



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 "News" link.

You are Invited to a Lunch & Learn!

Energy Audits – Go Lean to Make Green

November 12, 2009
12:00 p.m. – 1:00 p.m.

Location:

Natural Resources Defense Council Regional Office,
1314 Second Street, Santa Monica, CA 90401



Join Gilchrist & Rutter for an informative lunchtime program evaluating energy conservation measures (ECM's) in building systems and operations, presented by **Susan Fowler McNally**, real estate partner at Gilchrist & Rutter PC, and **Brian**

Setness, Chief Operating for Healthy Building Solutions, LLC. Program includes complimentary lunch!

Seating is limited. Email rpimblett@gilchristutter.com to reserve your space now or call (310) 393-4000, ext. 225.

To learn about this program, please visit: <http://www.gilchristutter.com/CM/Custom/Sustainability-Conference.pdf>.

David B. Lambert Joins Gilchrist & Rutter



Gilchrist & Rutter welcomes **David B. Lambert** to its real estate team. Mr. Lambert's practice focuses on all aspects of real estate and corporate transactions, including leasing, acquisitions, dispositions, development, construction, joint ventures and financing, as well as land use and environmental work. In addition, he is a registered Civil Engineer and has ten years of prior experience working in the public sector as a civil engineer.

Mr. Lambert was previously an associate in the Los Angeles real estate department of Paul, Hastings, Janofsky & Walker LLP. Mr. Lambert received his J.D. cum laude from Loyola Law School, where he was a Fritz B. Burns Scholar and a Sayre MacNeil Scholar. In addition, he participated in the Scott Moot Court Honors Board – Jessup Team, and was a member of the St. Thomas More Law Honor Society and Order of the Coif.

Post Judgment Execution on Attorneys' Fees: Navigating An Area That Is Ripe For Review

A present split of authority may affect the collection of costs and attorneys' fees. As a general rule, an appeal does not stay enforcement of a money judgment. This issue becomes more complex however, as it relates to defendants. When a party is sued, defending against the suit can often become only half the battle. Normally, the successful defending party may recover costs, and sometimes, even attorneys' fees. But what happens if the losing plaintiff files an appeal? For recovering costs, the law is settled: under California Code of Civil Procedure Section 917.1, the appeal operates as a stay of the case, forcing the successful defending party to wait until the conclusion of the case, including the appeal.

As to attorneys' fees however, the courts have come down on both sides, making recovery of these fees without a stay possible, but a tricky endeavor. The main issue is whether attorneys' fees should be considered costs under Section 917.1, which would postpone recovery until after the appeal. Early on, in cases such as *Pecsok v. Black*, 7 Cal.App.4th 456, 459-462 (1992) and *Nielsen v. Stumbos*, 226 Cal.App.3d 301, 304-305 (1990), the courts lumped attorneys' fees with costs, finding that these awards were subject to the automatic stay pending appeal under Section 917.1. However, the court in *Chamberlin v. Dale's R.V. Rentals, Inc.*, 188 Cal.App.3d 356, 361-362 (1986) disagreed. The generally accepted reason for requiring a stay for costs is that they are awarded in nearly every case. The court in *Chamberlin*, reasoned that attorney's fees are not like incidental routine costs, in that they are not routinely awarded in every case. Additionally, the *Chamberlin* court reasoned that attorneys fees are a directly litigated issue, whereas costs are merely incidental to the judgment.

(To continue reading, please visit: <http://www.gilchristutter.com/CM/Articles/Post-Judgment-Execution-on-Attorneys.pdf>)

Gilchrist & Rutter Continues Lobbying Effort



Richard Close and Gilchrist & Rutter have been hired by a group of property owners within the City of Los Angeles pertaining to a possible change in the Los Angeles City Rent Control Ordinance.

Residents have been pressuring the Los Angeles City Council to reduce the allowable rent increases on specific types of properties in the City.

Continued

Gilchrist & Rutter will be lobbying City officials to convince them that changes in the rent control law would be adverse to the City and not in the best interest of the tenants.

This local lobbying effort is in addition to the State Legislative lobbying that Richard Close and his team have been engaged in on behalf of clients opposing pending legislation that would have reduced valuable property rights. The efforts of the Gilchrist & Rutter team were instrumental in successfully obtaining a recent veto by the Governor of this legislation.

Property Tax Reassessment Applications



If your property has recently lost value, you may be able to obtain a property tax reassessment entitling you to a refund of taxes paid and lowered taxes in the future. **Tom Casparian** has recently brought several successful applications for changed assessment. State law provides a right to seek a reassessment if your commercial or residential property's value has dropped below what is shown on the tax rolls. Property purchased in the last several years very likely experienced such a drop in valuation. In fact, property purchased ten years ago or more may be eligible for a tax reduction. Gilchrist & Rutter has successfully obtained lowered tax values and tax refunds for commercial and rental properties, as well as multi-million dollar residences. The deadline for seeking a reduction is fast-approaching, so it is critical to get your application in right away.

FRAUD ALERT

The California Secretary of State's office has issued a warning regarding bogus Statement of Information solicitation letters that are being mailed to California entities. The official-looking letters imply that in order to comply with "California Corporations Code" filing obligations, businesses must submit a \$235 fee and a form to a third party calling itself Business Filings Division or Annual Filings Division. If you have any questions regarding the validity of such a solicitation, please contact rwebster@gilchristutter.com or sphillips@gilchristutter.com.

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 Partners Received Top Accolades



For the eighth year, **Susan Fowler McNally** has been featured in "Women of Influence," by *Real Estate Southern California*. Published in the September/October 2009 issue, the 10th Annual Women of Influence list honors 40 women at the forefront of the commercial real estate industry who will lead the industry over the coming years.

Ms. McNally was recognized for her expertise in construction, as well as her work addressing sustainability issues in real estate contracts. During the past year, she has worked with clients to develop and implement strategic plans to reduce operating costs, achieve business objectives and minimize the risk of litigation. She also helps clients find cost-effective ways to retain existing tenants and attract new tenants, while minimizing the building's resource footprint.



For the second consecutive year, **Jonathan Gross** has been selected as a "California Dealmaker" by the *California Real Estate Journal*. One of only four repeat-Dealmakers, Mr. Gross was included based on the volume of his transactions, as well as his commitment to completing deals in the tough market. One notable deal he completed this year involved the fallout from the Washington Mutual Bank FDIC seizure at the Quintana Project in Irvine, salvaging one full building from the four it had leased/occupied, and leased it to WaMu's successor, J.P. Morgan.

"California Dealmakers" is compiled by *California Real Estate Journal* and ranks the State's premiere attorneys, brokers, lenders and developers who have the ability to close the most complex and challenging deals.



Susan Fowler McNally and **Donald C. Nanney** have been recognized in the Los Angeles Business Journal's special report "Who's Who in L.A. Law" 2009. This year's list featured "L.A.'s Top 100 Lawyers" grouped in 12 practice areas, who are highly regarded by their peers.

Ms. McNally was honored for her more than 25 years' experience in the commercial real estate industry, particularly relating to her involvement in leasing, development and sustainability work throughout Southern California.

This is Mr. Nanney's second consecutive year on the list. He was recognized based on his 35 years of practice in the complex world of environmental law and regulations impacting real estate transactions, ownership, operation and development.

Full text versions of all articles in this newsletter may be obtained on our website: www.GilchristRutter.com. Please click on the "News" 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.