

# Meet the top attorneys in franchising

**D**o you need a great franchise lawyer? Look no further than the Franchise Times Legal Eagles. These lawyers live and breathe franchising and truly understand the nuances of the unique business model. In a world of chaos and uncertainty, these exceptional professionals are more necessary than ever.

With a keen mind for both the legalese and business, they understand the gravitas of every single legal battle, every transaction and the importance of every document. That engenders a spirit of collaboration and efficiency among this tight-knit group of legal professionals.

No matter the issue, the Franchise Times Legal Eagles want to get it solved so everyone can get back to business.

For business owners and leaders, having a knowledgeable partner with the business case top of mind is priceless—even when the bill comes.

This year, we touch on the biggest issues in franchising.

We looked into the regulatory climate under President Joe Biden. Are we sliding back into the joint-employer dark ages? Probably not, but that and many other changes could affect franchising, see how on page 37.

And how will staffing challenges affect everything from the FDD to operations and franchisee-franchisor relations? Check out page 56 find out.

We also checked in with our newest and most-tenured Legal Eagles. See what the New Class is thinking about on page 54 and what keeps the Hall of Famers up at night on page 58.

Congratulations to all our Legal Eagles, keep up the great work. **FT**

Articles by  
Callie Evergreen,  
Beth Ewen,  
Laura Michaels,  
Arthur Robert  
and Nicholas  
Upton

Survey and  
research by  
Jenny Raines



## Franchise Times **LEGAL EAGLES**<sup>®</sup>

### Table of Contents:

■ U.S. Legal Eagles.....34	■ Legal Eagles Canada .....50
■ Regulatory Watch ..... 37	■ Legal Eagles Wisdom ..... 52
■ What's Trending.....38	■ Legal Eagles New Class .....54
■ Operator Advice.....42	■ Labor Talk.....56
■ Interesting Case Talk.....46	■ Legal Eagles Hall of Fame .....58
■ System Standards.....48	

# UNITED STATES LEGAL EAGLES®



NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Christopher Bussert	Kilpatrick, Townsend & Stockton, LLP	Atlanta, GA	ZOR	L
Karen Abrams	Paris Ackerman LLP	Roseland, NJ	ZEE ZOR	T
Michael Ackerman	Paris Ackerman LLP	Roseland, NJ	ZEE ZOR	T
Mohammad Alturk	Baker McKenzie	Dallas, TX	ZOR	T
Bethany Appleby	Appleby & Corcoran, LLC	North Haven, CT	ZOR	L T
David Azrin	Gallet, Dreyer, and Berkey	New York, NY	ZOR	T
Richard Bayer	Einbinder & Dunn LLP	New York, NY	ZEE ZOR	T
Andy Beilfuss	Quarles & Brady LLP	Milwaukee, WI	ZOR	L T

NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Eli Besignor	Lathrop GPM	Minneapolis, MN	ZOR	T
John Berg	Monroe Moxness Berg	Minneapolis, MN	ZEE ZOR	T
Jennifer Bippus	Drumm Law, LLC	Denver, CO	ZOR	T
Michelle Black	Spadea Lignana	Philadelphia, PA	ZEE ZOR	T
Andrew Bleiman	Marks & Klein, LLP	Chicago, IL	ZEE ZOR	L T
Barry Blum	Genovese Joblove & Battista, PA	Miami, FL	ZOR	L
Stephanie J. Blumstein	Einbinder & Dunn LLP	New York, NY	ZEE ZOR	L
Aaron Blynn	Genovese Joblove & Battista, PA	Miami, FL	ZOR	L
Karl Brandes	Phelps Dunbar	Tampa, FL	ZEE ZOR	L T
Joseph Brooks	Fisher Zucker LLC	Philadelphia, PA	ZOR	T
Josh Brown	Taft Law	Indianapolis, IN	ZEE ZOR	T

## Your success is our priority.



Larry Weinberg Peter V. Snell Geoff Shaw Frank Robinson Derek Ronde Rebecca Valo Noah Leszcz

### Collaboration. Partnership. Results.

Around the corner or across the border, if you are looking to expand – look no further than Cassels. We offer unrivalled expertise on international expansion, and the law and business of franchising nationwide, through one of the largest and most sophisticated franchise law teams in Canada.

Congratulations to our seven 2022 Legal Eagles, part of our dedicated franchise team of over 20 lawyers.

# Cassels

[cassels.com/franchise](https://cassels.com/franchise)

TORONTO | VANCOUVER | CALGARY



NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Harold Bruno	Robinson, Waters & O'Dorisio, PC	Denver, CO	ZEE ZOR	L
Timothy Bryant	Preti Flaherty	Portland, ME	ZOR	L
Kerry Bundy	Faegre Drinker Biddle & Reath LLP	Minneapolis, MN	ZOR	L
Howard Bundy	Bundy Law Firm	Seattle, WA	ZEE ZOR	L T
Mark Burzych	Fahey Schultz Burzych Rhodes PLC	Okemos, MI	ZOR	L T
Brett Buterick	Greenspoon Marder LLP	Edison, NJ	ZEE ZOR	L T
David Cahn	Whiteford Taylor & Preston	Baltimore, MD	ZEE ZOR	T
Filemon Carrillo	Mulcahy LLP	Irvine, CA	ZEE ZOR	L
Carmen Caruso	Carmen D. Caruso Law Firm	Chicago, IL	ZEE	L
Brad Cashman	Monroe Moxness Berg	Minneapolis, MN	ZEE ZOR	T

NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Megan Center	Quarles & Brady LLP	Washington, DC	ZOR	T
Drew Chalfant	Roda Chalfant	Cincinnati, OH	ZEE ZOR	T
Amy Cheng	Cheng Cohen LLC	Chicago, IL	ZOR	T
Harris Chernow	Reger Rizzo Darnall LLP	Philadelphia, PA/Mt Laurel, NJ	ZEE ZOR	L T
Fredric Cohen	Cheng Cohen	Chicago, IL	ZOR	T
Dale Cohen	Akerman LLP	New York, NY	ZOR	T
Deborah S. Coldwell	Haynes and Boone, LLP	Dallas, TX	ZOR	L
Brian Cole	Law Office of Brian H Cole	Manhattan Beach, CA	ZEE ZOR	T
Ronald Coleman Jr.	Parker, Hudson, Rainer & Dobbs, LLP	Atlanta, GA	ZOR	L T

ZEE Franchisees ZOR Franchisors | L Litigation T Transactional

# THANK YOU FOR THE CONTINUED SUPPORT

Congratulations to all the 2022 Legal Eagles.



- AMY CHENG
- RIC COHEN
- MICHAEL DAIGLE
- VINCENT FRANTZ
- ALLISON GROW
- GINA MALANDRINO
- AARON-MICHAEL SAPP
- ANTONIA SCHOLZ

CHENGCOHEN.COM

# UNITED STATES LEGAL EAGLES®



NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Christina Conlin	Baker McKenzie	Chicago, IL	ZOR	T
Kristin Corcoran	Appleby & Corcoran, LLC	North Haven, CT	ZEE ZOR	L T
Ximena Couret	Baker McKenzie	Dallas, TX	ZOR	T
Michael Dady	Dady & Gardner	Minneapolis, MN	ZEE	L
Mark Dady	Dady & Gardner	Minneapolis, MN	ZEE	L T
Michael Daigle	Cheng Cohen LLC	Chicago, IL	ZOR	T
Elissa Deitch	Drumm Law, LLC	Denver, CO	ZOR	T
Jessica Dempsey	Spadea Lignana	Philadelphia, PA	ZOR	T
Liz Dillon	Lathrop GPM LLP	Minneapolis, MN	ZOR	T
Mackenzie L. Dimitri	Einbinder & Dunn LLP	New York, NY	ZEE ZOR	L T
Emily Doan	Polsinelli PC	Denver, CO	ZEE ZOR	T
John Doroghazi	Wiggin & Dana LLP	New Haven, CT	ZEE	L
Pete Dosik	ShipeDosik	Atlanta, GA	ZEE ZOR	T
Erica Dotras	Mullin, PC	Richardson, TX	ZEE ZOR	T
Michael Drumm	Drumm Law, LLC	Denver, CO	ZEE ZOR	T
Abhishek Dube	Baker McKenzie	Dallas, TX	ZOR	T
Michael Einbinder	Einbeinder & Dunn	New York, NY	ZEE ZOR	L T
Robert Einhorn	Zarco Einhorn Salkowski & Brito PA	Miami, FL	ZEE	L
Javier Esteve	Roda Chalfant	Cincinnati, OH	ZEE ZOR	T
Steven Feirman	Nixon Peabody	Washington, DC	ZOR	T
Douglas Ferguson	Robinson, Waters & O'Dorisio	Denver, CO	ZOR	T
Caroline Fichter	Bundy Law Firm	Seattle, WA	ZEE ZOR	T
Lane Fisher	Fisher Zucker LLC	Philadelphia, PA	ZEE ZOR	L T
Joseph Fittante	Larkin Hoffman	Minneapolis, MN	ZOR	T
Dean Fournaris	Wiggin & Dana LLP	Philadelphia, PA	ZOR	L T
Maisa Frank	Lathrop GPM	Washington, DC	ZOR	L

NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Vincent Frantz	Cheng Cohen LLC	Chicago, IL	ZOR	T
Eric Friedman	Paris Ackerman LLP	Roseland, NJ	ZEE	T
Christina Fugate	Ice Miller	Indianapolis, IN	ZOR	L T
Aaron Gagnon	Warsawsky Seltzer PLLC	Scottsdale, AZ	ZOR	L T
Ronald Gardner Jr.	Dady & Gardner	Minneapolis, MN	ZEE	L
Eleanor Gerhards	Fox Rothschild LLP	Philadelphia, PA	ZEE ZOR	T
Richard Gibson	Monroe Moxness Berg	Minneapolis, MN	ZEE ZOR	T
Jan Gilbert	Polsinelli PC	Washington, DC	ZOR	T
Elliot Ginsburg	Garner, Ginsburg & Johnsen, P.A.	Minneapolis, MN	ZEE	T
Evan Goldman	Greenspoon Marder LLP	Edison, NJ	ZEE ZOR	L T
Jeffrey Goldstein	Goldstein Law Firm	Washington, DC	ZEE	L
Joseph Goode	Laffey, Leitner & Goode LLC	Milwaukee, WI	ZEE ZOR	L
John R. Gotaskie, Jr.	Fox Rothschild LLP	Pittsburgh, PA	ZEE ZOR	L
William R. Graefe, III	Fisher Zucker LLC	Philadelphia, PA	ZOR	L T
Michael Gray	Lathrop GPM	Minneapolis, MN	ZEE ZOR	L T
Nina Greene	Genovese Joblove & Battista, PA	Miami, FL	ZOR	L
Peter Greenfeld	Law Offices of Peter N. Greenfeld, PC	Phoenix, AZ	ZEE	L
Alan Greenfield	Greenberg Traurig	Chicago, IL	ZOR	T
Tal Grinblat	Lewitt Hackman	Encino, CA	ZEE ZOR	L T
Stephanie Grobler	Spadea Lignana	Philadelphia, PA	ZOR	T
Allison Grow	Cheng Cohen LLC	Chicago, IL	ZOR	L
Susan Grueneberg	Cozen O'Connor	Los Angeles, CA	ZOR	T
David Gusewelle	Drumm Law, LLC	St. Louis, MO	ZOR	T
Lucie Guyot	Faegre Drinker Biddle & Reath LLP	Boulder, CO	ZOR	T
Jeffery Haff	Dady & Gardner	Minneapolis, MN	ZEE	L
Brett Halsey	Genovese Joblove & Battista, PA	Miami, FL	ZOR	L

ZEE Franchisees ZOR Franchisors | L Litigation T Transactional



# As the FTC stirs, attorneys take note



By Beth Ewen

Is the sleeping giant waking up? That's what Federal Trade Commission watchers are discussing after the FTC sued failed franchise Burgerim for alleged fraud in February—the first such case in 15 years—and also launched a new fraud reporting tool called ReportFraud.FTC.gov.

