



'Caving' Carefully: Some Lease Concessions Shouldn't Be Made

By *Steven P. Heller*

Published: *California Real Estate Journal*



Sometimes a landlord — desperate to land a tenant — dispenses with his or her usual careful lease review. The sentiment is usually something like, "Just confirm the dollars and dates and get it signed up!" But no matter how much leverage a tenant has, the landlord must address potential land mines in the lease document.

Tenants have the advantage in a soft leasing market or when landlords face economic duress or other property-specific demands like co-tenancy. In these circumstances, a landlord may have only enough leverage to negotiate the most basic business issues while conceding to the tenant nearly everything else in the lease document.

Making matters worse, pressured landlords may feel that addressing so-called "legal" issues (i.e., lease provisions other than basic economic terms) or even using an attorney at all is a luxury they can't afford.

But some lease concessions have deep implications, and landlords need to understand clearly the stakes before caving in categorically.

*To continue reading this article, please visit
GilchristRutter.com - News - Articles - Real Estate Leasing.*

Start the New Year Right With a Wage and Hour Audit

By *Christine A. Page*



A wage and hour audit should be on the top of every company's list of New Year's resolutions in 2010. They are inexpensive to perform, particularly relative to the cost of defending a lawsuit for wage and hour violations. Unfortunately, such suits show no sign of diminishing in light of the number of disgruntled terminated employees unable to find work and the financial rewards to plaintiffs' counsel who can capitalize on innocent and often highly technical mistakes. Although the concerns are heightened in California due to certain state law requirements not mandated under federal law, the need for a wage and hour audit is universal. Employment claims now constitute nearly fifty percent of all class actions and most of them are for wage and hour violations.

The initial focus of any audit is to determine whether employees are properly classified as exempt or nonexempt. The misclassification of a nonexempt employee as exempt leads to a host of potential problems, including the failure to pay overtime, failure to

provide meal and rest breaks, failure to maintain proper records of hours worked or to report the hours on payroll checks, and failure to pay sufficient wages upon termination. Each of these violations can compound the damages a company faces in terms of lost wages, penalties, interest, and attorneys' fees.

*To continue reading this article, please visit
GilchristRutter.com - News - Articles - Employment.*

Seven Gilchrist & Rutter Partners Included in Super Lawyers® 2010

Seven Gilchrist & Rutter attorneys have been named by *Southern California Super Lawyers* magazine as top attorneys in the state for 2010, in the areas of business, real estate and environmental law:



(from left to right) *Frank Gooch III, James R. Andrews, Susan Fowler McNally, Jonathan S. Gross, Richard Close, Duane M. Montgomery and Donald C. Nanney.* Only five percent of the lawyers in the state are named by *Super Lawyers*.

This marks the fifth year that Mr. Andrews, Mr. Gross, Mr. Nanney and Ms. McNally have been ranked; Mr. Gooch and Mr. Montgomery are recognized for the second consecutive year; and Mr. Close is a first time recipient.

Super Lawyers is an annual ranking of outstanding lawyers from more than 60 practice areas who have achieved a high degree of peer recognition and professional achievement.

James R. Andrews specializes in general business transactions for public and private business entities and individuals, including business formation, § 1031 exchanges and ongoing operational issues and disputes.

Continued

Richard H. Close's practice focuses on the areas of real estate, mobilehome park, financial and business transactions, civic administration, formation of and advising professional entities, and estate and tax planning.

Frank Gooch III is a litigator whose practice is 100% devoted to civil, commercial, business, intellectual property, insurance (including anti-trust issues), First Amendment and real estate litigation.

Jonathan S. Gross, Managing Partner, concentrates his practice on commercial real estate, including major office and retail leasing, development, construction, design, engineering and management agreements, and real estate secured lending.

Susan Fowler McNally's commercial real estate and business transactions practice focuses on acquisitions and dispositions, development, construction, leasing, insurance, financing, asset management and TV and movie access licenses. In addition, she is part of the firm's sustainability practice.

Duane M. Montgomery's practice encompasses real estate and business transactions including real estate secured financings, acquisitions and dispositions, foreclosures, loan workouts, and counseling clients on lender licensing, mobile home park conversion and entity formation matters.

Donald C. Nanney's expertise lies in environmental law and real estate, including site assessment, remediation, contractual allocation of environmental risk, regulatory compliance, liability, claims, penalties and insurance. He is also a part of the firm's sustainability practice.

Gilchrist & Rutter Partners Included in *The Best Lawyers in America*® 2010



Jonathan Gross and *Susan Fowler McNally* were recently selected by their peers for inclusion in *The Best Lawyers in America*® 2010 (Copyright 2009 by Woodward/White, Inc., of Aiken, S.C.), in the area of Real Estate Law.

Since its inception in 1983, *Best Lawyers* has become universally regarded as the definitive guide to legal excellence. Because *Best Lawyers* is based on an exhaustive peer-review survey in which more than 32,000 leading attorneys cast almost two million votes on the legal abilities of other lawyers in their specialties, and because lawyers are not required or allowed to pay a fee to be listed, inclusion in *Best Lawyers* is considered a singular honor. *Corporate Counsel* magazine has called *Best Lawyers* "the most respected referral list of attorneys in practice."

Gilchrist & Rutter provides updates on legal trends as a service to keep our valued clients and friends informed of the latest legal news. It is designed only to give general information on the developments actually covered. It is not intended to be a comprehensive summary of recent developments in the law, treat exhaustively the subjects covered, provide legal advice or render a legal opinion.

Gilchrist & Rutter Represents Maguire Properties in Largest Office Building Sale in LA County in 2009



Steve Heller and *Diane Hvolka*, assisted by paralegal *Rick Webster*, represented Maguire Properties Group with regard to all estoppels for tenant leases, development agreements, and MTA rights of way, in the sale of the Lantana Media Entertainment Campus

in Santa Monica, home to several prominent entertainment firms. The deal, valued at more than \$200 million, was the largest office property sale in 2009 in Los Angeles County.

Energy Audits – Go Lean to Make Green

Gilchrist & Rutter, in cooperation with Healthy Building Solutions, LLC, presented "Energy Audits – Go Lean to Make Green," a program evaluating energy conservation measures (ECM's) in building systems and operations. The presentation discussed how owners can increase the attractability of their buildings through implementation of ECM's which reduce energy usage and operating costs.

To view "Energy Audits" PowerPoint for tips to implement ECM's into your building, please visit GilchristRutter.com - Practice Areas - Sustainability - Links.

Google Offers Free 411 Service

Google has unveiled a free 411 service which makes connecting much easier. This voice-activated service allows you to specify who or what you are trying to reach and connects you automatically. Dial 1-800-goog-411 or 1-800-4664-411. Say the city and state you are searching in, followed by the business, name or type of service. The automated operator will then connect you to your desired party.

Full text versions of all articles in this newsletter may be obtained on our website: www.GilchristRutter.com. Please click on the "Articles" link. If you would like to sign up to receive our newsletter via email, please send an email to Gilchrist&Rutter@GilchristRutter.com. You may also call or email us to request hard copy versions of any of the mentioned articles.