
UNFAIR BUSINESS COMPETITION

California voters overwhelmingly approved Proposition 64, limiting an individual's right to sue by allowing private enforcement of the state's unfair business competition laws only if the individual was actually injured or suffered financial or property losses.

Under the old law, the California Business and Professions Code (section 17200) gave individuals standing to file lawsuits in a representative capacity on behalf of the general public, even if the person had not suffered any injury. The new law, which limits individuals' standing, took effect with the passage of the proposition last November.

First enacted in the 1930s to stop businesses from using unfair practices to gain an advantage over their competitors, the old statute was being interpreted by courts as offering broad protections to consumers from the wide-ranging societal harms that result when businesses act illegally or unethically. In recent years, there has been a growing perception that certain plaintiffs' attorneys have been misusing the laws to file "shakedown" suits against businesses for the purpose of generating legal fees without a corresponding public benefit.

For more information, contact partner Angela Agrusa (213/975-1744) or associate Andre Bates (213/975-1606).

CORPORATE/TRANSACTION

A Baker & Hostetler Energy team, led by partner Carl Steen in Costa Mesa, completed a \$100-million power sale auction for a California-based renewable energy provider.

A Baker team led by Carl Steen in the Costa Mesa office and including partner Martin Gitlin in the Denver office and associate Jude Leblanc in Costa Mesa recently completed an auction of 100 MW of renewable energy from three hydroelectric projects located in Northern California.

The winning bidder, Pacific Gas & Electric Company of San Francisco, will purchase power from the Tri-Dam Project, a joint venture of the South San Joaquin Irrigation District and the Oakdale Irrigation District, under a five-year agreement expected to yield revenues in excess of \$100 million. The Baker team represented Tri-Dam in developing and implementing the request for proposals, assisting in the evaluation of bidders and selection of the short list, and negotiating the power purchase, interconnection and transmission arrangements with the winning bidder.

For more information, contact Carl Steen at 714/966-8803.

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FEATURED LAWYER: ANGELA AGRUSA

Angela Agrusa settled six significant cases in the closing months of 2004, including favorable action for rock-star client Peter Frampton.



A 16-year Baker & Hostetler vet, Angela Agrusa is chair of the Litigation Group of the firm's California offices. She has extensive experience litigating cases in federal and state courts, including complex business actions, intellectual property, entertainment, unfair competition, misappropriation of trade secrets, and business torts, among other claims.

She and her Litigation colleagues were particularly busy in the last quarter of 2004, when six significant cases all concluded with favorable outcomes for Baker & Hostetler clients. Among the cases were these:

- *Peter Frampton vs. Billabong, Inc., et al.* — Represented the rock musician in an action against Billabong, an international surf wear company, for trademark infringement and violation of right of publicity, arising out of Billabong's design, marketing and sale of a line of attire bearing Frampton's likeness and lyrics. Working with partner and music attorney Gary Gilbert and associate Laura Alaverdi, the action settled favorably for Frampton at mediation.
- *Kaifa Technology Ltd. vs. JDS Uniphase Corp.* — Represented a Chinese manufacturer of computer technology and hardware (Kaifa) in breach of contract action against a U.S. purchaser (JDSU). JDSU cross-sued a Hong Kong purchaser of its products seeking to recover on unpaid invoices and counter-sued Kaifa, the alleged parent of the third party, under alter-ego theories. More than \$6,000,000 was at issue. With the assistance of associate Carrie Hemphill, the case settled favorably for Kaifa with money recouped and the cross-claim dismissed.
- *JFK Center for Civil Rights vs. Jo-Ann Stores and Walgreen Company, et al.* — Defended Jo-Ann Stores and Walgreen Company in two highly publicized actions brought by a non-profit organization and the San Bernardino (Calif.) District Attorney alleging the illegal sale of products containing an inhaling substance were violations of the California Unfair Business Practices Act. Associate Andre Bates assisted with the case, which was settled for a nominal sum that was less than one-third the amount paid by other settling defendants.
- *Gate Five, Inc. dba Roost vs. Artland Trading, Inc.* — Represented a designer of highly stylized stemware (Gate Five) in a copyright infringement action arising out of a competitor's sale of substantially similar products. Working with partner Andy Lurie and associate Lisa Carteen, and after very contentious litigation, the matter settled favorably.