“This action—our first under the Franchise Rule since 2007—reflects a renewed commitment across the agency to protecting franchisees from illegal practices. As part of this work, we're making it easier for franchisees to report predatory practices to us,” tweeted Lina Khan, chair of the FTC since her appointment in June 2021.

Some Franchise Times Legal Eagles lawyers think it's far too late, noting more than 1,500 Burgerim franchisees have lost their investment, the founder has reportedly fled the country and no assets are left. “It's well past the time when it would have been an effective move,” said Lee Plave of Plave Koch.

He worked at the FTC in the early part of his career, and says about the agency, “What's the old line? An enigma wrapped in a riddle wrapped in a puzzle, something like that.”

During the Trump administration's “de-regulation bent,” he said, “there was a concern that perhaps the FTC would be asked to kill off the Franchise Rule. Franchisors and franchisees and the IFA all successfully in effect petitioned to not let that occur.”

Susan Grueneberg of Cozen O'Connor believes the new complaint line specifically for franchises “does signal perhaps a more activist approach. We were all kind of reading the tea leaves last year, when Lina Khan came on, and she mentioned franchising in one line of a letter.”

She's also watching a new ANPR, or advance notice of proposed rule-making, regarding earnings claims, not just in franchising but in a wide variety of industries. “It would be a whole new kind of undertaking, regulation, for the FTC,” she said, but don't expect any action soon—the process at the FTC is loooooonnnng.

## Action in the states

Jeff Haff, a Dady & Gardner attorney who represents franchisees, is watching a bill moving through the U.S. House to provide a private right of action for people



▲ Kristin Corcoran of Appleby & Corcoran.

harmed by violations of the FTC's Franchise Rule, meaning individuals could sue regardless of the state they live in.

“The state of the private right of action under the FTC rule is that there isn't one,” Haff said. “If you violate the FTC rule as the franchisor, you can walk right into court and say, ‘Yes, I admit it, I violated it,’ but the court would say there's no private right of action.”

Sponsored by Janice Schakowsky, D-Ill., the bill “gives a little teeth to the belief that you should get an accurate and well-made FDD. The fact that I have a quote-unquote right to get an FDD is pretty worthless if I can't sue about it,” he says. “The only other remedy I would have is to turn it over to the FTC to seek enforcement,” a long shot as the Burgerim case shows.

David Kaufmann of Kaufmann, Gildin & Robbins, who authored the New York Franchise Act while serving as special deputy attorney general of New York, is taking aim at two legislative efforts in California. “The state whose recently enacted AB-5 law has in significant part triggered the nationwide supply chain breakdown is now threatening to turn franchising into a socialist endeavor,” he wrote in a fiery piece in the New York Law Journal in December.

Called AB-257 or the FAST Act, the bill seeks to create an 11-member council to establish industry-wide standards on wages, working hours, and other working conditions including the “necessary cost of proper living.”



▲ Susan Grueneberg of Cozen O'Connor.

“In other words, the government will dictate how much franchisees must pay their employees in order to afford them a ‘proper living’—whose attributes will be determined by, you guessed it, the state of California,” he wrote. Needless to say, he's not a fan.

## Data privacy a ‘giant’ concern

Kristin Corcoran of Appleby & Corcoran has one word to describe the burgeoning slate of new laws around privacy and data use: “Giant,” she said, especially for international brands, but domestic ones, too.

“Honestly it is challenging, even just trying to figure out which countries or which states are going to be enacting legislation and then the rollout of them. It's just so much,” said Corcoran, who got an early start on the topic when she was at Subway for 25 years, working on international development.

“But what I always say, whenever this topic arises: It is doable. There's lots of other companies that are figuring it out. The challenge that lawyers are always going to have, is the technology is happening so fast, and the law is behind the technology,” she said.

For this attorney, like others in our Legal Eagles class, helping clients with regulatory issues like these makes her work worthwhile. “I think it's fascinating.” [ET](#)



# Talking big trends and best lessons



## What are the biggest trends you're watching in 2022, and how are you approaching them?

“ 1. Delays in registering in registration states is still a pain point. We are hoping that using all available electronic filing options will help reduce hang ups and delays. 2. Making clear FPRs in Item 19, to make sure the effects of COVID do not distort the total financial picture. 3. Franchises are selling! Clients are busy with sales and that is exciting news! ”

—Laura Lewis, Canada Lewis & Associates

“ The potent addition of a private right of action under the amended FTC Rule. ”

—John Holland, Dady & Gardner

“ The franchise model has been moving away from brick-and-mortar units and I have seen smaller brands embrace technology and use it to grow their footprint



“ Clients need plain English legal guidance and for their lawyers to explain why a legal decision makes sound business sense. I've done several trainings with franchisor and large franchisee clients, and it's always an opportunity to practice speaking to actual humans instead of attorneys. ”

—Caroline Fichter, Bundy Law Firm

during COVID. Leveraging technology involves more than just improving the customer experience through apps and online ordering/paying and can include the use of mobile and online platforms to support franchise sales, training and operations. We have worked with smaller international brands that are taking advantage of the available technology to launch in the U.S. on relatively modest budgets. They have realized that they can perform many support functions from abroad using technology, keeping their model nimble and costs low. ”

—Nicole Micklich, Urso Liguori Micklich

“ The 'work-from-home' concept has not only hit the traditional corporate world, but it's also changing franchise opportunities. Many franchise concepts are gravitating toward concepts that can be operated with fewer employees and from home. These growth sectors may include IT and technology services, at-home cleaning services and tutoring and educational concepts. The way in which a franchise is offered is changing as well. More and more concepts are offering virtual discovery days to allow prospective franchisees to learn about a brand while never leaving their homes. Even the FDD registration process is evolving to a remote process with NASAA's introduction of FRED, the electronic filing depository. ”

—Christina Fugate, Ice Miller

## What is an important lesson you've learned recently?

“ We have engaged in several Zoom mediations during the pandemic. This form of mediating disputes is faster, less expensive and more likely to lead to a successful negotiated resolution than traditional in-person mediations. The principal reason: At key times during the all-day—and potentially into the evening—Zoom mediations, we are able to get key decision-makers on both sides, as well as insurance company executives with decision-making authority (if needed), to directly and fully engage in the process. This is not always the case in in-person mediations. ”

—J. Michael Dady, Dady & Gardner



“ COVID: Recovery, recovery, recovery. What continuing and lasting impacts will COVID have on businesses generally and, specifically, on businesses that were uniquely hard-hit by those impacts? How can or will businesses adapt to what has been a clear cultural shift in the way consumers and workers are managing their work and leisure activities? ”

Approach: Stay nimble and innovate. Successful businesses will continue to take advantage of this period of forced innovation. ”

—Michael Daigle, Cheng Cohen

“ We were involved in addressing franchise issues in the middle of a multi-billion-dollar acquisition. The franchised part of the system was a small part of the overall enterprise being acquired. A good reminder that humility and a sense of proportion are useful when dealing with bigger concerns. ”

—Lee Plave, Plave Koch

“ Closing is never a sure thing. I saw a home run of a deal fall apart this past year and I closed others that were on the brink of termination. It takes a total team effort of buyers, sellers, lenders, attorneys and advisers to bring a deal to the finish. Everyone plays an important role and nobody should be taken for granted. ”

—Michael Ackerman, Paris Ackerman





## Appleby & Corcoran, LLC

[applebycorcoranlaw.com](http://applebycorcoranlaw.com)



Bethany L. Appleby has practiced franchise law for over 20 years and represents clients in a wide variety of transactional matters, litigation, and arbitration.

Before launching the franchise law boutique firm Appleby & Corcoran, LLC, Bethany was Chief Legal Officer for Subway Restaurants and previously co-chaired the Franchise and Distribution Practice Group at a law firm with a substantial franchise practice. She serves on the American Bar Association Forum on Franchising's Governing Committee and is the organization's Diversity Officer and a past Editor-in-Chief of the Franchise Law Journal. She is active in the International Franchise Association and a frequent speaker and writer on franchise law topics. She also serves as an arbitrator and mediator.

### Bethany L. Appleby

37 Broadway, 2nd Floor  
North Haven, CT 06473  
(203) 497-3068, Ext. 101  
bappleby  
@applebycorcoranlaw.com

#### Practice Areas:

- Franchise
- Business and Transactional
- Litigation
- Arbitration
- Mediation

APPLEBY & CORCORAN, LLC



## Appleby & Corcoran, LLC

[applebycorcoranlaw.com](http://applebycorcoranlaw.com)



For over 25 years, Kristin has provided legal advice on a broad range of domestic and international franchise matters.

As co-founder at Appleby & Corcoran, LLC, Kristin drafts franchise disclosure documents and negotiates license agreements, master franchise and franchise agreements, area representative agreements, and supply agreements and advises on the many matters that affect franchising, such as advertising and marketing, technology, COVID-19, privacy/data protection, competition, under-reporting, and dispute resolution. For inbound and outbound international franchisors and developers, Kristin provides practical legal recommendations on market entry and drafts documents that are right sized for the target market. As Senior Associate General Counsel, she led the international legal team for Subway and gained a broad range of applicable experience on market entry, legal compliance, advertising and marketing, supply chain management, legal support of brand initiatives, and dispute resolution. She has found this extensive in-house experience to be invaluable to current clients.

She enjoys teaching Franchise Law and the Commercial Transactions Workshop at Quinnipiac University School of Law and is an active member of the ABA Forum on Franchising Professors Committee. She is also a trained arbitrator and speaks and writes frequently on a variety of franchise topics.

