

Gilchrist & Rutter regularly sends "News from Gilchrist & Rutter" to provide legal updates to our friends and clients. If you would like to obtain full text versions of any of the articles mentioned in our newsletter or would like to receive our newsletter via email, please contact us at the address and/or telephone number listed below, send an email to Gilchrist&Rutter@GilchristRutter.com, or visit our website: www.GilchristRutter.com and click the "Articles" link.

Effective Date for the 2008 California Building Energy Efficiency Standards Moved From August 1, 2009 to January 1, 2010

The effective date for the 2008 California Building Energy Efficiency Standards (Title 24, Parts 1 and 6) has been postponed from August 1, 2009 to January 1, 2010. This delay provides industry and building officials more time to prepare for the new Standards. The Energy Commission will use this additional time to provide more information for the new Standards and work with the California utilities and building industry, and the California Building Officials to provide training on the new Standards. A copy of the Standards is posted on the California Energy Commission website at <http://tinyurl.com/m9zqeg>.

What's In a Name? Classifying The Independent Contractor

By *Christine Page*



In this economic environment, it is quite tempting to turn to independent contractors rather than employees to fill in workforce gaps. There are multiple advantages to having independent contractors in lieu of employees. For example, employers do not pay benefits or contribute to unemployment and social security for independent contractors, and wage and hour laws do not apply. Also, there is greatly reduced exposure to wrongful termination and discrimination claims.

Having said that, many workers today are misclassified as independent contractors. A disgruntled "independent contractor" can challenge the classification with the EDD or Labor Commissioner, for example, and an audit by the various governmental agencies authorized to police misclassifications (e.g., IRS, FTB, EDD, DLSE, DWC) can have draconian consequences, including payment of the employer's contributions, interest, and penalties that may average 50% of the worker's compensation.

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

Gilchrist & Rutter Ranked Among Top Real Estate Law Firms by Chambers USA



Chambers and Partners USA (Chambers), widely recognized as one of the primary arbiters of achievement in the legal profession, has ranked Gilchrist & Rutter among the top California real estate law firms. Recognized for handling all aspects of real estate with a particular strength in

leasing, Gilchrist & Rutter was credited with having a focus on Southern California, but "also assist(ing) clients with projects across the country." In addition to recognizing the firm's achievements, *Chambers* lauded managing partner **Jonathan Gross**. According to interviewees, Mr. Gross "is an effective negotiator who really understands the business process and pushes through transactions with ease; he's unflappable."

Chambers USA lists are compiled through intensive research and interviews with both law firms and their clients, and are broken down into all major practice areas nationally as well as key practice areas within each state. The qualities on which rankings are assessed include technical legal ability, professional conduct, client service, commercial astuteness, diligence, commitment, and other qualities most valued by the client.

Gilchrist & Rutter Listed as Major Real Estate Law Firm by California Real Estate Journal

Gilchrist & Rutter was ranked on the list of California's 2009 Major Real Estate Law Firms by the *California Real Estate Journal*. The firm was recognized for its recent successes, including drafting construction/lease agreements for the Lantana Project and coordinating the sale/leaseback of the 102,800-sq.-ft. Kodak Hollywood Campus for Eastman Kodak. In addition, the firm was acknowledged for its work on a breach of contract lawsuit involving two leases held by the state, and winning a settlement of \$937,500 in the landmark mobile home park conversion lawsuit *El Dorado Palm Springs, Ltd. v. City of Palm Springs*.

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Southern California Edison Provides Small and Medium Business Customers with Free Energy Efficiency Audits Online

Southern California Edison (SCE) is providing its small and medium business customers (i.e., businesses with monthly energy bills less than \$5,000) with a free online energy efficiency audit. To find out more information, please visit <http://tinyurl.com/lzfeqb>.

