S. Shuster, and Mary E. Krugh as attorneys.

### IN THIS ISSUE:

WELCOME NEW PARTNERS & ATTORNEYS .... 1

ARE YOU READY FOR THE TRAIN ..... 2

PRACTICE GROUP FOCUS REAL ESTATE ..... 3

FIRM DIRECTORY ..... 3

RECENT DEVELOPMENT ..... 4



**Judith M. Sasaki** is a seasoned trial attorney in the Los Angeles office. She joined the firm in 2011, having previously served as the managing partner of Simke, Chodos & Sasaki. She continues

to represent high net worth individuals and corporations in complex business, real estate, and unfair competition litigation in trials and arbitrations. She is a graduate of the University of Hawaii, where she also received her law degree.



**Sherrie M. Flynn** joins the firm's Fresno office, where she will work in the firm's litigation and intellectual property departments. Sherrie is a graduate of Carnegie Mellon University, where

she received a degree in engineering. She also attended Duquesne University before attending San Joaquin College of Law, where she graduated with high honors and served on the school's Law Review. Prior to joining the firm, Sherrie was associated with the Fresno firm of Baker, Manock & Jensen and the Law Offices of Andrew D. Fortney, an intellectual property boutique also located in Fresno.

In addition to being licensed to practice in all the courts of the State of California, Sherrie is also a registered patent attorney. As a registered patent attorney, Sherrie will represent clients in patent prosecution. In addition, she brings over 30 years of business and construction experience in representing clients in commercial, construction, and intellectual property litigation including unfair competition.

**Gary S. Shuster** joins the Fresno office in the litigation and intellectual property departments. Gary is a graduate of University of California, Los Angeles, where he graduated magna cum laude. He received his law degree from Harvard Law School, where he also graduated magna cum laude. Prior to joining the firm, he was associated with the national firm Dewey Ballantine, LLP and, before that, Hennigan, Bennett & Dorman and Howrey, LLP, where he worked in the firms' litigation departments. While in prior private practice, Gary successfully represented clients in complex commercial and intellectual property litigation.

Gary left private practice in 1999 and became a principal in Ideafood, an intellectual property company that develops new technologies and patents. He is the holder of numerous patents. Gary will

499 WEST SHAW AVE., #116  
FRESNO, CA 93704  
PH: (559) 248-4820  
FAX: (559) 248-4830

1880 CENTURY PARK EAST, #404  
LOS ANGELES, CA 90067  
PH: (310) 286-0233  
FAX: (310) 203-3870

remain a principal with Ideaflood, but will provide representation to clients in the development and funding of new technologies and business enterprises, the protection and enforcement of intellectual property and trade secrets, and the prosecution and defense of complex commercial and intellectual property litigation.



**Mary E. Krugh** also joins the Fresno office in the litigation department. Mary is a graduate of California Polytechnic University, San Luis Obispo, where she received a degree in Agricultural Business, and graduated magna cum laude.

Mary received her law degree from University of the Pacific McGeorge School of Law, where she served as Chief Managing Editor of the Global Business & Development Law Journal and graduated with great distinction. Prior to joining the firm, Mary was associated with the Sacramento firms Palmer, Kazanjian, Wohn & Hodson and Porter Scott. She has extensive experience and will represent clients in labor and employment matters and will also represent clients in business, commercial and real estate litigation, and business torts.

Please join the firm in congratulating Judy and welcoming Sherrie, Gary, and Mary.

## ARE YOU READY FOR THE TRAIN:

WHAT YOU SHOULD CONSIDER IF THE HIGH-SPEED RAIL CONTACTS YOU ABOUT YOUR PROPERTY

BY: MATTHEW R. NUTTING

The California high-speed rail is becoming a reality. That reality means that the high-speed rail system is to cut a path through hundreds of Central Valley parcels. In fact, the Government recently announced that letters are being sent out to property owners who will or may be affected. You may have already received such a letter.