### Kristin Corcoran

37 Broadway, 2nd Floor  
North Haven, CT 06473  
(203) 497-3068, Ext. 102  
kcorcoran  
@applebycorcoranlaw.com

#### Practice Areas:

- Regulatory
- Franchise
- International
- Commercial
- Transactional
- Dispute Resolution

APPLEBY & CORCORAN, LLC



## Carmen D. Caruso Law Firm

[Cdcaruso.com](http://Cdcaruso.com)



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

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

### Carmen D. Caruso

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

#### Practice Areas:

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

 CARMEN D. CARUSO  
LAW FIRM



## Einbinder & Dunn LLP

[ed-lawfirm.com](http://ed-lawfirm.com)



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

### Richard Bayer

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

#### Practice Areas:

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

EINBINDER  
& DUNN LLP



## Einbinder & Dunn LLP

[ed-lawfirm.com](http://ed-lawfirm.com)



Stephanie J. Blumstein focuses her practice on commercial and franchise litigation. She has comprehensive experience representing franchisors and franchisees in multiple business sectors in a wide range of matters. She represents clients in federal and state courts throughout the United States, as well as in various alternative dispute resolution forums. In addition to her work as a litigator, Ms. Blumstein regularly advises clients on contract drafting and negotiation, and on numerous other business law issues. Ms. Blumstein serves on several committees, including the American Bar Association Forum on Franchising Program Committee and the New York State Bar Association Franchise, Distribution and Licensing Law Committee. She is also a frequent speaker at leading franchise industry events and a contributor to various publications on franchising.

### Stephanie J. Blumstein

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

#### Practice Areas:

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

EINBINDER  
& DUNN LLP



## Einbinder & Dunn LLP

[ed-lawfirm.com](http://ed-lawfirm.com)



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

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

### Mackenzie L. Dimitri

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

#### Practice Areas:

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

EINBINDER  
& DUNN LLP

# UNITED STATES LEGAL EAGLES®



NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Evan Harra	Spadea Lignana	Philadelphia, PA	ZEE ZOR	T
Kevin Hein	Akerman LLP	Denver, CO	ZEE ZOR	T
Barry Heller	DLA Piper	Reston, VA	ZOR	L
Stuart Hershman	DLA Piper	Chicago, IL	ZEE ZOR	T
John Holland	Dady & Gardner	Minneapolis, MN	ZEE	L
John Hughes	Quarles & Brady	Chicago, IL	ZOR	L
Ann Hurwitz	Baker McKenzie	Dallas, TX	ZOR	T
Scott Husaby	Monroe Moxness Berg	Minneapolis, MN	ZEE ZOR	T
Farheen Ibrahim	Canada Lewis & Associates	Frisco, TX	ZOR	T

NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Will Jameson	Spadea Lignana	Philadelphia, PA	ZOR	L T
Michael Joblove	Genovese Joblove & Battista, PA	Miami, FL	ZOR	L
Keith Kanouse	Kanouse & Walker	Boca Raton, FL	ZEE ZOR	T
Eric Karp	Witmer Karp Warner & Ryan	Boston, MA	ZOR	T
David Kaufmann	Kaufman Gilden & Robbins LLP	New York, NY	ZOR	T
Kevin Kennedy	Wiggin & Dana LLP	New Haven, CT	ZOR	T
Harold Kestenbaum	Spadea Lignana	Philadelphia, PA	ZOR	T
Russell Kinsey	The Kinsey Law Office	Denver, CO	ZEE ZOR	T
Mark Kirsch	Lathrop GPM	Washington, DC	ZOR	T
Peter Klarfeld	Lathrop GPM	Washington, DC	ZOR	L T
Justin Klein	Marks & Klein	Red Banks, NJ	ZEE ZOR	L T

## AT THE HEART OF FRANCHISING

Uncommon value  
for clients who shape  
our everyday lives.

**BARNES &  
THORNBURG LLP**

ATLANTA BOSTON CALIFORNIA  
CHICAGO DELAWARE INDIANA  
MICHIGAN MINNEAPOLIS NEW YORK  
OHIO RALEIGH SALT LAKE CITY  
TEXAS WASHINGTON, D.C.

[BTLAW.COM](http://BTLAW.COM)



Rebekah Prince

### HELPING PROTECT AND EXPAND YOUR FRANCHISING INTERESTS.

Congratulations to Barnes & Thornburg partner Rebekah Prince for being named a Franchise Times Legal Eagle 2022.



NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
David Koch	Plave Koch	Reston, VA	ZOR	T
Scott Korzenowski	Dady & Gardner	Minneapolis, MN	ZEE	L
Beata Krakus	Greensfelder Hemker & Gale, PC	Chicago, IL	ZOR	T
Matthew Kreutzer	Howard & Howard	Las Vegas, NV	ZEE ZOR	L T
Peter Lagarias	Lagarias Napell & Dillon LLP	San Rafael, CA	ZEE	L
Nancy Lanard	Lanard and Associates	Plymouth Meeting, PA	ZEE	T
Mark Leitner	Laffey, Leitner & Goode	Milwaukee, WI	ZOR	L
Kyle Lennox	Greenberg Traurig	Chicago, IL	ZOR	T
Michael Levitz	Drumm Law, LLC	Minneapolis, MN	ZOR	T
Laura Lewis	Canada Lewis & Associates, PLLC	Dallas, TX	ZEE ZOR	L T
Warren Lee Lewis	Akerman LLP	Washington, DC	ZEE ZOR	T

NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Marc Lieberstein	Kilpatrick Townsend & Stockton LLP	New York, NY	ZOR	T
Josh Lignana	Spadea Lignana	Philadelphia, PA	ZOR	T
Julie Lusthaus	Lusthaus Law	Harrison, NY	ZEE ZOR	T
Trish Macaskill	Akerman LLP	Denver, CO	ZOR	T
Kevin Maher	Baker McKenzie	Dallas, TX	ZOR	T
Gina Malandrino	Cheng Cohen LLC	Chicago, IL	ZOR	T
Andrew Malzahn	Dady & Gardner	Minneapolis, MN	ZEE	L
April McKenzie Mason	Burr & Forman	Birmingham, AL	ZEE ZOR	T
Andrew Matson	Spadea Lignana	Philadelphia, PA	ZOR	T
Daniel Matthews	Warsawsky Seltzer PLLC	Seattle, WA	ZEE ZOR	T

ZEE Franchisees ZOR Franchisors | L Litigation T Transactional

## ABOVE AND BEYOND IS OUR DEFAULT SETTING



JOHN BERG



BRAD CASHMAN



RICK GIBSON



SCOTT HUSABY



DENNIS MONROE



CHRIS MUMM



JOHN REMAKEL

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

Visit us at [MMBLawFirm.com](http://MMBLawFirm.com) or call **952.885.5999**



# Legal landmines operators can avoid



By Callie Evergreen

While new issues stemming from the pandemic have attracted the spotlight in the franchise legal world for the past two years, some issues pop up over and over regardless of external factors.

From leasing and compliance to false representations and operating in general, the Franchise Times Legal Eagles noted a myriad of items they consistently address with clients.

Elliot Ginsburg, a lawyer at Garner, Ginsburg & Johnsen, sees a lot of fraud in the sale of franchises and overselling on what the franchise system is. Franchisors will often make claims about having proprietary information, techniques and methods, for example, when in some cases they don't have anything proprietary, he said.

In conversations with franchisee clients, Ginsburg often has to explain "that the agreement they signed is not necessarily what they thought they signed, based on perhaps marketing, statements made at various discovery days or online, and they're surprised to learn in some cases they don't have the rights they thought they did."

Over the last five to six years, Ginsburg has seen an uptick in questionnaires attached to the back of franchise agreements that require franchisees to sign off on a number of statements specifically disclaiming various representations. Ginsburg noted there's talk at the Federal Trade Commission about restricting the use of those questionnaires or limiting their effectiveness.

"My take on them is, they attempt to undo reality by putting franchisees in an even tougher position than they might otherwise be in," he said.

## Support snafus and bad actors

One thing Laura Lewis, a lawyer at Canada Lewis & Associates, sees is emerging franchisors getting into some trouble for not providing the level of support they represented or implied. She gave the scenario of a franchisor that promises 60 hours of combined classroom and on-the-job initial training, but has a franchisee who learns quickly and stops after 30 hours. "Do they have a claim against you because they could say you didn't properly train them? Maybe," Lewis said.

Lewis encourages all her franchisor clients to do post-training surveys, where



▲ Laura Lewis of Canada Lewis & Associates.

franchisees can evaluate the speakers, how applicable the content was, if they feel they learned what they needed to, or if there were areas where they needed more training or support. That way, the corporate team can follow up with owners to schedule additional training if needed.

"New franchisors should consider feedback from franchisees invaluable, especially on training. You might know your business very well, but teaching it to someone else is a completely different gift," she said.

"If certain things aren't clear and they're still wondering about that, that's gold to a new franchisor, if they use it. If they care, assuming they care. I fire clients who don't care."

Lewis is also seeing predatory conduct in commercial leases, particularly in large metro urban markets. Some landlords are using minor payment delays as a basis for terminating unfavorable leases that are up for renewal, since oftentimes they could lease that space for 30 to 40 percent more than what was negotiated.

"I've literally gotten two restraining orders in the past year against landlords attempting to lock out my client on technical defaults on their lease," she said.

In one case, a client sent a check directly from the bank to their landlord.

"The landlord had been receiving checks on time for the last 14 years, so there was no reason to think there was a problem. Then the landlord claimed they didn't get the check, so we won't know if they got



▲ Elliot Ginsburg of Garner, Ginsburg & Johnsen.

it and held it or the mail ate it." Her client stopped payment on the first check and mailed another, but in that time, the landlord said they were in default, and "we're terminating your lease and evicting you."

In other attempts to push tenants out, Lewis has seen landlords re-audit account expenses and then demand large sums of money in connection with an underpayment, but when the tenant does not pay in full within the 10- to 14-day deadline—often because they are confused or angry about the unexpected demand for significant money—the landlords use that to terminate the lease as a default, which can cripple a business, she said. Her advice?

"Either put the money in a trust or pay it to the landlord with a protection, some statement saying you have the right to claw it back if it isn't right."

"You have to fund it if you have the money and can," she added. "If you're just fighting about the appropriateness, you have to pay that money somewhere—an escrow account, a lawyer's fund—because if you give up the money to someone else, courts will say, well, you were prepared to pay it, you were just truly disputing technicalities. It's a way to preserve your rights." [FT](#)





## Einbinder & Dunn LLP

[ed-lawfirm.com](http://ed-lawfirm.com)



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

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

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

### Michael Einbinder

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

#### Practice Areas:

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

# EINBINDER & DUNN LLP



## Goldstein Law Firm

[goldlawgroup.com](http://goldlawgroup.com)



"We may reject the contention that the ordering of institutions is always defective because the distribution of natural talents and the contingencies of social circumstance are unjust, and this injustice must inevitably carry over to human arrangements. Occasionally this reflection is offered as an excuse for ignoring injustice, as if the refusal to acquiesce in injustice is on a par with being unable to accept death. The natural distribution is neither just nor unjust; nor is it unjust that persons are born into society at some particular position. These are simply natural facts. What is just and unjust is the way that institutions deal with these facts. Aristocratic and caste societies are unjust because they make these contingencies the ascriptive basis for belonging to more or less enclosed and privileged social classes. The basic structure of these societies incorporates the arbitrariness found in nature. But there is no necessity for men to resign themselves to these contingencies. The social system is not an unchangeable order beyond human control but a pattern of human action. In justice as fairness men agree to avail themselves of the accidents of nature and social circumstance only when doing so is for the common benefit. The two principles are a fair way of meeting the arbitrariness of fortune; and while no doubt imperfect in other ways, the institutions which satisfy these principles are just."