Gilchrist & Rutter Leading Efforts in State Capital

Gilchrist & Rutter attorneys **Richard Close**, **Thomas Casparian** and senior paralegal, **Susy Forbath**, are leading efforts in Sacramento to defeat AB566 (Nava). By meeting with State Legislators and working with related trade associations, they are pushing to either defeat the Bill, or amend it to meet the needs and goals of the firm's clients. The Bill is currently in the State Senate, and if passed, will provide for a resident veto of subdivisions/conversions of mobile home parks in California.

The entitlement team at Gilchrist & Rutter represents clients in State legislative and administrative matters. In addition, they represent clients on city and county development projects and regulatory disputes.

Gilchrist & Rutter Offers Annual Corporate Maintenance

Gilchrist & Rutter offers annual corporate maintenance to ensure that client-related entities maintain compliance in all applicable jurisdictions. The firm currently supports several hundred entities for large and small corporate clientele alike, including real estate investment and advisory companies.

Gilchrist & Rutter's corporate services extend beyond corporate maintenance into entity formation, inter-jurisdictional charters, acquisition and disposition of property and entity dissolution.

To learn more about G&R's Annual Corporate Maintenance offerings, please visit GilchristRutter.com/PracticeAreas/Corporate.

Gilchrist & Rutter Wins Lawsuits Invalidating City's Development Restrictions And Moratorium

Litigators **Thomas Casparian** and **Yen Hope** recently obtained victories in tandem lawsuits challenging a development ordinance and related moratorium. The ordinance imposed burdensome restrictions on developments in the City of Carson. The related moratorium prohibited the developments while the City considered and passed the ordinance and considered further restrictions.

The Court found the moratorium and ordinance were contrary to state law and were not supported by the evidence, and issued Orders invalidating both. The victories will enable one of the largest residential property developers in the City to proceed with its planned development.

Having obtained the Court Orders enabling the developments to proceed, Mr. Casparian will next pursue separate damages actions against the City to recover tens of millions of dollars in damages caused by the City's wrongful interference with the development.

To read the Daily Breeze article, please see www.dailybreeze.com/news/ci_12675413.

Gilchrist & Rutter Wins Hotly-Contested Subdivision Approval

In a closely-divided vote of the Rohnert Park City Council, Attorneys **Richard H. Close** and **Thomas W. Casparian** obtained approval for a 300-unit subdivision for client James F. Goldstein. The project faced stiff opposition from nearby residents and other interest groups.

The subdivision previously had been rejected by a unanimous City Council. However, Mr. Close and Mr. Casparian filed a lawsuit against the City seeking a Court Order requiring approval of the subdivision. A related lawsuit sought over \$34 Million in damages.

After the Court heard the matter, but before it rendered a decision, the parties agreed to mediate the dispute. Mr. Goldstein agreed to submit additional materials to the City planners, but otherwise made no changes to the proposed subdivision or any additional mitigation. In exchange, the City agreed to reconsider the approval on a fast track. When the matter came before the City Council a second time, the Council approved the subdivision despite significant resident opposition.

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Donald Nanney Obtains Cease of Pursuit from EPA

The U.S. Environmental Protection Agency (EPA) recently determined to cease pursuit of a Gilchrist & Rutter client that had been named as a potentially responsible party (PRP) in a federal Superfund Site. Environmental partner, **Donald Nanney**, had contended that the client was wrongly named as a PRP and had no liability. In a rarely seen action after some years of investigation, the EPA finally conceded the point and will omit the client from the pending round of settlement demands for that Superfund Site.

Gilchrist & Rutter Sponsored Successful Crocker Symposium

The 2009 Benjamin S. Crocker Symposium on Real Estate Law & Business provided unparalleled education and networking opportunities for more than 500 real estate attorneys and business professionals in the Southern California real estate industry. Entitled "Building the New Real Estate Paradigm," the Symposium focused on the key trends occurring within the current market, and offered guidance to identify and maximize future opportunities. Gilchrist & Rutter was a sponsor of the event.