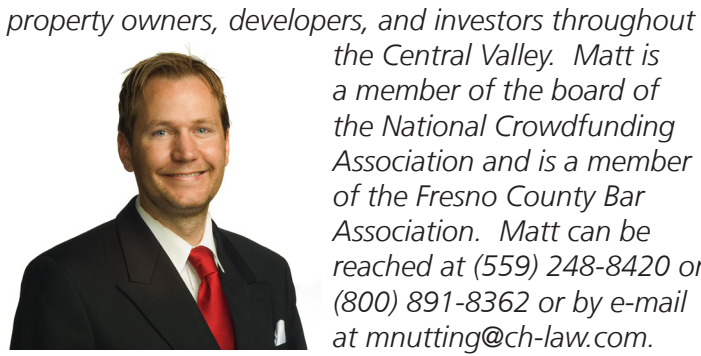
Most people understand that the Government must compensate land owners for the property it takes. There are, however, numerous issues that arise from this process that will have lasting and adverse impacts. It is difficult for a property owner to know whether or not a lawyer is needed, especially when the State expresses an interest in your property.

If you don't know whether or not a lawyer is required, realize that issues relating to a governmental taking warrant having specially qualified advocates look out for your interests. Among the issues you should consider are:

1. Whether you have the right to reject an offer from the State.
2. Will the State take the whole parcel or just a portion?
3. Can you refuse to sell your property?
4. If the State takes a portion of your property, can you be compensated for the noise or other problems the new rail creates?
5. How long does the process take?
6. What if the property the State takes reduces the value of the portion you keep?
7. If you have tenants on the property, must they be compensated and, if so, how is the money divided between a landlord and tenant?
8. Can the rail change your access rights, and if so, does the State need to pay you for such rights?
9. What if your property is not developed yet, but could be built and developed? Do they just pay for the raw land?
10. Does the State need to compensate you for temporary access to your property for construction purposes?
11. What if the lost property is used in your business; does the State have to pay for lost profits or for relocation of your business?
12. How is the money they pay taxed? Can you do a tax-deferred exchange?
13. If the portion taken cuts your property in half, could you lose the access of both parts?
14. If you hire an attorney, will the Government have to pay those costs?
15. How does the State set the value when making an offer?
16. Can you stay on the property until the State needs to build on it?

Be smart. Like most legal issues, condemnation of private property is a complex area of law. It is not just a matter of negotiating a price. Ultimately, you will be left with the byproducts after the Government takes your land and a rail line runs through it. We thus recommend that you hire an attorney, and if you hire an attorney, make sure it is one who has experience in land use and eminent domain.

*The author, Matthew R. Nutting, is Senior Counsel at Coleman & Horowitz, LLP, where he works in the firm's transactions department. Matt limits his practice to representing clients in business, real estate, and intellectual property transactions. He has extensive experience working with property owners in government takings. In addition, Matt has a Masters of Science degree in Real Estate, is a Licensed Real Estate Broker (California), and represents many contractors,*



## PRACTICE GROUP FOCUS - REAL ESTATE

As the real estate market in the Central Valley is beginning to heat up, we at Coleman & Horowitz, LLP are here and ready to assist those with real estate issues. The Real Estate Practice Group of Coleman & Horowitz, LLP regularly represents clients in a wide variety of real estate transactions and litigation.

Since its inception, the firm has assisted clients with the documentation of commercial and residential real estate transactions and loans, land use, development, and entitlement issues. We have also long represented parties in all types of real estate litigation, including litigation arising over real estate transactions, condemnation and eminent domain matters, and construction and construction defect matters.

Firm attorneys also represent commercial and residential owners in landlord-tenant disputes and defend real estate professionals in claims brought against them by third parties. In addition, we represent common interest developments (condominiums and PUD's) in documentation and disputes. Firm attorneys also serve as mediators and arbitrators in real estate disputes.