— John Rawls, *A Theory of Justice*

### Jeffrey M. Goldstein

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

#### Practice Areas:

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



## Karl J. Brandes

[phelps.com](http://phelps.com)  
[karlbrandesmediation.com](http://karlbrandesmediation.com)



Karl Brandes has assisted franchisors and franchisees as a trial lawyer since 1984 and as a mediator since 1992. His diverse trial lawyer and mediator experience includes state and federal court work in the following areas: petroleum marketing, retail, franchise and other trade regulation; trademark disputes; class actions; environmental; construction for engineer, architect, contractor and developer clients; condominium; ADA accessibility; professional liability for lawyer and engineer clients; non-compete agreement disputes; computer; personal injury, including insurance and self-insured defense; toxic tort; product liability; insurance coverage disputes; and real property, which includes extensive land use work. His experience as a mediator in state (where he is Supreme Court certified in Circuit Civil) and federal court is even more diverse and includes labor and employment disputes. Karl currently serves as the firm's Florida Pro Bono partner.

### Karl J. Brandes

100 South Ashley Drive  
Suite 2000  
Tampa, Florida 33606  
(813) 472-7862  
[karl.brandes@phelps.com](mailto:karl.brandes@phelps.com)

#### Practice Areas:

- Mediator, Arbitrator, and Trial Lawyer
- Franchise and Distribution
- Petroleum Marketing
- Retail
- Trademark
- Real Estate
- Environmental
- Products Liability
- Toxic Tort

# phelps



## Fahey Schultz Burzych Rhodes PLC

[fsbirlaw.com](http://fsbirlaw.com)



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

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

### Mark J. Burzych

4151 Okemos Road  
Okemos, MI 48864  
(517) 381-3159  
[mburzych@fsbirlaw.com](mailto:mburzych@fsbirlaw.com)

#### Practice Areas:

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

### Fahey Schultz Burzych Rhodes

EXPERT COUNSEL REAL SOLUTIONS



## Howard & Howard Attorneys PLLC

[howardandhoward.com](http://howardandhoward.com)



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

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

### Matthew J. Kreutzer

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

#### Practice Areas:

- Transactional
- Litigation

# Howard & Howard

law for business®



## Lusthaus Law P.C.

[lusthauslawpc.com](http://lusthauslawpc.com)



Julie Lusthaus has been practicing franchise law for more than 22 years, representing both franchisors and franchisees. Services for franchisors include assisting with the development of franchise programs, corporate structuring, preparation and registration of FDDs, onboarding franchisees, compliance with franchise sales and relationship laws and ongoing operational issues.

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

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

### Julie Lusthaus

600 Mamaroneck Ave  
Suite 400  
Harrison, NY 10528  
(914) 265-4100  
[jl@lusthauslawpc.com](mailto:jl@lusthauslawpc.com)

#### Practice Areas:

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

# LUSTHAUS LAW P.C.

FRANCHISE AND BUSINESS LAW

# UNITED STATES LEGAL EAGLES®



NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Joyce Mazero	Polsinelli PC	Dallas, TX	ZOR	T
Elizabeth McIntosh	Genovese Joblove & Battista, PA	Miami, FL	ZOR	L
Scott McIntosh	Quarles & Brady	Washington, DC	ZOR	L T
Cameron McKinley	Spadea Lignana	Philadelphia, PA	ZOR	T
Natalma 'Tami' McKnew	Fox Rothschild	Greenville, SC	ZEE ZOR	L
Kristy Miamen	Dady & Gardner	Minneapolis, MN	ZEE	L
Nicole Micklich	Urso, Liguori & Micklich	Westerly, RI	ZEE	L
Michael Mirsky	Spadea Lignana	Philadelphia, PA	ZEE ZOR	T
Charles Modell	Larkin Hoffman	Minneapolis, MN	ZOR	T
Dennis Monroe	Monroe Moxness Berg	Minneapolis, MN	ZEE ZOR	T
John Moore	Husch Blackwell	Kansas City, MO	ZEE ZOR	T
Cheryl Mullin	Mullin, PC	Richardson, TX	ZEE ZOR	L T
Chris Mumm	Monroe Moxness Berg	Minneapolis, MN	ZOR	T
Jason M. Murray	K&L Gates LLP	Miami, FL	ZEE ZOR	L T
Dawn Newton	Donahue Fitzgerald LLP	Oakland, CA	ZOR	T
Ashley Nielsen	Manning Fulton	Raleigh, NC	ZEE ZOR	T
David Oppenheim	Greenburg Traurig	New York, NY	ZOR	T
David Paris	Paris Ackerman LLP	Roseland, NJ	ZEE	T
Sawan Patel	Larkin Hoffman	Minneapolis, MN	ZOR	T
Nirali Patel	Canada Lewis & Associates, PLLC	Plano, TX	ZEE ZOR	T
Heather Perkins	Faegre Drinker Biddle & Reath LLP	Denver, CO	ZOR	L
Jonathan Perlman	Genovese Joblove & Battista, PA	Miami, FL	ZEE ZOR	L
Breton Permesly	Greenberg Traurig	New York, NY	ZOR	T
Thomas Pitegoff	Offit Kurman	New York, NY	ZEE ZOR	T
Lee Plave	Plave Koch	Reston, VA	ZOR	T
Jason Power	Franchise.Law	Charlotte, NC	ZEE ZOR	L T

NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Rebekah Prince	Barnes & Thornburg LLP	Los Angeles, CA	ZOR	T
Ben Reed	Plave Koch	Reston, VA	ZOR	L
John Remakel	Monroe Moxness Berg	Minneapolis, MN	ZEE ZOR	T
Richard Rosen	Rosen Karol Salis, PLLC	New York, NY	ZEE ZOR	L T
Michael Rosenthal	Taylor English Duma LLP	Atlanta, GA	ZEE ZOR	T
Beth Rosenthal	Spadea Lignana	Philadelphia, PA	ZEE ZOR	T
Michael Santa Maria	Baker McKenzie	Dallas, TX	ZEE ZOR	T
Aaron-Michael Sapp	Cheng Cohen LLC	Chicago, IL	ZOR	L
Brian Schnell	Faegre Drinker Biddle & Reath LLP	Minneapolis, MN	ZOR	T
Antonia Scholz	Cheng Cohen LLC	Chicago, IL	ZOR	T
Max Schott II	Larkin Hoffman	Minneapolis, MN	ZOR	T
Marc Paul Seidler	DLA Piper	Chicago, IL	ZOR	L T
Bret Seltzer	Warshawsky Seltzer PLLC	Phoenix, AZ	ZEE ZOR	T
William Sentell	Akerman LLP	Houston, TX	ZOR	L T
Andrew Sherman	Seyfarth Shaw LLP	Washington, DC	ZEE ZOR	T
Brad Shipe	Shipe Dosik Law, LLC	Atlanta, GA	ZEE ZOR	L T
Kitt Shipe	Shipe Dosik Law, LLC	Atlanta, GA	ZEE ZOR	T
Adam Siegelheim	Stark & Stark	Lawrenceville, NJ	ZOR	T
Elizabeth Sigety	Fox Rothschild LLP	Philadelphia, PA	ZEE ZOR	T
Briar Siljander	Trio Law PLC	Highland, MI	ZEE ZOR	L T
Peter Silverman	Shumaker, Loop & Kendrick, LLP	Toledo, OH	ZEE ZOR	L
Peter Singler	Singler Professional Law Corporation	Windsor, CA	ZEE	L T
Robert Smith	Ackerman LLP	Washington, DC	ZOR	T
Jonathan Solish	Bryan Cave Leighton Paisner	Los Angeles, CA	ZEE ZOR	L
Tom Spadea	Spadea Lignana	Philadelphia, PA	ZOR	L T
Rochelle Spandorf	Davis Wright Tremaine	Los Angeles, CA	ZOR	T
David Steinberg	Jaffe Law	Southfield, MI	ZOR	T
Ari N. Stern	O'Hagan Meyer, PLLC	Boston, MA	ZEE ZOR	L T



NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Brent R. Stewart	Baker McKenzie	Dallas, TX	ZOR	T
Michael Sturm	Lathrop GPM	Washington, DC	ZOR	L
Jim Susag	Larkin Hoffman	Minneapolis, MN	ZOR	L
Ritchie Taylor	Manning Fulton	Raleigh, NC	ZOR	T
Craig Tractenberg	Fox Rothschild	Philadelphia, PA	ZEE ZOR	L
Diana Vilmenay	Polsinelli PC	Washington, DC	ZOR	T
Sandy Wall	DLA Piper	Washington, DC	ZOR	T
Daniel Warshawsky	Warshawski-Seltzer	Scottsdale, AZ	ZEE ZOR	T
Adam Wasch	Greenspoon Marder LLP	Boca Raton, FL	ZEE ZOR	L T
Joseph Wasch	Greenspoon Marder LLP	Boca Raton, FL	ZEE ZOR	T
Elizabeth Weldon	Snell & Wilmer	Costa Mesa, CA	ZOR	L
Richard White	Baker McKenzie	Dallas, TX	ZEE ZOR	T

NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Ryan Whitfill	Culhane Meadows PLLC	Dallas, TX	ZEE ZOR	T
Bonnie Wittenberg	Spadea Ligana	Philadelphia, PA	ZEE ZOR	L T
Matthew Wizmur	Spadea Lignana	Philadelphia, PA	ZEE ZOR	T
Jeffrey H. Wolf	Quarles & Brady	Phoenix, AZ	ZOR	L
Will Woods	Baker McKenzie LLP	Dallas, TX	ZOR	T
Tao Xu	DLA Piper	Reston, VA	ZOR	T
Robert Zarco	Zarco, Einhorn, Salkowski & Brito PA	Miami, FL	ZEE	L
Stephanie Zosak	DLA Piper	Chicago, IL	ZOR	T

ZEE Franchisees ZOR Franchisors | L Litigation T Transactional

## Congratulations to our Legal Eagles



Eleanor Gerhards



John Gotaskie



Tami McKnew



Craig Tractenberg



Elizabeth Sigety

[www.foxrothschild.com/franchising-distribution](http://www.foxrothschild.com/franchising-distribution)

Visit our blog at:  
[franchiselaw.foxrothschild.com](http://franchiselaw.foxrothschild.com)



**Fox Rothschild** LLP  
ATTORNEYS AT LAW

950 attorneys nationwide



# No shortage of interesting cases



**What's been your most interesting case or transaction lately? How did you work through it?**

“A transaction involving the sale of a medical marijuana dispensary that took about a year to negotiate and close. There were multiple parties involved and it was a complex purchase agreement. And I have a weird case where a franchisee bought the assets of a company that included the trademark that the franchisor fraudulently claimed to own. In fact, the franchisor had no rights in the mark. There are earnings claims, fraudulent omissions, breaches of contract and bizarre business dealings.”

