The GPMemorandum

TO: **OUR FRANCHISE AND DISTRIBUTION CLIENTS AND FRIENDS**

FROM: **GRAY PLANT MOOTY'S FRANCHISE AND DISTRIBUTION PRACTICE GROUP**

Quentin R. Wittrock, Editor of *The GPMemorandum*

Maisa Jean Frank, Assistant Editor

DATE: **January 10, 2013—No. 163**

Below are summaries of recent decisions and laws of interest to franchisors. This month's edition includes a report of a proposed state law change and a special edition of *The GPMemorandum*—International.

FRANCHISE SALES/TRANSACTIONS

SECOND CIRCUIT UPHOLDS ARBITRATION AWARD PURSUANT TO BUSINESS OPPORTUNITY LAW

An arbitrator's finding that a real estate brokerage franchisor violated the Connecticut Business Opportunity Investment Act has been upheld in *GMAC Real Estate, LLC v. Fialkiewicz*, 2012 U.S. App. LEXIS 26480 (2d Cir. Dec. 27, 2012). Franchisor GMAC Real Estate had sought to vacate the award in a Connecticut federal district court, which refused. The United States Court of Appeals for the Second Circuit affirmed late last month, finding that the arbitrator did not "manifestly disregard the law" in applying the state's business opportunity statute.

The appeals court gave two reasons for upholding the arbitration award. First, the court was unwilling to hold the arbitrator had failed to apply the statutory exception for franchises sold involving licenses of registered trademarks, because "arguably" one of the trade names used in the franchise was not federally registered, and another name may not have been licensed in conjunction with the parties' franchise agreement. Given the perceived lack of clarity and precedent on these points, the Second Circuit would not hold that the arbitrator intentionally defied the law. Similarly, the appeals court found that whether the franchise was sold to "start a business"—another statutory requirement—was "inherently a fact bound question" that gave the arbitrator latitude. Even though the franchisee had been in the real estate business prior to buying the franchise, the business opportunity sale law still could apply to the continuation of the business in certain circumstances, the court held.

ARBITRATION

FEDERAL APPEALS COURT ENFORCES FRANCHISOR'S ARBITRATION RIGHT

The franchisor has gained a procedural victory in ongoing litigation between Coverall North America, Inc. and its franchisees. In *Awuah v. Coverall North America, Inc.*, 2012 U.S. App. LEXIS 26461 (1st Cir. Dec. 27, 2012), the First Circuit held that a sub-group of purported class members who became Coverall franchisees by signing Consent to Transfer Agreements or guaranties to Coverall's franchise agreements must arbitrate their claims against Coverall. The district court had determined that this sub-group did not have to arbitrate their claims because, as a matter of contract construction, its members did not have adequate notice of the arbitration clauses contained in the franchise agreements. Coverall appealed this determination, and the First Circuit reversed.

The franchisees/appellees had become franchisees by entering into Consent to Transfer Agreements or by guaranties, but they did not sign the franchise agreements which either contained or incorporated by reference a mandatory arbitration provision. They argued that the language of these consents and guaranties did not sufficiently incorporate the franchise agreements' arbitration clause. The consents and guaranties did explicitly state that the franchisees had agreed to perform all responsibilities, duties, and *obligations* under the franchise agreement. The First Circuit held that no "magic terms" such as "incorporated by reference" are required in order to bind a party to a contractual provision. Rather, if the agreement at issue clearly communicates the obligation to arbitrate, as it did in this case, then it is enforceable.

The franchisees also argued that they could be not be bound by the arbitration provision because they had not received appropriate notice of the requirement. They relied primarily on cases involving federal employment statutes, including the Americans With Disabilities Act, the Civil Rights Act of 1991, and the Age Discrimination in Employment Act, all of which held that a special heightened notice standard applied to agreements to arbitrate disputes involving federal employment statutes. The First

Circuit held that the district court erred by relying on these cases. Instead, the district court should have looked to Massachusetts state commercial contract law, which explicitly *does not* impose a special notice requirement upon agreements containing arbitration clauses. Even if Massachusetts law did impose a special notice requirement, any such requirement would have been preempted by the Federal Arbitration Act.