For more information, go to [www.ch-law.com](http://www.ch-law.com)

## FIRM DIRECTORY

William H. Coleman - Transactions  
E-Mail: [wcoleman@ch-law.com](mailto:wcoleman@ch-law.com)  
Ext. 110

Darryl J. Horowitz - Litigation  
E-Mail: [dhorowitz@ch-law.com](mailto:dhorowitz@ch-law.com)  
Ext. 111

John M. Cardot - Transactions  
E-Mail: [jcardot@ch-law.com](mailto:jcardot@ch-law.com)

Daniel S. Castro -  
Intellectual Property  
E-Mail: [dcastro@ch-law.com](mailto:dcastro@ch-law.com)  
Ext. 146

Sherrie M. Flynn -  
Intellectual Property  
E-Mail: [sflynn@ch-law.com](mailto:sflynn@ch-law.com)  
Ext. 105v

Rema M. Koligian - Litigation  
E-Mail: [rkoligian@ch-law.com](mailto:rkoligian@ch-law.com)  
Ext. 117

Mary E. Krugh - Litigation  
E-Mail: [mkrugh@ch-law.com](mailto:mkrugh@ch-law.com)  
Ext. 117

C. Fredrick Meine III - Litigation  
E-Mail: [fmeine@ch-law.com](mailto:fmeine@ch-law.com)  
Ext. 134

Eliot S. Nahigian - Transactions  
E-Mail: [enahigian@ch-law.com](mailto:enahigian@ch-law.com)  
Ext. 129

Sheryl D. Noel -  
Litigation, Collections, Transactions  
E-Mail: [snoel@ch-law.com](mailto:snoel@ch-law.com)  
Ext. 140

Matthew R. Nutting - Transactions  
E-Mail: [mnutting@ch-law.com](mailto:mnutting@ch-law.com)  
Ext. 147

Jennifer T. Poochigian - Litigation  
E-Mail: [jpoochigian@ch-law.com](mailto:jpoochigian@ch-law.com)

Russell W. Reynolds -  
Litigation / Creditor Rights  
E-Mail: [rreynolds@ch-law.com](mailto:rreynolds@ch-law.com)  
Ext. 138

Judith M. Sasaki - Litigation (Los Angeles)  
E-Mail: [jsasaki@ch-law.com](mailto:jsasaki@ch-law.com)  
Ext. 202

Gary S. Shuster -  
Litigation/Intellectual Property  
E-Mail: [gshuster@ch-law.com](mailto:gshuster@ch-law.com)

Keith M. White - Litigation  
E-Mail: [kwhite@ch-law.com](mailto:kwhite@ch-law.com)  
Ext. 114

Laurence Y. Wong - Litigation  
(Los Angeles)  
E-Mail: [lwong@ch-law.com](mailto:lwong@ch-law.com)  
Ext. 201



COLEMAN & HOROWITT, LLP  
TRANSACTIONS · LITIGATION · ALTERNATIVE DISPUTE RESOLUTION

COLEMAN & HOROWITT, LLP PROVIDES LEGAL COUNSEL TO THE BUSINESS COMMUNITY IN THE AREAS OF BUSINESS, COMMERCIAL, UNFAIR COMPETITION, ENTERTAINMENT, AND REAL ESTATE LITIGATION AND TRANSACTIONS, CONSTRUCTION LITIGATION, APPEALS, PROFESSIONAL LIABILITY AND CASUALTY INSURANCE DEFENSE, INSURANCE COVERAGE, INTELLECTUAL PROPERTY (PATENTS, COPYRIGHT AND TRADEMARK REGISTRATION AND ENFORCEMENT), TAX, PROBATE, AND ESTATE PLANNING. THIS NEWSLETTER IS INTENDED TO PROVIDE THE READER WITH GENERAL INFORMATION REGARDING CURRENT LEGAL ISSUES. IT IS NOT TO BE CONSTRUED AS SPECIFIC LEGAL ADVICE OR AS A SUBSTITUTE FOR THE NEED TO SEEK COMPETENT LEGAL ADVICE ON SPECIFIC LEGAL MATTERS. THIS PUBLICATION IS NOT MEANT TO SERVE AS A SOLICITATION OF BUSINESS. TO THE EXTENT THAT THIS MAY BE CONSIDERED ADVERTISING, THEN IT IS HEREWITH IDENTIFIED AS SUCH.