—Elliot Ginsburg, Garner, Ginsburg & Johnsen



“I recently assisted a multi-unit franchisee on its successful exit from two different foodservice franchise systems, including the termination of franchise and multi-unit development agreements and resolutions of leasing and other issues in multiple states. Several lawyers from various firms and practice groups in multiple states were involved and the professionalism of lawyers and clients allowed us to work out significant issues to the satisfaction of all players.”

—Nicole Micklich, Urso, Liguori, Micklich

“We recently tried a wrongful termination case where the franchisor clearly deviated from their stated practices in their ops manual and from their normal course of performance to target a particular franchisee. The franchisor took the position that they can terminate anyone at anytime for any deviation from brand standards. The arbitrator disagreed and awarded \$1.6 million.”

—Laura Lewis, Canada Lewis & Associates

“We recently had a transaction which, in most simplistic terms, involved a business which had several distinct (but related) aspects to it, each of which was set up as a separate franchise, all of which are to be funded by cryptocurrency, and where the master rights are to be sold in various countries.”

—Richard Rosen, Rosen Karol Salis

“One of the active franchise registration states accused our client, a non-franchise brand that runs a licensed network of retail stores by enlisting independent contractors, of being a franchise. After presenting the evidence to demonstrate that the commission structure was not a franchise fee, the state withdrew its complaint.”

—Rochelle Spandorf, Davis Wright Tremaine

“Educating opposing counsel about the existence, and requirements, of the FPR commentary.”

—John Holland, Dady & Gardner

“Successfully trying to a seven-figure conclusion an arbitration seeking to recover all financial losses incurred by out-of-state franchisees based on claims that they were unlawfully over-sold on investing in a one-store franchise opportunity.”

—J. Michael Dady, Dady & Gardner

“I've worked with several clients in the cannabis industry, including CBD and cannabis adjacent products. Dealing with complicated state and federal laws and regulators has been an adventure. I've dealt with it by spending more time learning about my client's business model and developing



“I represented the seller in a Dunkin' deal where Inspire Brands exercised its right of first refusal and stepped into the transaction to acquire the network for itself. Historically, Dunkin' has implemented an asset-light business model, wherein it did not operate corporate-owned restaurants. This transaction marks the first time in recent years where Dunkin' has actually purchased stores for its own operation.”

—David Paris, Paris Ackerman

contacts in the industry. It's vital that I be able to explain franchising to a cannabis regulator and cannabis regulation to a franchise regulator.”

—Caroline Fichter, Bundy Law Firm

“More than a specific case, there is a trend affecting most franchise systems acquired by private equity owners. Many who do not realize short-term revenue or growth goals explore every possible way of passing costs and expenses on to franchisees, the cumulative effect of which poses significant hardship. Occasionally, these demands are outside of what franchise agreements actually allow. Barring that type of challenge, the economics and effects that increasing costs on franchisees can backfire quickly and be counterproductive to the brand's owners when they go to sell as well. This is particularly true when a significant paradigm shift occurs, such as the one caused by COVID, inflation, supply chain and general business disruption.”

—Peter Singler, Singler PLC





## Mullin P.C.

[mrkpc.com](http://mrkpc.com)



Erica is a senior attorney at Mullin P.C., a full-service commercial law firm located in the Dallas-Fort Worth area. Erica counsels and assists commercial clients in developing new franchise programs, protecting their intellectual property, complying with franchise laws and regulations, and resolving franchise relationship disputes. She also assists individuals evaluate franchise opportunities and assists them with business formation and ownership structuring. Erica also has a thriving real estate practice and frequently represents clients in commercial lease and purchase transactions. Erica received her J.D. from Texas A&M University School of Law in 2018 and her Masters in Dispute Resolution and Conflict Management from Southern Methodist University in 2014.

### Erica Dotras

2425 N. Central Expy.  
Suite 200  
Richardson, TX 75080  
(972) 852-1706  
[erica.dotras@mrkpc.com](mailto:erica.dotras@mrkpc.com)

#### Practice Areas:

- Franchise
- Commercial Real Estate Transactions
- Business
- Intellectual Property
- Commercial Litigation



## Mullin P.C.

[mrkpc.com](http://mrkpc.com)



Cheryl is the founding shareholder of Mullin P.C., a full service commercial law firm located in the Dallas-Fort Worth area, and leads the firm's practice in areas of franchise, corporate, tax, intellectual property, and commercial litigation. In addition to "Legal Eagle" recognition, Cheryl has been recognized as one of the top franchise lawyers in *International Who's Who Franchise Lawyers* since 2013. She is AV-Rated by Martindale-Hubbell, has been selected by her peers as a Texas *Super Lawyer* since 2012, and has been selected for inclusion in the peer-rated *Best Lawyers in America* since 2007. Cheryl received her J.D. from Widener University School of Law in 1995 and her LL.M. (Taxation) from Southern Methodist University in 2013.

### Cheryl Mullin

2425 N. Central Expy.  
Suite 200  
Richardson, TX 75080  
(972) 852-1703  
[cheryl.mullin@mrkpc.com](mailto:cheryl.mullin@mrkpc.com)

#### Practice Areas:

- Franchise
- Corporate
- Tax
- Intellectual Property
- Commercial Litigation



## Taft Law

[taftlaw.com](http://taftlaw.com)



Josh is chair of Taft's Franchise and Distribution group. He combines his legal experience, business background, and entrepreneurial skills to help clients grow their businesses with a particular focus on franchising and other licensing opportunities. He is passionate about helping entrepreneurs make smart franchise decisions and prepare for growth and expansion.

Josh and his team have created a specific Franchise Advance Program that helps entrepreneurs assess, convert, and grow through franchising. In addition, he is the creator and host of Franchise Euphoria, a top-rated podcast, and a frequent author and presenter on topics related to franchising.

### Josh F. Brown

One Indiana Square  
Suite 3500  
Indianapolis, IN 46204  
(317) 713-3403  
[jbrown@taftlaw.com](mailto:jbrown@taftlaw.com)

#### Practice Areas:

- Franchise
- Entrepreneurs
- Small Business



## Preti Flaherty

[preti.com](http://preti.com)



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

### Tim Bryant

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

#### Practice Areas:

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



## Rosen Karol Salis, PLLC

[richardrosenlaw.com](http://richardrosenlaw.com)



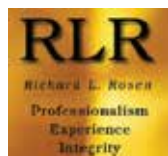
Richard L. Rosen has represented franchisors and franchisees in a wide range of business and legal matters for over 40 years. Mr. Rosen has formed and counseled franchisee associations and franchising entities and has mediated, arbitrated, and litigated on their behaves. His Franchise clients have encompassed virtually all business areas. Mr. Rosen has written and lectured extensively on franchise issues. He is a founding member of the Franchising and Licensing Section of the New York State Bar Association and its immediate past Chairman, Chairman of the Fair Franchising Standards Committee of the AAFD, a member of the Steering Committee of the National Franchise Mediation Program and a member of the CPR Institute for Dispute Resolution Distinguished Panel of Neutrals. Richard is listed in the International Who's Who of Franchise Lawyers and International Who's Who of Business Lawyers, Chambers, Super Lawyers, Who's Who in America and recipient of its Lifetime Achievement Award, Who's Who in American Law, Who's Who in the World, Best Lawyers in America, 101 Best Franchise Lawyers in America and Charter Member of Franchise Lawyers Hall of Fame (the Franchise Times), and a variety of similar publications. In 2008 Richard was the recipient of the AAFD's Lifetime Achievement Award for his contributions to franchising and he has been honored by Lawyer Monthly as its Franchise Attorney of the Year in the USA. He has received the Global 100 Award as Franchise Attorney of the Year in the USA. Richard and his firm were recently honored as International Franchise Law Firm of the Year by the Global Franchise Organization. In 2018, 2019, 2020 and 2021 Richard was named one of the 100 Best Attorneys in the World by LegalComprehensive.com

### Richard L. Rosen

110 East 59th Street  
New York, NY 10022  
(212) 644-6644  
[rlr@rosenlawpllc.com](mailto:rlr@rosenlawpllc.com)

#### Practice Areas:

- Franchise Law
- Business Law
- Real Estate Matters
- Dispute Resolution (including Litigation, Arbitration and Mediation)



## Whiteford Taylor & Preston L.L.P.

[franbuslaw.com](http://franbuslaw.com)



David Cahn is in his 25th year of providing franchising legal services, often serving as outside general counsel for franchisors and franchisees. For franchisors, his focus includes creating and maintaining franchise disclosure documents and contracts; state registrations; trademark selection, protection and enforcement; and negotiation of agreements with franchisees and other parties. For franchisees, he primarily evaluates franchise opportunities and negotiations with their franchisor. David counsels franchisors and franchisees on resolving disputes and claims, and often represents buyers and sellers of closely held businesses. More recently, he has represented founders-owned franchisors being acquired by private equity investors. He serves on the Membership Committee for the International Franchise Association, and leads IFA's Franchise Business Network for Maryland.

### David L. Cahn

7 St. Paul Street  
Baltimore, MD 21202  
(410) 347-9442  
[DCahn@wtplaw.com](mailto:DCahn@wtplaw.com)

#### Practice Areas:

- Franchise & distribution
- Intellectual property
- Business transactions
- Real estate leases



Whiteford Taylor Preston<sup>®</sup>  
16 OFFICES THROUGHOUT THE MID-ATLANTIC



# When enforcement meets flexibility



By Nicholas Upton

The push and pull of system enforcement is a delicate topic in an ideal world, and let's say the past couple years have not been idyllic. Staffing, supply chain challenges, government regulations and consumer fears all add up to some degree of atypical stress in every single franchise system and on both sides of the franchise disclosure document.

For franchisors who have a responsibility to provide brand standards and franchisees who have a responsibility to maintain those standards, it's a mess unlike anything seen before. The difficulty is compounded by the rapid pace of innovation and change that started prior to the pandemic. These issues are bubbling up for many Franchise Times Legal Eagles, who have seen numerous instances of concept enforcement, brand updates and operations become legal matters.

"Enforcement of system standards in the context of the pandemic is even more challenging than it normally is," said Idan Erez, who represents both franchisors and franchisees at Hoffer Adler. The pandemic has resulted in legislation at different levels of government "that arguably modifies the rights and obligations of parties to franchise agreements. The legislation and the agreement are sometimes irreconcilable."

## Keep an eye on costs

Mark Dady, a partner at Dady & Gardner, said the secondary effects of the ongoing pandemic are affecting his franchisee clients, and costs are adding up.

"I've had a number of clients start to examine ways to do more with less by adding in additional equipment, e.g., card scanners at the door instead of an employee checking passes, digital ordering, et cetera. The expenses associated with automation

are large, however, and not everyone is in a position to be making significant capital expenditures," said Dady.

Both Dady and Erez have seen the ugly legal outcomes, but they're focused on finding solutions that are less dire. Erez said franchisors should also be looking for solutions, and most are avoiding litigation.

"Think about what your core elements of your system are," said Erez. "Everyone is wearing their practical hats; I'm not getting calls to terminate. We all know what the agreement says and it allows us to terminate but that's not what we want to do. Generally, the approach is less lawyer down, but figure out practical approaches and ensure that our system looks like a system."

