

## Services & Industries

# Franchise and Distribution

## OVERVIEW

As the franchise model has grown into a significant component of our national economy, so too have the legal challenges that confront franchisors and other distributors. Delivering products and services across different levels of a distribution network entails many types of business and legal relationships. And more and more, these relationships are regulated not only by complex contractual arrangements, but also by ever-changing legislative and regulatory initiatives aimed at addressing perceived imbalances among the businesses that manufacture, distribute, license, and sell to other companies and consumers.

Day Pitney's Franchise and Distribution practice helps clients navigate the myriad legal issues that can and do arise from these relationships. We help our clients make business and marketing decisions that can benefit their partners within their distribution channel, and we also provide the analysis, advice and negotiation skills needed to develop practical and cost-effective resolutions to disputes before they escalate. In those cases when litigation is inevitable, our team has the experience and available legal talent to aggressively advocate for our clients. Day Pitney's Franchise and Distribution attorneys manage an active docket of cases from individual termination to system-wide class actions that challenge the ways in which our clients manage their franchisee relationships. Our litigation competence is bolstered by firm wide resources and technology to handle the most complex e-discovery matters. Our team also represents its franchise clients in class action matters filed on behalf of consumers and also defend consumer fraud claims against franchisor clients concerning contractual and statutory disclosure issues.

One key to our success in this challenging field is our commitment to getting to know our clients' businesses and the industries in which they operate. No two businesses or distribution networks are alike, and by taking the time to understand our clients' financial and business goals, we are better able to provide effective advice and representation. Some of the industries we've come to know quite well include the hospitality, automotive, rental cars, real estate brokerage, tax services and food services industries.

## EXPERIENCE

- Represented a national real estate brokerage franchise system in connection with a putative class action brought by franchisees alleging a variety of claims related to the handling of

customer leads.

- Served successfully as franchise counsel to an automotive manufacturer in a long-running dispute with a class of former franchisees following the sale of one of its divisions. The matter culminated in trial in federal court followed by multiple appeals and collateral attacks in the Third Circuit.
- Provides routine advice and counseling to a national car rental franchisor with respect to its licensee organization concerning terminations, royalty disputes, territorial issues and exclusivity challenges.
- Represented a number of automotive manufacturers in connection with statutory dealer protest proceedings in New Jersey, Connecticut and Massachusetts.
- Obtained a directed verdict at trial in the U.S. District Court for the Southern District of New York on behalf of a real estate franchisor facing claims for fraud by the developer of a corporate residential facility.
- Favorably resolved a wrongful franchise termination claim under the New Jersey Franchise Practices Act against a business services franchise system and its corporate affiliate.
- Prevailed in an arbitration proceeding brought against our franchisor client concerning a dispute over the contractual provisions relating to the calculation of royalty payments.
- Successfully resolved a termination claim filed by a former franchisee of a heavy equipment manufacturer after obtaining favorable rulings concerning the nonapplicability of amendments to the New Jersey Franchise Practices Act to a pre-existing franchise agreement.
- Provided counseling and advice to an international manufacturer of motor vehicle parts concerning its contractual arrangements with its domestic distributor.
- Obtained an affirmance from the Second Circuit of a district court's dismissal of consumer fraud claims against an automotive client.
- Obtained summary judgment on behalf of a national franchise client in connection with a claim alleging that a termination violated federal antidiscrimination statutes.

## **INSIGHTS**

### **Strengthening Egypt's IP Laws Could Help Fight Brain Drain**

July 18, 2017

Mark Salah Morgan authored an article, "Strengthening Egypt's IP Laws Could Help Fight Brain Drain," which was published in *Law360*.

### **New Jersey Consumer Protection Laws and the Building Industry: Understanding and**

## **Protecting Against the Risk**

April 29, 2016

On April 29, Paul Halasz will speak at a NJBA Special Seminar, "**New Jersey Consumer Protection Laws and the Building Industry: Understanding and Protecting Against the Risk.**" This seminar will focus on two of the most significant statutes impacting the building industry, and those who supply products to consumers in residential construction: the Consumer Fraud Act (CFA) and the Truth in Consumer Contract, Warranty and Notice Act (TCCWNA).

## **Ascertaining When a Dealership or Distributorship is Subject to the NJFPA**

February 4, 2016

Paul Halasz wrote an article, "Ascertaining When a Dealership or Distributorship is Subject to the NJFPA," for *New Jersey Lawyer Magazine*. The article is about whether a relationship between a supplier and its distributors is subject to the dictates of the New Jersey Franchise Practices Act, and how these arrangements could be critical to an enterprise facing major business challenges.

## **Paul Williams Speaks at CBA/ABOTA Program on Civility and Professional Behavior**

December 5, 2013

## **Appellate Division Rejects Ascertainability as a Class-Certification Requirement in New Jersey State Courts**

May 28, 2015

## **NEWS**

### **68 Day Pitney Lawyers Named to 2016 Best Lawyers List**

August 24, 2015

**Stamford, Conn., August 24, 2015** - Day Pitney is pleased to announce that 68 attorneys have been selected for inclusion in the 2016 Best Lawyers in America. Best Lawyers ranks lawyers through peer-review surveys, and has been published annually since 1983.

### **What You Need To Know As A Summer Associate**

June 17, 2015

Paul Halasz and Namita Shah were quoted in the article, "**What You Need To Know As A Summer Associate,**" in *Law360*. They offered summer associates advice such as exploring different practice areas, networking and to treat each assignment as though it was work for a client.

### **Chambers USA 2015 Names 51 Day Pitney Attorneys "Leading Lawyers for Business"**

May 21, 2015

### **Eighty-Four Day Pitney Attorneys Recognized by Super Lawyers for 2014**

November 3, 2014

### **Seventy Day Pitney Lawyers Named to 2015 Best Lawyers List**

August 22, 2014

## CONTACTS



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