Gilchrist & Rutter Sponsors Urban Land Institute Los Angeles District "Minorities in Real Estate" Event

Gilchrist & Rutter sponsored "Minorities in Real Estate," presented by the Urban Land Institute (ULI) Los Angeles District on April 2, 2009 in Culver City. The program profiled active leaders in the development community and presented their perspectives on the effects of the economic climate on their work efforts as well as on their personal lives. Speakers included Richard Green, Director, USC LUSK Center; Sam Sarpong, Chief Financial Officer, Broadway Federal Bank; Michael Banner, President and CEO, Los Angeles LDC, Inc.; Xavier Gutierrez, Senior Vice President - Capital Markets, Phoenix Realty Group; and Dora Leong Gallo, CEO, A Community of Friends.

Donald Nanney Installs Next Chair of the Real Property Section



Outgoing Chair of the Real Property Section of the Los Angeles County Bar Association, **Donald C. Nanney**, recently passed the gavel to his successor, Michael Klein, at the Section's Annual Installation and Awards Dinner. In lieu of the more traditional parting memento, at Mr. Nanney's request, the LACBA made a charitable contribution to the National Multiple Sclerosis Society in memory of his father (Colonel David Y. Nanney), in honor of his sister (Sylvia Nanney Fitzgerald), and in honor of a member of the Section's Executive Committee (Andy Yamamoto) for their valiant fight against the disease.

Richard Close Appointed to Carmen Trutanich's Transition Team



Richard H. Close has been appointed to incoming Los Angeles City Attorney Carmen Trutanich's Transition Team as a member of the land use and code enforcement working group. Comprised of 12 working groups, the transition team is tasked with developing an action plan to restructure and reform the office of the City Attorney to better serve the citizens of Los Angeles.

Each working group will assess current practices, and recommend actions for the first 100 days, first year and for the long term. They will also make recommendations regarding reorganizing programs, sources of revenue and cost savings.

Gilchrist & Rutter realizes how important it is to provide more than simple legal representation. This is especially important in the real estate area, where the resolution of disputes, approval of Applications, and favorable negotiations are successfully completed through the administrative process, as much as through litigation.

The firm is constantly expanding our scope of expertise and relationships to give you the advantage you need to achieve your real estate goals.

Susan Fowler McNally Honored as a "Woman at the Top" by Commercial Real Estate Women - Los Angeles



Susan Fowler McNally was recognized as one of four "Women at the Top" in 2009 by Commercial Real Estate Women - Los Angeles (CREW-LA). The June 11 event acknowledged Ms. McNally's more than 25 years of commitment to the commercial real estate industry. She was included in this prestigious group based on her work on transactions, such as the 1.47 million sq. ft. mixed-use development above the Universal Metro Red Line. She was also acknowledged for her leadership in the commercial real estate community, as demonstrated by her mentorship of colleagues, prospective firm associates and students at UCLA, and active participation in numerous commercial real estate organizations, including CREW-LA, and the Real Property, Trust and Estate Planning Section of the American Bar Association.

Henry Herrman Receives Outstanding Young Lawyer Award



Henry A. Herrman was recognized as an Outstanding Young Lawyer (OYL) by the Real Property Section of the Los Angeles County Bar Association at the Section's Eleventh Annual Installation and Awards Dinner, on June 10. The OYL award recognizes Mr. Herrman's outstanding legal work on real property-related matters and his contributions to Real Property Section programming and publications.

Two Gilchrist & Rutter Attorneys Included in *Rising Stars*® 2009

Diane Hvolka and Scott Reynolds have been selected by their peers for inclusion in the 2009 edition of *Rising Stars*®. Published by *Law and Politics Media, Inc.*, *Rising Stars* is an annual publication compiled through attorney-led research, which selects the top 2.5 percent of lawyers in Southern California who are 40 and under, or who have been practicing for 10 years or less.



Diane Hvolka specializes in commercial real estate and business transactions, including office, industrial & retail leasing; financing; purchase and sale of commercial and industrial properties; and sale-leaseback transactions.



Scott Reynolds is a member of the firm's Real Estate and Sustainability Groups. He represents and advises clients in all aspects of real estate law, including secured/mezzanine financing transactions; asset and equity purchases/sales; leasing; general corporate matters; and sustainability issues.



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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.