He said some restaurant clients were struggling to get core menu items as supply chain shortages drove up costs or couldn't fulfill some ingredients at all. Some operators could get the corporate-approved ingredients, others couldn't. He said franchisors should think about those "core elements." If the manual calls for a large round tomato but only beefsteak tomatoes are available, is it really a deal breaker?

"You have to build in this idea of flexibility and realize what the core elements are and retain some uniformity, but recognize that you can't do the thing that you used to be able to," said Erez.

The response should be standardized, but that hasn't always been the case. The franchisor will tell one franchisee it's fine to get that hypothetical beefsteak tomato while another franchisee is struggling to keep round tomatoes on the menu.

"In a perfect world, I'd like to see some update to a manual or systemwide communique," said Erez. "It can be an update to the manual or a blast. But there needs to be a signal that says in writing that we're making this concession for a brief period of time. We're not waiving any rights, but for the time being we'll be flexible."

That notice should come with a time



▲ Idan Erez represents franchisors and franchisees at Hoffer Adler.

frame, and if those tomatoes or another key brand element are still proving difficult to execute on, that time frame can be extended.

Dady said staffing issues should get the same kind of flexibility. As for system updates like new, efficient technology tools, he looks for—you guessed it—flexibility, but also optionality.

"I think you're going to see franchisors push some of this tech. I think you'll see franchises push for this. At the end of the day, franchisors should be working on these things and not saying, 'I can force you to do these things,' but, 'I'm asking you to do this because it makes good business sense.'"

He also suggested franchisees plug into their associations, if they have one, that can help communicate with a united front instead of asking for one-off tweaks. [FT](#)

**“ At the end of the day, franchisors should be working on these things and not saying, ‘I can force you to do these things,’ but, ‘I’m asking you to do this because it makes good business sense.’ ”**

— Mark Dady, Dady & Gardner



# CHOOSE THE *Easy Way* TO GET ALL THE FACTS

Facts on  
400 brands

Five years of  
sales growth

No. of U.S.  
and global  
units

Compare the  
biggest brands

VISIT [FRANCHISETIMES.COM](http://FRANCHISETIMES.COM)  
FOR EXCLUSIVE RESEARCH TOOLS:

Top 400  
searchable  
database

The Wire  
multi-unit  
e-newsletter

Franchise  
news & views  
updated daily

Guide to  
Buying a  
Franchise



# CANADA LEGAL EAGLES®



NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
Joseph Adler	Hoffer Adler	Toronto, ON	ZEE ZOR	T
Louis Alexopoulos	Sotos LLP	Toronto, ON	ZOR	T
Yianni Alexopoulos	Sotos LLP	Toronto, ON	ZOR	T
Adrienne Boudreau	Sotos LLP	Toronto, ON	ZEE ZOR	L
Jason Brisebois	Sotos LLP	Toronto, ON	ZOR	T
Cassandra Da Re	Dale & Lessmann LLP	Toronto, ON	ZOR	T
Allan Dick	Sotos LLP	Toronto, ON	ZEE ZOR	L
Jennifer Dolman	Osler, Hoskin & Harcourt LLP	Toronto, ON	ZOR	L
Idan Erez	Hoffer Adler LLP	Toronto, ON	ZEE ZOR	L
Chad Finkelstein	Dale & Lessmann LLP	Toronto, ON	ZOR	T
Helen Fotinos	Dentons	Toronto, ON	ZOR	L T
Andraya Frith	Osler, Hoskin & Harcourt LLP	Toronto, ON	ZOR	T
Daniel Hamson	Sotos LLP	Toronto, ON	ZEE ZOR	L
Lloyd Hoffer	Hoffer Adler LLP	Toronto, ON	ZEE ZOR	L
Jeffrey Hoffman	Dale & Lessmann LLP	Toronto, ON	ZEE ZOR	L
Liisa Kaarid	Sotos LLP	Toronto, ON	ZEE ZOR	T
Sam Khajeei	Lindsey MacCarthy LLP	Vancouver, Calgary, Toronto	ZEE ZOR	T
Richard Leblanc	Miller Thomson LLP	Toronto, ON	ZOR	L T
Noah Leszcz	Cassels	Toronto, ON	ZOR	T
Andrae Marrocco	McMillan LLP	Toronto, ON	ZOR	T
Dominic Mochrie	Osler, Hoskin & Harcourt LLP	Toronto, ON	ZOR	T
Frank Robinson	Cassels	Toronto, ON	ZOR	T
Derek Ronde	Cassels	Toronto, ON	ZOR	L
David Shaw	Dale & Lessmann LLP	Toronto, ON	ZOR	T
Geoff Shaw	Cassels Brock & Blackwell LLP	Toronto, ON	ZOR	L
Peter Snell	Cassels Brock	Vancouver, BC	ZOR	T

## About the Legal Eagles project:

This Franchise Times list of star legal professionals in the franchise industry is built with nominations and recommendations from clients, peers and other legal professionals. Hall of Fame Legal Eagles are lawyers who have been named to the list for 10 years.

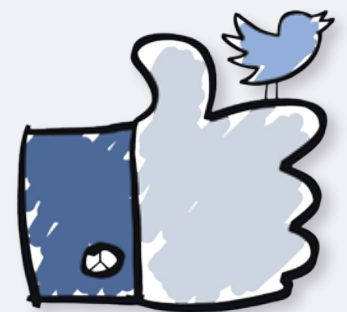
NAME	LAW FIRM	LOCATION	REPRESENTS	SPECIALTY
John Sotos	Sotos LLP	Toronto, ON	ZEE ZOR	L T
Anna Thompson-Amadei	Sotos LLP	Toronto, ON	ZEE ZOR	T
Rebecca Valo	Cassels	Toronto, ON	ZEE ZOR	T
Peter Viitre	Sotos LLP	Toronto, ON	ZOR	T
Larry Weinberg	Cassels	Toronto, ON	ZOR	T
John Yiokaris	Sotos LLP	Toronto, ON	ZOR	T

ZEE Franchisees ZOR Franchisors | L Litigation T Transactional



## WE'RE ON INSTAGRAM.

Follow us [@franchisetimesmag](#) for additional content and highlights, plus more opportunities for reader-to-writer engagement.



Unlike the Woodstock generation, we're into peace, likes and musings.

Follow us on Twitter:

Mary Jo Larson  
[@mlarson1011](#)

Nicholas Upton  
[@nickwupton](#)

Laura Michaels  
[@FSNLauraM](#)

Callie Evergreen  
[@callieevergreen](#)

Tom Kaiser  
[@thomasrkaiser](#)

Franchise Times  
[@FranTimes](#)





# RELENTLESS. INSPIRED. COMMITTED. AUTHENTIC.

Mark M. Leitner & Joseph S. Goode  
**FRANCHISE TIMES LEGAL EAGLES 2022**



**JOHN W. HALPIN**



**SARAH E. THOMAS PAGELS**



**KLAY A. BAYNAR**



**JESSICA L. FARLEY**



**LAFFEY, LEITNER  
& GOODE LLC**

325 EAST CHICAGO STREET, SUITE 200 MILWAUKEE, WISCONSIN 53202  
PHONE: 414-312-7003 | [WWW.LLGMKE.COM](http://WWW.LLGMKE.COM)



# Don't overlook these notable issues



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

“Encroachment claims seem to be making a comeback. Even distinct brands under one corporate umbrella that should not be considered as competitors are now being forced to defend against encroachment claims.”

—Deborah Coldwell, Haynes and Boone

“Data and privacy rights regarding ownership, use and monetization.”

—Frank Robinson, Cassels Brock & Blackwell

“Music copyright laws. For businesses using music, particularly fitness facilities but also other businesses that may periodically play or perform music as part of their business, the rules on the required licenses can be complicated, can vary across countries, and can carry significant penalties. Compliance requires understanding the laws and educating franchisees to avoid playing their favorite music in a manner that may be out of compliance.”

—Dawn Newton, Donahue Fitzgerald

“Private equity isn't just on the franchisor side anymore. This past year, I had more private equity clients (on the franchisee side) than ever before. I don't see that trend changing anytime soon.”

—Mark Dady, Dady & Gardner

“I see predatory conduct in commercial leases. I see landlords using very minor payment delays as a basis for terminating unfavorable leases. I also see landlords auditing their expenses and then demanding large sums of money in connection with an underpayment to which they are entitled under the lease, but then when the tenant does not pay in full within the 10- or 14-day deadline—often because they are confused or angry about the unexpected demand for significant sums of money—they use this to terminate the lease as a default. This can cripple a business.”

—Laura Lewis, Canada Lewis & Associates

“Complying with all of the new laws around privacy and data can be challenging for many franchisors, especially international brands. Having terms of use and

## Greenspoon Marder LLP

### Congratulations to our 2022 Legal Eagle Honorees.

Greenspoon Marder LLP is a full-service law firm with over 225 attorneys and more than 20 office locations across the United States. We are proud to have a national franchise law practice group of attorneys with decades of combined experience counseling established franchise companies, startup and emerging franchisors, private equity groups, and multi-unit franchise owners. Our team of Legal Eagles provide top-shelf customer service to many of the fastest growing brands in the world on franchising, licensing, mergers & acquisitions, dispute resolution, intellectual property protection, regulatory compliance, and growth strategies. For more information, visit [www.gmlaw.com/franchise-law/](http://www.gmlaw.com/franchise-law/).



**Adam G. Wasch**  
Partner and Chair of the Franchise Law Practice Group  
[adam.wasch@gmlaw.com](mailto:adam.wasch@gmlaw.com)



**Evan M. Goldman**  
Partner  
[evan.goldman@gmlaw.com](mailto:evan.goldman@gmlaw.com)



**Joseph C. Wasch**  
Of Counsel  
[joseph.wasch@gmlaw.com](mailto:joseph.wasch@gmlaw.com)



**Brett M. Buterick**  
Partner  
[brett.buterick@gmlaw.com](mailto:brett.buterick@gmlaw.com)

Atlanta Boca Raton Chicago Denver Edison Ft. Lauderdale Las Vegas Los Angeles  
Miami Naples New York Orlando Scottsdale Tallahassee Tampa West Palm Beach



privacy policies posted on websites or alongside apps is not enough and franchisor need to carefully consider data flow/data mapping and information held by all of the stakeholders in their franchise system. In addition to personally identifiable information they collect directly, franchisors may need to look at what personally identifiable information is collected, stored, used and transferred among franchisees, master franchisees, suppliers, affiliates, etc. ”

—Kristin Corcoran, Appleby & Corcoran

“ The general topic of corporate structure is one which I consider to be underrated. While it may seem to be simplistic on some levels, it is not. Utilizing a variety of entities in order to separate different aspects of your business allows greater protection but also provides a simpler means of both transferring interests to others, and of bringing in third persons to participate in limited areas of your business. Subsidiaries and affiliates are not the same.