FORWARDING & ADDRESS SERVICE REQUESTED

499 WEST SHAW AVE., #1116  
FRESNO, CA 93704

COLEMAN & HOROWITT, LLP  
TRANSACTIONS · LITIGATION · ALTERNATIVE DISPUTE RESOLUTION







## RECENT DEVELOPMENTS

We are pleased to report the following results for our clients:

**Judith M. Sasaki, John M. Cardot, and Rema M. Koligian** obtained a successful result in arbitration. In the action, our client sought to recover the benefits of his ownership interest in an oil and gas exploration company. The company was originally started as a limited liability company but went public. The client was not, however, distributed his shares. This required our client to demand arbitration under the LLC's Operating Agreement. After an 11-day binding arbitration before a three-arbitrator panel, the Coleman & Horowitz lawyers obtained an award that required the corporation to distribute our client's shares to him. In all, our client received shares worth in excess of \$34,000,000.

**Darryl J. Horowitz and Helen E. Omapas** successfully protected our client's trademark in an enforcement action before the USPTO's Trademark Trial & Appeal Board. In the action, a competitor of our client attempted to trademark several product names that appeared to infringe on our client's mark. After we filed an objection with the USPTO, the competitor elected to abandon its mark, preserving our client's mark.

**Judith M. Sasaki** recently obtained a favorable settlement in an alter ego action. In the matter, Judy received a judgment against a corporate defendant in a binding arbitration before the IFTA. When the corporation failed to pay, Judy filed an action against the principal shareholder seeking to hold him liable as the alter ego of the corporation. Prior to trial, Judy obtained a settlement by which the principal will pay a substantial portion of the judgment himself and the corporation remains liable for the remainder of the judgment.

**Laurence Y. Wong** obtained a favorable ruling in a post-judgment motion for attorneys' fees. In the underlying action, Larry negotiated a settlement

that did not require our firm's client to pay anything. Plaintiff's counsel would not settle unless he could file a post-judgment motion for fees. The motion was filed and the motion sought over \$170,000 in fees and costs. The court denied any recovery of fees or costs.

**Laurence Y. Wong and Fred Meine** received favorable results in separate motions seeking to dismiss claims for mortgage fraud. In the actions, our client sought to foreclose on loans for the purchase of raw land. The borrowers filed cross-complaints seeking damages for violation of various laws protecting borrowers. Larry and Fred filed separate demurrers, which the courts granted without leave to amend.

**Darryl J. Horowitz** recently published an article entitled "Presenting Your Case In Arbitration" in the Fall 2012 edition of *Primerus 180*, a publication of the International Society of Primerus Law Firms. To read the article, go to [www.primerus.com/primerus-180/2012-fall/](http://www.primerus.com/primerus-180/2012-fall/).

**William H. Coleman** recently served as a speaker on estate planning issues to insurance professionals.

**Darryl J. Horowitz** recently served as an expert witness. In the action, the defendant sought expert testimony as to whether an auto dealer's corporation could be considered the successor or alter ego of another dealer with similar ownership. After deposition testimony was provided, the opposing counsel sought to withdraw their expert's testimony.

**Darryl J. Horowitz and Fred Meine** recently served as speakers to one of the firm's banking clients on the subject of real estate foreclosure remedies in California.

If you have any questions regarding any of the developments referenced above or have a similar matter you may wish to discuss with us, please contact Maria O'Neill at (559) 248-4820/(800) 891-8362 or by e-mail at [moneill@ch-law.com](mailto:moneill@ch-law.com)