COURT ENFORCES ARBITRATION CLAUSE AGAINST FRANCHISEE ASSOCIATION

A United States District Court in Connecticut granted a franchisor's motion to compel arbitration of a dispute with several of its franchisees. *EA Indep. Franchisee Assoc., LLC v. Edible Arrangements Int'l, Inc.*, 2012 U.S. Dist. LEXIS 166082 (D. Conn. Nov. 22, 2012). The franchisee association filed a declaratory judgment action against Edible Arrangements alleging breaches of franchise agreements for the imposition of several system changes, including hours of operation and purchasing requirements, as well as Edible Arrangements' failure to disclose its relationship with affiliates. Edible Arrangements filed a motion to compel arbitration pursuant to the arbitration provision of its franchise agreements.

The franchisee association argued against compelling arbitration because: (1) the court had already ruled on its standing; (2) the dispute was not ripe; and (3) Edible Arrangements had waived its right to arbitrate by participating in litigation. First, the court explained that its prior ruling did not bear on a claim to compel arbitration because the terms of the franchise agreements require arbitration upon motion of either party to an agreement, and the prior ruling preceded a motion to compel the arbitration. Second, the court ruled that the dispute was ripe because the franchisee association alleged damages based on Edible Arrangements' conduct, and Edible Arrangements alleged that the franchise agreement permitted the actions taken. Third, the court held that Edible Arrangements had not waived its right to arbitrate the claims with the franchisee association. In ordering arbitration, the court reiterated that there is a strong presumption in favor of arbitration. Furthermore, there was no prejudice to either the association or the franchisees because the case was in its initial stages.

SALES REPRESENTATIVES

DEVELOPMENT AGENT NOT COVERED BY ALABAMA SALES REPRESENTATIVE COMISSION STATUTE

The United States District Court for the Northern District of Alabama recently held that Alabama's Sales Representative Commission Contract Act, which requires timely payment of commissions to terminated sales representatives, did not apply to a franchise development agent. The plaintiff in *Johnson v. Mossy Oak Properties, Inc.,* 2012

U.S. Dist. LEXIS 167605 (N.D. Ala. Nov. 27, 2012), was a terminated development agent for a real estate franchisor. As a development agent, Johnson was involved in the training and servicing of Mossy Oak franchisees in a specified territory. Johnson argued that the Sales Representative Commission Contract Act (the "Act") applied to his relationship with Mossy Oak because he acted as a sales representative of Mossy Oak franchise rights. The court disagreed. The Act applies only to "principals" engaged in "manufacturing, producing, importing, or distributing a product or products" to customers. Although the Act does not define "product," the court found that "product" refers only to tangible goods and not the intangible franchise rights at issue in the applicable development agent agreement. The court further found that its holding was consistent with authority from other jurisdictions whose sales representative statutes contain nearly identical language. As an alternative ground for its ruling, the court determined that even if the franchise rights at issue could be considered a "product" for purposes of the Act, the plaintiff did not sell these products at "wholesale," as is also required under the Act's provisions.

POST-TERMINATION INJUNCTIONS: TRADEMARKS/SERVICE MARK VIOLATIONS

FEDERAL DISTRICT COURT FOLLOWS *EBAY* IN NOT APPLYING PRESUMPTION OF IRREPARABLE HARM IN TRADEMARK CASES

The United States District Court for the Eastern District of California granted a franchisor's motion for a preliminary injunction on its trademark infringement claim against a holdover franchisee after finding that it demonstrated all of the elements required for injunctive relief. *7-Eleven, Inc. v. TSC Lending Grp., Inc.*, 2012 U.S. Dist. LEXIS 166691 (E.D. Cal. Nov. 20, 2012). The franchisee was terminated for failing to maintain a net worth of $15,000, but it continued operating under 7-Eleven's marks. The court held that 7-Eleven had demonstrated a likelihood of success on its breach of franchise agreement and trademark infringement claims. Significantly, however, the court noted that a presumption of irreparable harm would not apply after 7-Eleven demonstrated a likelihood of success on the merits; rather, 7-Eleven would have to provide evidence of such harm.

The Supreme Court, in *eBay Inc. v. MercExchange, LLC*, 547 U.S. 388, 394 (2006), overturned a longstanding rule in patent cases that irreparable harm could be presumed from a showing of a likelihood of success on the merits. Lower courts have struggled with the question of whether to apply *eBay* to trademark and copyright cases. The Ninth Circuit has offered mixed signals on this question, first upholding the use of the presumption in a trademark case, but subsequently ruling the opposite way in a copyright infringement decision, in which the court expressly sought to limit the effects of the trademark case. In the instant case, the district court stated that the logic used in the latter decision likely would apply to this trademark infringement case and, thus, analyzed the preliminary injunction factors without presuming irreparable harm from a showing of a likelihood of success on the merits. This case is significant because it provides useful guidance in an area of the law that is continuing to develop nationwide.