The negotiation, formulation and drafting of operating and shareholders’ agreements is an art form, but often not recognized as such. For those who carefully examine the nuances of corporate structure, many will find that the results are well worth the effort. ”

—Richard Rosen, Rosen Karol Salis

“ Mergers and acquisitions and the intricacies of the due diligence process. If more new franchisors understood the ‘why’ behind the demands to franchise in a smart and compliant way, I feel they would be more apt to ‘buy in’ to those compliance efforts and build strong systems from day one. ”

—Drew Chalfant, Roda Chalfant Law

“ State franchise acts, while historically viewed by many as only applicable to franchisees in those states, have recently been recognized by federal courts to also apply to out-of-state franchisees if the franchisor is located in a state with state franchise act protections for franchisees,

including protection against terminations without good cause, and protection against franchisors being able to arbitrarily not approve a franchisee’s sale of its franchise to a reasonably qualified successor franchisee. ”

—J. Michael Dady, Dady & Gardner

“ I wish franchisors learned more about the risks and rewards of start-up franchising. So many early decisions to ‘save money’ wind up being much more expensive than doing it right the first time. Franchisees need to develop a better handle on employment law because non-competes and unionization will likely be big issues in the next few years. ”

—Caroline Fichter, Bundy Law Firm

“ Insolvency and creditor’s remedies and priorities. ”

—Idan Erez, Hoffer Adler

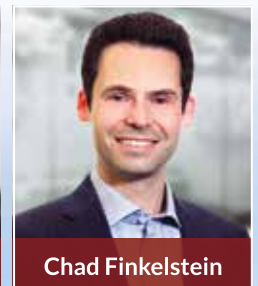
# We're Serving Up Franchise Law!



Congratulations to Dale & Lessmann lawyers selected as Legal Eagles!



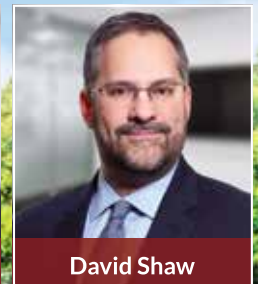
Cassandra Da Re



Chad Finkelstein



Jeffrey Hoffman



David Shaw

Dale & Lessmann LLP  
Serving Up Legal Advice  
For Over 90 Years!

181 University Avenue, Suite 2100, Toronto, Ontario, Canada M5H 3M7 | Tel: (416) 863-1010

dallelessmann.com



# New Legal Eagles offer fresh take



By Arthur Robert

**W**ho better to tackle the challenges in the franchise space than adaptive, savvy and young(er) Legal Eagles?

These fresh faces to the list have taken some interesting paths, and they're taking on tricky issues like omnichannel operations, new ways of doing business and re-thinking foundational parts of the franchise legal world.

One such attorney, Drew Chalfant, a partner at Roda Chalfant, said his path to franchising began in a taqueria. He was working as a bartender while in law school, and the in-house counsel at St. Gregory Development Group, a franchise development firm, was a regular who invited him to be a law clerk.

During his time there, he also served as in-house counsel for CycleBar, the fitness franchise St. Gregory invested in. The company sold its stake in CycleBar in 2017 and shut its doors a few years later, prompting Chalfant and fellow in-house counsel Joseph Roda to open their own firm, catering to the same kind of emerging franchisor they worked with at St. Gregory.

Chalfant said he was focused on helping his clients build sustainable and scalable compliance systems from the beginning. While keeping such records is important, the uptick in M&A activity and the emergence of private equity as a big player in the franchising world has added a financial incentive to do good administrative work. In the event of an acquisition, Chalfant said good records decrease the risk for the acquirer and can prompt higher valuations. Conversely, disorganized or incomplete records can lead to purchase price hold-backs or even scuttle a deal.

Russell Kinsey, managing partner at Kinsey Law, also took an unorthodox path to franchising. He was a jazz saxophonist in undergrad and graduated from law school in 2013, a time he said was marked by layoffs at large law firms, which made it difficult to find a job. But franchise consultant friends noticed emerging brands were having trouble finding in-house counsel. He wasn't thrilled with the idea of opening his own practice, but after some prodding, he went through with it and has been working with emerging franchisors ever since.

COVID-19 pushed more businesses online and brought with it another challenge. How do you "adjust the standard



▲ Jessica Dempsey of Spadea Lignana.

FDD format to accommodate the lack of or differently defined territories?" Kinsey asked rhetorically. For "anywhere" businesses that can do business throughout the country from a single office, the answer has been disclosure. For example, he said staffing businesses he worked with were adding clauses that said, "you're going to face competition from us and from other franchisees."

He's observed a similar trend in brick-and-mortar businesses.

"Most of my restaurant businesses have let go of a territorial restriction," relying on business prudence to avoid oversaturating a market, rather than a contractual obligation. As a middle ground, he said some brands were offering existing franchisees the right of first refusal on new development in their area.

The secondary effects of the pandemic have begun appearing in Item 7 of FDDs. Jessica Dempsey, an attorney with Spadea Lignana, said franchisors have been asking questions about whether to disclose the ostensibly temporary construction delays the industry is facing. The answer, she said, was to disclose "it's going to cost more and take longer because you want to make sure that your franchisees have a good understanding of the process," although she hasn't seen franchisors build in inordinately long timelines as a hedge against uncertainty. They're "talking to other franchisees and talking to contractors" to get a sense of the timeline and give franchisees a reasonable estimate.



▲ Russell Kinsey of Kinsey Law.

Chalfant said some franchisors have been asking if they need to disclose that supply chain issues have forced them to limit a service line or hold back a product.

"We always counsel them: You know your business better than we do. If this is something you would want to know if you were going to invest, then let them know," he said.

Joint employer concerns have made labor a trickier issue. Support in that area is a "slippery slope," said John Moore, a partner at Husch Blackwell. But by doing nothing, franchisors may be leaving some value on the table.

He said there's some opportunity to put hiring guidelines under the auspices of branding—things like best practices and ideal employee profiles—but it isn't a magic bullet. He noted the ongoing stress of the pandemic has reaffirmed the need for flexibility in the franchisee-franchisor relationship.

Noah Lescecz, an attorney at Canadian law firm Cassels, said the rise of ghost kitchens and other off-premises business formats is adding complexity to franchise agreements. He said the firm's preferred approach is to add a "ghost kitchen rider" to the back of a franchise agreement, adapting the document to the unique needs of an off-premises business.

The rider typically covers "design and construction, development provisions, site selection provisions, site access and franchisor inspections, operating standards and delivery," said Lescecz. [FT](#)



# 2022 New Class

**Mohammad Alturk**  
Baker & McKenzie

**Kristin Corcoran**  
Appleby & Corcoran, LLC

**Liisa Kaarid**  
Sotos LLP

**Ashley Nielsen**  
Manning Fulton

**Michelle Black**  
Spadea Lignana

**Ximena Couret**  
Baker McKenzie

**Kyle Lennox**  
Greenberg Traurig

**John Remakel**  
Monroe Moxness Berg

**Harold Bruno**  
Robinson, Waters  
& O'Dorisio, PC

**Emily Doan**  
Polsinelli

**Dan Matthews**  
Warshawsky Seltzer LLC

**Brent Stewart**  
Baker McKenzie

**Filemon Carrillo**  
Mulcahy LLP

**Erica Dotras**  
Mullin Attorneys  
& Counselors at Law

**Elizabeth McIntosh**  
Genovese Joblove & Battista

**Rebecca Valo**  
Cassels

**Christina Conlin**  
Baker McKenzie

**Evan Harra**  
Spadea Lignana

**Chris Mumm**  
Monroe Moxness Berg

**Richard White**  
Baker McKenzie

**Dawn Newton**  
Donahue Fitzgerald, LLP

**Matthew Wizmur**  
Spadea Lignana

**Baker  
McKenzie.**

## Congratulations to our 2022 Legal Eagles!

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



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



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



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



**Ann Hurwitz**  
Retired



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



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



**Christina Conlin**  
+1 212 861 8817  
christina.conlin@bakermckenzie.com



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



**Ximena Couret**  
+1 214 965 7233  
ximena.conlin@bakermckenzie.com



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

[bakermckenzie.com/franchise](http://bakermckenzie.com/franchise)

**WIGGIN**  
WIGGIN AND DANA

## Wiggin and Dana congratulates its 2022 Legal Eagles



**JOHN DOROGHAZI**  
203.498.4421  
jdoroughazi@wigginc.com  
New Haven



**DEAN T. FOURNARIS**  
215.988.8311  
cfournaris@wigginc.com  
Philadelphia



**KEVIN M. KENNEDY**  
203.498.4383  
kkennedy@wigginc.com  
New Haven

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

ATTORNEY ADVERTISING

[www.wiggin.com](http://www.wiggin.com)

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



# Labor challenges are still evolving



## Labor and staffing have created many challenges. What legal issues do you see arising?

“ Franchisees are looking for franchisors to assist them in finding, training and onboarding employees. Yet many franchisors still need to carefully consider these requests in light of the ever-changing joint employer legal landscape. ”

—Kristin Corcoran, Appleby & Corcoran

“ We have seen a lot of questions relating to employee vaccine mandates and

whether booster shots are required for an employee to be considered fully vaccinated. Right now, the CDC does not include ‘booster shots’ in its definition of fully vaccinated. To encourage vaccination and booster shots, many clients have adopted incentive programs, stressed personal responsibility and provided paid time off to allow employees to get vaccinated. ”

—Christina Fugate, Ice Miller

“ The number one issue will be the ability to manage remote workers, maintain productivity, morale and a sense of common goals/purposes. However, remote working and technological advances pose a significant opportunity, if managed well. For retail, restaurant and service businesses that need to work from a fixed location, business owners must be proactive in addressing

inflation (general and wage inflation) to retain a consistent workforce, while being able to balance price increases to accommodate those costs increases. ”

—Pete Singler, Singler, PLC

“ It’s possible franchisees will not have sufficient staff to remain open during required hours, in which case we may see terminations based on abandonment but the abandonment may ultimately be due to impossibility to perform. ”

—Elliot Ginsburg, Garner, Ginsburg & Johnsen

“ One particular legal issue stemming from the labor shortage relates to store closures. Most every franchise agreement contains a ‘go dark’ clause, or similar prohibition on unauthorized store closures.

**Ritchie W. Taylor, CFE**

**Ashley G. Nielsen, CFE**

*For over 20 years, advising franchise brands across the Carolinas and nationwide.*

[www.manningfulton.com](http://www.manningfulton.com)  
919-787-8880

**CONGRATULATIONS**

**JOSEPH ADLER**      **LLOYD HOFFER**      **IDAN EREZ**

for being selected as  
**2022 Franchise Times Legal Eagles!**

**HOFFER ADLER**  
**LLP**

- Commercial Franchising & Litigation Boutique
- Cross-border Franchising
- Experience with Franchisors & Franchisees of 540 Franchise Systems

**YOUR GO-TO FIRM IN CANADA**

hofferadler.com  
595 Bay St., Suite 1102, Toronto, Ontario M5G 2C2      (416) 977-6666



What you are seeing, especially in the QSR world, are restaurants with skeleton crews, or in some instances, only one or two employees in the space. After first reducing hours of operation, many of these franchisees are closing restaurants for weeks at a time. I am interested to see if any franchisors issue default notices for these closures.”

