



News From Gilchrist & Rutter

July 2008

Employment Law Update:

Dealing with Disabled Employees - *Don't Lose the "Gotcha" Game*



by [Christine A. Page](#)

A recent California court of appeal decision underscores just how important it is to follow proper procedures when it comes to dealing with employees with disabilities. Imagine you have an employee who requests an unreasonable accommodation for his/her disability and a jury ultimately agrees that you were not required to provide the requested accommodation. No liability, right? Wrong. The court of appeal recently affirmed a \$2.26 million award in favor of a disabled employee who was correctly denied a request for a job reassignment.

Why? Because the employer (in this case the Automobile Club of Southern California) did not "engage in a good-faith interactive process" with the employee to explore alternative accommodations. It did not matter whether other accommodations were in fact available - the employer never explored alternative solutions with the employee and therefore could not say for certain whether such an accommodation existed.

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Gilchrist & Rutter Obtains Writ of Mandate

Litigator Thomas Casparian successfully obtained a Writ of Mandate against the City of Goleta striking down the City's requirement of an Environmental Impact Report (EIR) for a 150-unit conversion/subdivision. The City estimated the client's cost of preparing the EIR would be approximately \$220,000 and that it would take 18 months or more to complete. The City refused to hold a hearing on approval of the conversion/subdivision until the EIR was prepared. The EIR would identify mitigating measures that the City would require as a condition of the development.

In *Dan and Susan Guggenheim Trust v. City of Goleta*, Mr. Casparian successfully argued that the City was without authority to impose any mitigating conditions on the subdivision because state law pre-empted local authority in this case. In addition, although the City contended the project could have foreseeable environmental impacts, Mr. Casparian successfully argued that the City had failed to produce substantial evidence to support its claim. In a related case, Mr. Casparian is challenging a moratorium placed on certain developments by the City. A ruling in that case is expected in July 2008.

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Gilchrist & Rutter Assists Batter Blaster in \$3.6 Million Capital Raise



Gilchrist & Rutter recently assisted Batter Blaster, LLC (www.batterblaster.com) in its second major fundraising, documenting a successful \$3.6M capital raise. Batter Blaster, LLC is the maker of Batter Blaster, a patented pressurized pancake and waffle batter product in a can. The product has enjoyed a blitz of national media interest and can be found in Costco stores and other grocery stores coast-to-coast. Since the founding of Batter Blaster, LLC two years ago, Gilchrist & Rutter has advised the company on its corporate

State Takes Action Against City Development Requirements

It is common for real estate developers to encounter cities that try to impose conditions that exceed their authority. These requirements are often in conflict with State regulations.

Recently, after repeated discussions between Gilchrist & Rutter and the State Housing and Community Development Department (HCD), we were able to obtain the publication and dissemination of an official HCD Bulletin to local planning agencies and building officials in which the State agency specifically and directly addresses the issue of local interference.

This strong re-assertion of exclusive State authority, specifically directed to local governments, will make upgrades, expansions and subdivisions of manufacturing housing communities much easier and will avoid many of the issues owners have recently been experiencing.

Gilchrist & Rutter Represents Maguire Properties in Grammy Lease Deal

Jonathan Gross and Steven Heller represented Maguire Properties in a \$91 million lease of nearly 67,000 square feet of office space to the Recording Academy, the musician's organization that hands out the Grammy Awards. The 15-year lease at Maguire Properties' Lantana Media Entertainment Campus is for entirety of one of the new 3-story buildings and will serve as the Recording Academy's new headquarters.

The Lantana campus, at 3030 Olympic Blvd. in Santa Monica, is a 12-acre campus comprised of three original low-rise buildings plus two new office buildings and parking which will total about 550,000 square feet when it is built out. It is 93% leased to entertainment and media industry tenants.

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Gilchrist & Rutter

1299 Ocean Avenue, Suite 900
Santa Monica, CA 90401
Telephone: 310.393.4000
Facsimile: 310.394.4700

www.gilchristrutter.com

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structure, manufacturing contracts, and employment agreements.

Don Nanney Elected as Chair of Real Property Section, LACBA



[Don Nanney](#)

was installed as Chair of the Real Property Section, Los Angeles County Bar Association (LACBA), at the

10th Annual Installation & Awards Dinner held at the Riviera Country Club on June 10, 2008. Mr. Nanney, an expert on environmental law aspects of real property, recently negotiated a favorable settlement with a major tire and rubber company that agreed to pay for environmental investigation and remediation of its former premises in a large shopping center that is undergoing redevelopment.

Diane Hvolka Named as one of 20 Rising Stars of Real Estate



[Diane Hvolka](#) has been recognized as one of the "20 Rising Stars of Real Estate," presented by *Real Estate Finance &*

Investment magazine. Ms. Hvolka was one of only two lawyers mentioned on the list, and received her award based on her demonstrated expertise, dedication and consistency in the field of commercial real estate.

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