POST-TERMINATION COVENANT AGAINST COMPETITION

COVENANT NOT TO COMPETE IN SETTLEMENT AGREEMENT ENFORCED AGAINST FORMER FRANCHISEE

In *Lawn Doctor, Inc. v. Rizzo*, 2012 U.S. Dist. LEXIS 17139 (D.N.J. Dec. 11, 2012), the United States District Court for the District of New Jersey granted Lawn Doctor's motion for a declaratory judgment enforcing the parties' settlement agreement and finding that Lawn Doctor's covenant not to compete was valid and enforceable. Even though the covenant did not specifically prohibit irrigation services, a "competitive business" was defined to include "[a]ny business which operates, or grants franchises or licenses to others to operate, a business for the establishment, care and conditioning of lawns or other vegetation or any ancillary services, including, but not limited to, trees, shrubbery and other plant life." Because irrigation services were not just tangentially related to the care and conditioning of lawns, the court determined these services unambiguously fell within the plain and ordinary meaning of the covenant and comprised a competitive business.

In examining whether the terms were ambiguous, the court rejected the franchisee's argument that only giving the broadest possible meaning to every term of the restrictive covenant would capture irrigation services in its scope. Moreover, the fact that the former franchisee never provided irrigation services while operating the franchised business—and the fact that hundreds of Lawn Doctor franchises in 38 states did not normally provide irrigation services—did not give the court a reason to limit the terms of the restrictive covenant as written. The court also noted that covenants not to compete in the franchise context, unlike those in the employment area, must be freely enforced to protect the franchisor's goodwill and customer relationships.

FEDERAL COURT DENIES FRANCHISOR'S MOTION FOR PRELIMINARY INJUNCTION TO ENFORCE NONCOMPETE

In *Tutor Time Learning Centers, LLC v. KOG Industries, Inc.*, 2012 U.S. Dist. LEXIS 162124 (E.D.N.Y. Nov. 13, 2012), the United States District Court for the Eastern District of New York denied Tutor Time's motion for a preliminary injunction to enforce a post-termination noncompete agreement against its former franchisee. The court began by finding that Tutor Time was not irreparably harmed by potential customer confusion because the former franchisee changed its phone number and sent a letter to all existing customers informing them that it was no longer associated with Tutor Time. Second, Tutor Time failed to demonstrate that its goodwill had been irreparably harmed because it was not registered under applicable New York law and, therefore, could not open a new childcare franchise in the former franchisee's location. Third, there was no evidence that if the former franchisee had complied its customers would have agreed to switch to another Tutor Time franchise—the nearest of which, although only 5 miles away, was a 45-minute commute by public transit. Fourth, Tutor Time's argument that its relationship with other franchisees was irreparably harmed by the breach was "too attenuated and speculative" to justify a preliminary injunction. Fifth, Tutor Time's prior decision to allow the former franchisee to operate a competitive business in another location also weighed against an injunction. Finally, the court held that the public interest would be harmed by an injunction because closing the franchisee's facilities would force its customers to secure new childcare services, which could be "costly and problematic" for families.

DUTY OF GOOD FAITH AND FAIR DEALING

COURT REJECTS CLAIM UNDER EITHER TEXAS OR PENNSYLVANIA LAW

In *Myers v. Jani-King of Philadelphia, Inc.*, 2012 U.S. Dist. LEXIS 172782 (E.D. Pa. Dec. 5, 2012), the United States District Court for the Eastern District of Pennsylvania dismissed the franchisees' claim that the franchisor had breached the duty of good faith and fair dealing, holding that the applicable state law did not recognize the existence of such a duty between parties to a franchise agreement. The franchisees brought a class-action lawsuit against Jani-King claiming that their franchise agreements constituted illegal employment contracts, and they asserted breach of the duty of good faith and fair dealing, among other counts. Jani-King moved to dismiss the claims or to transfer the case to Texas pursuant to a forum selection clause in the franchise agreements.

The court denied Jani-King's motion to transfer but granted its motion to dismiss with respect to the good faith and fair dealing claim. Although the parties disputed whether Pennsylvania or Texas law should apply, the court held that the claim failed under either state's law. The franchisees argued that a duty of good faith and fair dealing can exist under Texas law where the parties share a special relationship or where they possess substantially unequal bargaining power. They also relied on a Texas statute which provided that a party "to a franchise agreement owes a duty of good faith and fair dealing to the other party." The court rejected both arguments, noting that the statute upon which the franchisees relied had been repealed and that Texas courts had consistently declined to extend the duty of good faith to the franchise context. The court also determined that a duty of good faith arises under Pennsylvania law only when a franchisor seeks to terminate the franchise relationship.