Agrusa formerly served as chair of the Firmwide Complex Business Litigation Practice Team. She is an active member of the Association of Business Trial Lawyers; Judge Pro Tempore of the Los Angeles County Court; and a member of the Litigation Sections of both the American and Los Angeles County Bar Associations. In January she was elected to the Board of reDiscover, a community resource center that promotes creative problem-solving and environmental awareness in preschool and elementary education.

Angela Agrusa can be reached at 213/975-1744.

EMPLOYMENT & LABOR

Terri Tracy, a partner in the Los Angeles office, organized and participated in a panel discussion on “Eliminating Bias in the Legal Department” at the Southern California In-House Counsel Conference, sponsored by the regional chapter of the American Corporate Counsel Association.

Taz Imara, an associate in the Employment & Labor Group in the Los Angeles office, moderated the discussion, and Andrew Scoggin, Vice President, Labor Relations and Employment Law at Albertson’s Inc., a client of the firm, participated in the panel discussion along with Tracy.

The law firm is a Silver Sponsor of the Southern California Chapter of the American Corporate Counsel Association. Over 100 in-house counsel attended the January 19 conference, which was held in downtown Los Angeles.

Coordinator of the Los Angeles office’s Employment & Labor practice, Tracy has long advocated a “preventive approach” to employment issues to provide management as much latitude as possible in employee relations while avoiding unnecessary litigation.

In her presentation, she articulated such an approach to ending discrimination in the corporate counsel’s office. “Critical to any evaluation of diversity is management commitment and accountability,” Tracy said. “Commitment includes not only what management is saying, but what management is doing. Accountability includes the effective use of performance appraisals, compensation incentives, and other measures that reflect a manager’s ability to set high standards and demonstrate progress.”

For a copy of her presentation or other information, call Terri Tracy at 213/975-1805.

HOSPITALITY

David Sampson, chief author of California’s new timeshare law, addressed a national audience of hospitality-industry participants at a PricewaterhouseCoopers event in Los Angeles.

David Sampson, a partner in the Los Angeles office, and Rob Webb, senior partner of the firm’s Hospitality Practice from the Orlando office, spoke about California’s new timeshare law and regulatory trends affecting the national vacation ownership industry, respectively, at a January PricewaterhouseCoopers (PwC) luncheon in Los Angeles. The PwC event preceded the 2005 Americas Lodging Investment Summit, an international conference. Baker & Hostetler was honored to participate; never before had PwC shared the stage at its annual event with another firm.

Sampson and Webb presented to more than 125 leading hospitality property owners, investors, managers and franchisors; among the audience were a number of Baker & Hostetler clients, including senior executives from the American Resort Development Association, Four Seasons and Hyatt.

For more information, call David Sampson at 213/975-1878.

PEOPLE

Helen B. Kim joined the Litigation Group in Los Angeles, focusing on complex business litigation including the defense of class-action lawsuits, securities, and corporate governance.



Kim brings impressive credentials to Baker & Hostetler, including numerous leadership positions in both the legal and the Asian Pacific American communities. She is co-editor of the ABA Litigation Section's Securities Litigation Journal, co-chair of the Litigation Section and a Board member of the Women Lawyers Association of Los Angeles, and Vice President of Membership and a Board member of the National Asian Pacific American Bar Association. She's also Vice President of Administration and a Board member of the nonprofit Korean American Coalition, a nonprofit community advocacy organization.

A native Angelino, Kim clerked for the Honorable Roger Miner (U.S. Court of Appeals, Second Circuit, New York). Kim is a Yale law graduate; she also holds a master's degree in classical piano performance from The Julliard School of Music. She may even qualify as a child prodigy: She soloed with the LA Philharmonic at age nine, and played the Hollywood Bowl at age 10.

Helen B. Kim can be reached at 213/975-1611.