BAKER DONELSON

HOSPITALITAS

News and Views for Your Hospitality and Franchise Business

Winter 2018

GREETINGS FROM HOSPITALITAS

Hospitalitas is the Baker Donelson newsletter for our clients and friends in the hospitality industry – hotels, restaurants and their suppliers. It is published several times a year when we believe we can deliver first-class, useful information for your business. Please send us your feedback and ideas for topics you would like to know more about. True to our Southern heritage of hospitality, we'll work hard to make each visit with us something special and worth repeating.

NLRB OVERRULES 2016 BROWNING-FERRIS DECISION ON JOINT EMPLOYER LIABILITY

Edward R. Young, 901.577.2341, eyoung@bakerdonelson.com
Austin K. Smith, 205.244.3823, aksmith@bakerdonelson.com

On December 14, 2017, the National Labor Relations Board (NLRB) overruled its 2015 decision in *Browning-Ferris Industries*, 362 NLRB No. 186 (2015) (*Browning-Ferris*), and reinstated the "direct and immediate" standard to determine joint employer liability that had controlled pre-Browning-Ferris for decades. *See Hy-Brand Indus. Contractors, Ltd.*, 365 NLRB. No. 156 (2017) (*Hy-Brand*).

Prior to *Browning-Ferris*, the NLRB held that the "essential element" when evaluating joint employer status "was whether the putative joint employer's control over employment matters is direct and immediate." *Airborne Express*, 338 NLRB 597 (2002) (emphasis added). The Obama-era NLRB dramatically expanded this standard, finding that "control exercised indirectly – such as through an intermediary – may establish joint-employer status."

Criticizing *Browning-Ferris*'s broader test for joint employer liability as "a distortion of common law," "contrary to the [NLRA]," and "ill-advised as a matter of policy," the NLRB in *Hy-Brand* decided to "return to the principles governing joint employer that existed" pre-*Browning-Ferris*.

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NLRB OVERRULES 2016 BROWNING-FERRIS DECISION ON JOINT EMPLOYER LIABILITY, *continued*

In its sweeping reversal, the NLRB identified "five major problems" with *Browning-Ferris*:

1. The NLRB concluded that the *Browning-Ferris* test "exceeds the Board's statutory authority" by relying on theories of "economic realities" and "statutory purpose" that "extended the definitions of 'employee' and 'employer' far beyond the common law limits that Congress and the Supreme Court have stated must apply."

2. The NLRB found that the *Browning-Ferris* rationale for altering the definition of "employer," i.e., "to protect bargaining from limitations resulting from the absence from the table of third parties that indirectly affect employment-related issues," was misplaced. *Browning-Ferris* is grounded in the idea that the current economy is a "radical departure from simpler times when labor negotiations were unaffected by the direct employer's commercial dealings with other entities." The Trump NLRB disagreed, noting that Congress "was obviously aware of the existence of third-party relationships" when it limited bargaining obligations to the employer in 1935, limited the definition of employee and employer to their common law agency meaning in 1947, and strengthened secondary boycott protection afforded to third parties in 1947 and 1959.

3. The NLRB determined that *Browning-Ferris* "mistakenly interpreted" courts' deference to the Board's authority to make factual distinctions when applying the agency standard as a grant of authority to modify the standard itself. The NLRB opined that its "fundamental disagreement" with the *Browning-Ferris* test was that it made indirect control "potentially dispositive without any evidence of direct control even in a single area."

4. The NLRB stated that the *Browning-Ferris* standard "deprived employees, unions, and employers of certainty and predictability regarding the identity of the 'employer'" by imposing "unprecedented" bargaining obligations "based solely on a never-exercised right to exercise 'indirect' control over what the Board later decides is an "essential" employment term, to be determined in litigation on a case-by-case basis."

5. The NLRB said that *Browning-Ferris*'s attempt to correct a perceived inequality of bargaining leverage was the "wrong target," finding that this was an "economic reality" that the Board lacked the authority to address.