TRANSFERS

COURT UPHOLDS FRANCHISOR'S REJECTION OF PROPOSED TRANSFERS

A federal court in Kentucky has upheld a franchisor's rejection of three separate Asset Purchase Agreements (APAs) that would have transferred the franchisees' restaurants to a third party. As part of a settlement agreement resolving various franchise agreement violations, the franchisee defendants in *KFC Corp. v. Kazi*, 2012 U.S. Dist. LEXIS 180424 (W.D. Ky. Dec. 20, 2012), were obligated to close any sale of their restaurants by November 30, 2012. KFC rejected the first proposed APA because it involved 100% financing, which did not meet KFC's financial requirements. The franchisees submitted a second APA on October 26, but KFC rejected this proposal because one of the two buyers was not an existing KFC franchisee in good standing, and the settlement agreement required any such proposal to be submitted at least 75 days in advance of the November 30 closing date. The franchisees negotiated a new APA with the first proposed buyer, who was an existing KFC franchisee in good standing, and submitted it on November 14. KFC rejected this third APA because the settlement agreement required the franchisees to submit a proposed APA with an existing franchisee at least 45 days in advance of the November 30 closing date.

The franchisees argued that KFC unreasonably withheld approval of the third APA, in violation the settlement agreement. Because the proposed buyer was the same in the third APA as in the first, the franchisees argued that the original submission date of October 15 should have applied to the proposed sale, and that they had met the 45-day requirement. The court concluded, however, that the third APA did not acquire the date of the first proposal simply because the buyer was the same. The court held that when KFC rejected the first APA, it terminated that offer, leaving it as if no APA had ever been submitted. The court therefore treated the second and third APAs as entirely separate offers subject to the timing requirements of the settlement agreement. Because the franchisees did not submit the third APA within the bargained-for time, the court concluded that KFC properly rejected the proposal. Furthermore, because the settlement agreement contained an anti-waiver provision, KFC did not implicitly waive these deadlines by continuing to communicate with the franchisees after October 15.

CLASS ACTIONS

FEDERAL COURT PRELIMINARILY RULES THAT FRANCHISED EMPLOYEES MAY BE EMPLOYEES OF FRANCHISOR UNDER WAGE AND HOUR LAW

A federal district court in Missouri has conditionally certified a class of plaintiffs in a collective wage and hour action brought against Hotshots Sports Bar & Grill under the federal Fair Labor Standards Act (FLSA) and Missouri wage and hour laws. The ruling in *White v. 14051 Manchester, Inc.,* 2012 U.S. Dist. LEXIS 170052 (E.D. Mo. Nov. 30, 2012) is troubling because it holds, at least preliminarily, that employees of independently owned franchises may be employees of the franchisor under the FLSA. The named plaintiffs were servers and/or bartenders employed at Hotshots locations who claimed they were unlawfully required to participate in a tip pool to share tips with "back of the house" employees. They sought to conditionally certify a putative class consisting of all employees who participated in a tip pool or worked as a tipped employee at any Hotshots location, including franchised locations.

Unlike Rule 23 class actions, the FLSA permits "collective" actions in which putative class members opt in to the action rather than opting out. FLSA plaintiffs may seek early conditional class certification and a defendant may move at a later date to decertify the class. The legal burden for plaintiffs to obtain conditional class certification is less onerous than at the class decertification phase, which clearly impacted the court's ruling in this case. The court held that the plaintiffs met the standards for conditional certification because they alleged a common tip-pooling policy or practice and were, therefore, "similarly situated" under the FLSA. The franchisor argued that the putative class members were not similarly situated because some were employed by franchisees and were not controlled or employed by the franchisor. The court rejected this argument, observing that the plaintiffs alleged the franchisor exercised control by sending its employees to help open the franchised locations. The court also noted that the FLSA broadly defines an employer to include any person "acting directly or indirectly in the interest of an employer in relation to an employee." Given this broad definition and the FLSA's remedial purpose, the court found that the franchise arrangements created sufficient control, at least for purposes of conditional class certification.