—David Paris, Paris Ackerman

## What COVID-era legal issues are you still watching?

“ We still have clients fighting with landlords over rent during the first few months of the COVID-era. The way we are dealing with it is to try to give something back in return for a rent abatement. Either we add more term at favorable rentals or promise to make substantial improvements, which ultimately enhance the property value.”

—Michael Ackerman, Paris Ackerman

“ We have already worked with one franchisee to avoid termination as a result of a temporary store closure that was impacted negatively by COVID-19. We approach these with care and based on the client’s objectives, but find that negotiations are often the better route than lawsuits in situations like this.”

—Elliot Ginsburg, Garner, Ginsburg & Johnsen

“ We are monitoring legal issues relating to supply chain problems. This includes monitoring lawsuits addressing force majeure and other contractual provisions. Force majeure was a buzzword in 2020 and 2021, and we are now starting to see some of the cases work their way through the courts.”

—Christina Fugate, Ice Miller

“ What rights, if any, that tenants may have where local law restricts their ability to fully occupy their space(s) or where the percentage of permissible occupancy is

limited to less than normal numbers or percentages, remains a challenging issue for both landlords and tenants. For new leases that are being negotiated, we try to anticipate these issues and provide for the various circumstances in the lease. Where the issue arises in an existing lease, typically as a result of reduced revenues and difficulties in meeting rental obligations, we try to negotiate a fair deal, frequently including some abatement of the rent and some unpaid rent being ‘folded into’ payments over future periods of the lease term.”

—Richard Rosen, Rosen Karol Salis

“ I think we will continue to see more cases asserting force majeure as a defense to performance as well as claims for insurance coverage for COVID-related losses. I keep an eye on developments and jurisdictional quirks in this area.”

—Bethany Appleby, Appleby & Corcoran

# PROUD HOME OF THE MOST LEGAL EAGLES

OF ANY LAW FIRM!  Spadea Lignana  
Franchise Attorneys



## UNLIMITED

FRANCHISOR LEGAL SUPPORT  
FOR A FLAT MONTHLY FEE



CALL NOW FOR A FREE CONSULTATION  
**215.525.1165 | SPADEALAW.COM/CORE**





# 2022 Hall of Famers offer insight



By Laura Michaels

Depending on where you look or who you ask, the first franchise in the United States came from Benjamin Franklin, arose as Albert Singer sold his sewing machines or was launched in 1891 by salon owner Martha Matilda Harper. (The International Franchise Association in 2000 gave Harper the title of first franchisor.)

Franchising as it operates today, however, has a shorter history, and even within the past decade has changed. How? We asked new inductees into the Legal Eagles Hall of Fame—these attorneys have each been on the list for 10 years—to share the evolution they’ve seen over their tenure and what they’re watching now.

## Using social media & marketing funds

“The name is Polish and the accent is Swedish,” said Beata Krakus by way of describing where she was born and then where she was raised and attended law school—the first time around. Krakus holds what she called the “dubious distinction of going to law school for seven years,” first at Stockholm University and again at Loyola University after moving to the U.S.

An attorney at Greensfelder, Hemker & Gale in Chicago, Krakus works with franchisors and said the development of social media and use of marketing funds came to mind when she thought about the evolution of franchise contracts.



▲ Beata Krakus

When social media “first started becoming a thing, franchisors were very reluctant to let franchisees post for themselves,” she said. Franchisors wanted everything to run through the corporate office, but shifts in how companies and consumers use platforms such as Facebook, Twitter, Instagram and TikTok have prompted ‘zors to reassess their stance. Those sites, continued Krakus, serve many purposes “and one of them is brand building.”

“So it’s natural for franchisors to want to control and curate that,” she said, but franchisors began to recognize franchisees are part of that brand-building process and need a local connection in their market.

## Congratulations to our 2022 Legal Eagle Honorees



Dale Cohen  
dale.cohen@akerman.com



Kevin Hein  
kevin.hein@akerman.com



Warren Lewis  
warren.lewis@akerman.com



Trish Barrett MacAskill  
trish.macaskill@akerman.com



William Sentell  
william.sentell@akerman.com



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

Akerman helps franchisors, multi-unit franchisees, and franchise suppliers achieve their most important business objectives throughout the Americas and around the world. We collaborate with the world’s most successful members of the franchise community to navigate change, seize opportunities, and help drive innovation and growth.

Thank you to our clients and colleagues for your support.

700+ Lawyers, 24 Offices  
akerman.com

©2022 Akerman LLP. All rights reserved.





“Back then, we wrote into agreements that franchisees cannot have any social media presence unless expressly permitted by the franchisor,” she said. Now, “it’s more ‘your social media presence must comply with our franchisor presence.’”

Another shift on the marketing front is to the funds themselves, or at least the name. While still typically called a marketing fund in franchise disclosure documents and franchise agreements, some franchisors are changing the name to “brand development fund,” said Krakus, mainly because “franchisors want to have a little more leeway in how they use those funds.”

The shift is largely driven by litigation. “Someone realizes marketing funds are used to pay for collection fees of royalties, something like that,” and they file a lawsuit, said Krakus. Franchisors are looking at provisions to allow different uses of those funds.

### A rise in buyout rights

Ten years ago, said Matthew Kreutzer, franchisor buyout rights that weren’t tied

*Hall of Fame continued on 60*

# 2022 Hall of Fame

<p><b>David Cahn</b> <i>Whiteford Taylor &amp; Preston LLP</i></p> <p><b>Allan Dick</b> <i>Sotos LLP</i></p> <p><b>Jeffrey Hoffman</b> <i>Dale &amp; Lessmann LLP</i></p>	<p><b>Beata Krakus</b> <i>Greensfelder, Hemker &amp; Gale, PC</i></p> <p><b>Matthew Kreutzer</b> <i>Howard &amp; Howard</i></p> <p><b>Michael Santa Maria</b> <i>Baker &amp; McKenzie LLP</i></p>	<p><b>Robert Smith</b> <i>Quarles &amp; Brady LLP</i></p> <p><b>James Susag</b> <i>Larkin Hoffman</i></p> <p><b>Peter Viitre</b> <i>Sotos LLP</i></p> <p><b>John Yiokaris</b> <i>Sotos LLP</i></p>
---	---	--

## K&L GATES

### CONGRATULATIONS JASON M. MURRAY

Your commitment to and extensive experience in franchise and distribution law has made you a stand-out in the industry. Congratulations on your well-deserved recognition from *Franchise Times* as a Legal Eagle for the past decade.

From Miami to Melbourne, we deliver a full range of services to the franchising industry—from emerging systems to some of the largest franchisors in the world.

K&L Gates LLP. Global counsel across five continents. Learn more at [klgates.com](http://klgates.com).



Jason M. Murray  
Partner  
*Franchise Times* Legal Eagle since 2011  
[Jason.Murray@klgates.com](mailto:Jason.Murray@klgates.com)  
305.539.3326



**WARSHAWSKY SELTZER**  
THE FRANCHISE LAW FIRM PLLC

### CONGRATULATIONS

TO OUR LEGAL EAGLES

DAN WARSHAWSKY  
BRET SELTZER  
DAN MATTHEWS  
AARON GAGNON

Celebrating our team and their accomplishments as some of the top franchise attorneys. Continuing our dedication to the values that got us here.

Responsive and efficient  
Saving clients time and money  
Unlimited access for a fixed monthly fee  
Lawyers with entrepreneurial experience



Franchising - It's What We Do

[WWW.FRANCHISELAWYERS.COM](http://WWW.FRANCHISELAWYERS.COM)  
480-719-4800  
SCOTTSDALE, ARIZONA



*Hall of Fame continued from 59*

to the termination or expiration of a franchisee agreement “didn’t exist.” Now, he continued, “I’m seeing that in a bunch of contracts.”

Typically, a buyout provision states the franchisor retains the right to purchase the business upon the occurrence of a prescribed event—aka a termination or the end of a contract term. “The explosion of private equity and its interest in franchising,” however, is driving a different type of provision, said Kreutzer, a partner at Howard & Howard in Las Vegas.

“As private equity gets more and more involved, these funds, from the outset, are thinking what if we want to own all these units and not franchise them,” said Kreutzer. “So buyout rights are a way for these firms to de-franchise their system if they choose to.”

Such a provision might read: Either at any time after an initial period of operation (like six months to one year of operation) or immediately, the franchisor has the right (but not the obligation) to buy all assets and property used in the franchise, including the tenant’s right to real estate. The purchase price will either be calculated according to a set formula, or there will be a procedure for a valuation to be conducted by independent appraisers.



▲ Peter Viitre

The purchase price, noted Kreutzer, “will typically include goodwill/valuation for the business as a going concern. In fact, in these same agreements there usually is also a separate provision that would allow the franchisor to buy assets after termination if it chooses to do so, but with no allowance for goodwill.”

Another increasingly common provision covers liquidated damages, or the monetary amount a franchisee must pay the franchisor if they exit the system before the end of the contract term, often because the franchisor terminates the agreement.

Franchisors, said Kreutzer, prefer liquidated damages clauses because it comes down to a “simple calculation in the agreement.” The clause may stipulate, for example, that the franchisee pay the franchisor the equivalent of three years’ royalty fees to account for what the franchisor would have earned had it not terminated the agreement.

**Across the border**

Canada, said Peter Viitre, is a “franchise friendly jurisdiction,” but that doesn’t mean a U.S. franchisor can simply drop in and run their franchise program exactly as it operates in the States. Regulations include “pretty

bold rescission rights,” said Viitre, a partner at Toronto-based Sotos, “so if you screw up, franchisees have some pretty robust remedies.”



▲ Matthew Kreutzer

Although there are no federal franchise laws, six provinces (Alberta, British Columbia, Manitoba, New Brunswick, Ontario and Prince Edward Island) have franchise-specific legislation and disclosure requirements. If a Canadian court finds a franchisor failed to fully meet its disclosure obligations, the penalties can include not only damages but also rescission of the franchise agreement. If rescission is granted, the franchisor must reimburse

the franchisee’s investment plus any operating losses.

The cost of doing business in Canada can surprise franchisors, said Viitre, and because it’s “all about unit economics, just like in the States, they need to recalculate unit economics for Canadian inputs—and the model may just not work.” Food, labor and rent are all more expensive, he continued. “You can’t just take your Item 7 disclosure and multiply that by the exchange rate. And we see that.”

He counsels franchisors to “understand and appreciate that it’s a different country with different rules,” and just like in the U.S., having an experienced franchise attorney matters. **ET**

PARIS | ACKERMAN LLP

Congratulations to our 2022 LEGALEAGLES

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



**Michael J. Ackerman**  
Multi-Unit Transactions  
Franchise Finance



**David S. Paris**  
Multi-Unit Transactions  
Franchise Finance



**Karen E. Abrams**  
Commercial &  
Retail Leasing



**Eric A. Friedman**  
Multi-Unit Transactions  
Automotive Dealership  
Transactions

ROSELAND, NJ • NEW YORK, NY • PHILADELPHIA, PA • QUINCY, MA | (973) 228-6667
WWW.PARISACKERMAN.COM