The court's ruling is concerning given that the type of "control" discussed is common in franchised relationships and does not involve any day-to-day control over a franchisee's employees. However, the court did issue a subsequent order on December 19, 2012, modifying its ruling to state that the Hotshots franchisor did not have to produce employment records for individuals employed by franchisees. This later ruling may indicate that the court is open to further analysis of the franchisor's employer arguments at a later phase of the case.

COURTS DENY FRANCHISORS' MOTIONS TO DISMISS CONSUMER ACTIONS

In *Simpson v. Best Western International, Inc.*, 2012 U.S. Dist. LEXIS 162181 (N.D. Cal. Nov. 13, 2012), and *Simpson v. Vantage Hospitality Group, Inc.*, 2012 U.S. Dist. LEXIS 172157 (N.D. Cal. Dec. 4, 2012), two separate federal judges ruled against two separate hotel franchisors on their respective motions to dismiss the plaintiffs' consumer class action complaints. In each case the plaintiffs asserted that the franchisors violated a California penal statute when their reservation centers recorded the plaintiffs' cellphone calls, and the franchisors moved to dismiss on the ground that there was no reasonable expectation of privacy when the plaintiffs called the franchisors' reservation centers. The franchisors argued that the statute at issue was limited to recordings of "confidential communications" and, therefore, the plaintiffs had no actionable claim. The courts disagreed and noted that the statute applied to all communications, not just confidential communications. The franchisors also argued that the statute applies only to third parties that record a phone call, and not to the actual participants to the call. Because the franchisors were participants to the phone calls, they contended that the plaintiffs' claims failed as a matter of law. Both courts rejected the franchisors' argument and held that the plain language of the statute (as well as its legislative intent) demonstrated that the statute's application was not limited to only third parties, but included the participants to the conversation. Finally, both courts also rejected the franchisors' motions to strike the plaintiffs' class allegations on the basis that the motions were premature because no discovery had yet been commenced.

CONTRACTS

MARYLAND FEDERAL COURT GRANTS FRANCHISOR'S MOTION TO DISMISS LANDLORD/TENANT DISPUTE

Jiffy Lube was recently sued by a real property company under which Jiffy Lube served as both the landlord and tenant of property located in Anne Arundel County, Maryland. *Bird Realty Ltd. P'ship v. Jiffy Lube Int'l, Inc.*, 2012 U.S. Dist. LEXIS 177207 (D. Md. Dec. 14, 2012). Jiffy Lube entered into a prime lease for the property in 1989 and immediately thereafter entered into a sublease with the plaintiff. The plaintiff, in turn, subleased the property to a subsidiary of Jiffy Lube. Through a series of mergers, Jiffy Lube assumed the obligations of the property as both landlord and tenant to the plaintiff. Jiffy Lube then terminated the lease with the prime landlord at the end of 2008. The plaintiff sued when Jiffy Lube stopped paying rent, contending that Jiffy Lube was obligated to continue to pay rent because the sublease between the parties had automatically renewed until December 2014. It sued for nonpayment, breach of contract, breach of fiduciary duty, and tortious interference with prospective economic advantage. Jiffy Lube moved to dismiss the complaint.

The court granted Jiffy Lube's motion, finding that the plaintiff's interest in the property expired when Jiffy Lube terminated the prime lease, and therefore there could be no claim for nonpayment of rent. As to the other claims, the plaintiff alleged that Jiffy Lube was required to extend the prime lease for the plaintiff's benefit and that the language in the sublease provided for this automatic renewal. The court disagreed. The sublease required the plaintiff to provide notice to Jiffy Lube if it wanted Jiffy Lube to extend the prime lease's term. Because there was no evidence of this written notice, the court dismissed the remaining claims in the complaint without prejudice.

STATE FRANCHISE LAWS

VIRGINIA CONSIDERING TECHNICAL CHANGES TO FRANCHISE RULES

The Virginia State Corporation Commission issued an Order to Take Notice on November 16, 2012, stating that the Virginia Division of Securities and Retail Franchising had recommended certain revisions to Chapter 110 of Title 21 of the Virginia Administrative Code entitled "Retail Franchising Act Rules" (Virginia Franchise Rules), with a proposed effective date of March 1, 2013. For the most part, these changes are technical, but they may require some modifications to franchisors' renewal filings in Virginia. The proposed modifications are as follows:

- All filings must include both a paper and an electronic, pdf copy of the FDD (on CD-ROM and in a searchable format)

- Amendment filings may now be submitted "within 30 days after" the occurrence of a material change, rather than "upon" the occurrence of a material change

- Virginia will adopt the NASAA's Guarantee of Performance Form

- If a franchisor is seeking the "seasoned franchisor" exemption, the accompanying auditor's report cannot contain a paragraph calling into question the entity's ability to continue as a going concern

- Franchisors must retain, and make available to the commission upon request, copies of all materially different FDD's used in Virginia for a period of three years. Franchisors also must retain for at least three years signed FDD receipts for each completed franchise sale in Virginia

A complete copy of the proposed changes to the Virginia Franchise Rules can be found at www.scc.virginia.gov/srf or may be requested from the division by telephone, mail or email. Comments and requests for hearing on these proposed changes may be submitted to the commission through January 15, 2013. Submissions may be sent via mail or electronically following the instructions at www.scc.virginia.gov/case.

THE GPMemorandum—INTERNATIONAL

ONTARIO APPEALS COURT UPHOLDS DECISION DISMISSING FRANCHISEES' CLASS ACTION CLAIMS

In an important victory for franchisors, the Court of Appeal for Ontario has upheld a lower court's decision dismissing Tim Hortons franchisees' claims in a proposed class action. *Fairview Donut, Inc. v. The TDL Group Corp.*, [2012] ONCA 867 (Dec. 7, 2012). As we reported in the April 2012 edition of *The GPMemorandum*, the Ontario Superior Court of Justice had dismissed a $2 billion action brought against Tim Hortons by a putative class of franchisees relating to the franchisor's transition to a new donut production system and the pricing of its products.

The franchisees appealed the decision granting summary judgment on the breach of contract and statutory duty of good faith claims. The Court of Appeal for Ontario upheld the lower court's decision, finding that none of the franchisees' claims could succeed and that Tim Hortons' decision to move to a new donut production system was a rational business decision for "valid economic and strategic reasons." The appeals court also decided that the franchise agreements did not require that every new product that Tim Hortons rolled out to the system be profitable. These decisions signal to franchisors that Ontario courts will uphold the terms of a franchise agreement provided that the franchisor acts in good faith.

Minneapolis, MN Office

* **John W. Fitzgerald, cochair (612.632.3064)**
* Megan L. Anderson (612.632.3004)
* Sandy Y. Bodeau (612.632.3211)
  Phillip W. Bohl (612.632.3019)
* Jennifer C. Debrow (612.632.3357)
* Elizabeth S. Dillon (612.632.3284)
* Ashley Bennett Ewald (612.632.3449)
* Michael R. Gray (612.632.3078)
* Kelly W. Hoversten (612.632.3203)
  Franklin C. Jesse, Jr. (612.632.3205)
  Jeremy L. Johnson (612.632.3035)
* Richard C. Landon (612.632.3429)
* Gaylen L. Knack (612.632.3217)
* Craig P. Miller (612.632.3258)
* **Kirk W. Reilly, cochair (612.632.3305)**
  Bruce W. Mooty (612.632.3333)
  John W. Mooty (612.632.3200)
* Kevin J. Moran (612.632.3269)
* Kate G. Nilan (612.632.3419)
* Matthew G. Plowman (612.632.3425)
* Angela L. Rud (612.632.3281)
* Max J. Schott II (612.632.3327)
  Michael P. Sullivan, Jr. (612.632.3350)
  Michael P. Sullivan, Sr. (612.632.3351)
  Henry Wang (612.632.3370)
  Lori Wiese-Parks (612.632.3375)
* Quentin R. Wittrock (612.632.3382)

Washington, DC Office

* **Robert L. Zisk, cochair (202.295.2202)**
* Julia Colarusso (202.295.2217)
* Maisa Jean Frank (202.295.2209)
* Jeffrey L. Karlin (202.295.2207)
* Peter J. Klarfeld (202.295.2226)
* Sheldon Klein (202.295.2215)
* Iris F. Rosario (202.295.2204)
* Stephen J. Vaughan (202.295.2208)
* David E. Worthen (202.295.2203)
* Eric L. Yaffe (202.295.2222)
* Carl Zwisler (202.295.2225)

**** Wrote or edited articles for this issue.***

For more information on our Franchise and Distribution practice and for recent back issues of this publication, visit the **Franchise and Distribution** practice group at www.gpmlaw.com/practices/franchise-and-distribution.aspx.

GRAY PLANT MOOTY

500 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-3796
Phone: 612.632.3000

Suite 700, The Watergate
600 New Hampshire Avenue, N.W.
Washington, DC 20037-1905
Phone: 202.295.2200

franchise@gpmlaw.com

GP:3318450 v1