Under the standard articulated by the NLRB in *Hy-Brand*, a finding of joint employer status requires "proof that putative joint employer entities have exercised joint control over essential employment terms (rather than merely having "reserved" the right to exercise control), the control must be "direct and immediate" (rather than indirect), and joint-employer status will not result from control that is 'limited and routine.'"

Following the NLRB's decision, Browning-Ferris Industries of California and the NLRB advised the U.S. Court of Appeals for the D.C. Circuit of the standard announced in *Hy-Brand*. The NLRB asked the D.C. Circuit to remand *Browning-Ferris* to the NLRB for reconsideration in light of *Hy-Brand*. The court agreed and remanded the case on December 22, 2017.

The reversal will have a dramatic effect on the claim that McDonald's and its franchisees are joint employers. However, the decision is subject to reversal under a future progressive administration. The issue could be permanently resolved if the Senate passes the Save Local Business Act, which was passed by the House in November 2017. The Act provides that "[a] person may be considered a joint employer in relation to an employee only if such person directly, actually, and immediately, and not in a limited and routine manner, exercises significant control over essential terms and conditions of employment, such as hiring employees, discharging employees, determining individual employee rates of pay and benefits, day-to-day supervision of employees, assigning individual work schedules, positions, and tasks, or administering employee discipline."

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KEEPING YOUR SOCIAL MEDIA CONTESTS COMPLIANT

Heather Johnson Camp, 901.577.3287, hcamp@bakerdonelson.com

Let's say that your marketing department plans to launch a product promotion through dedicated software applications (apps), the Internet, and/or social media, primarily accessed by the target audience on hand-held mobile devices. Your company has recently conducted similar promotions, with results it views as great success.

In the digital age, these types of promotions are a key method of effectively reaching your intended audience in a timely and cost-efficient manner. However, be aware that such promotions implicate a staggering number of laws and other limitations, some of which are mentioned below. Reliance on your standard promotion materials, drafted years (or even several months) ago, to administer such promotions, may be misinformed.

TECHNICAL ISSUES

An obvious limitation on product promotions conducted via the Internet, social media, or apps is the underlying technology itself. These promotions are subject to a host of potential claims by entrants (e.g., damage to an entrant's computer/mobile device from accessing the promotion online), an entrant's inability to enter the promotion due to malfunction of the sponsor's computer system/server, and lost, interrupted, or misdirected entries. Such promotions are also subject to tampering, including flooding the promotion with multiple entries or outright corruption of the promotion. Sponsors must continually update their hardware, software, cybersecurity and technical expertise, and standard promotion materials to prevent or limit these technical failures or appropriately deal with them when they do occur.

THE BASICS/STATE LAW

As sponsors have rushed to advertise and conduct their product promotions via the Internet, social media, and apps, the basics of a legal promotion (generally governed by state law) have remained the same. A promotion (whatever a sponsor chooses to call it) cannot include all three classic elements of "gambling," (i.e., prize, chance, and consideration). "Sweepstakes" – which include the prize and chance elements – and "skill contests" or "contests" – which include the prize element and possibly the consideration element but not chance – are generally deemed legal promotions. "Lotteries" – which include all three elements – are not. However, these basics are constantly being reinterpreted and reevaluated in the contexts of new and continually-evolving technologies.

CONSIDERATION

The precise definition of "consideration" varies from jurisdiction to jurisdiction but often centers on factors like (1) how easy or difficult it is to participate in the promotion and (2) whether an alternative method of entry (AMOE) (such as submitting an entry form via U.S. mail) is available. In the early days of Internet promotions, an entrant would need both a personal computer and a paid Internet connection, neither of which was inexpensive or widely accessible to the public. Fearing that these underlying requirements would constitute consideration, sponsors automatically included an AMOE in their sweepstakes. Over time, sponsors began to drop the AMOE due to the broader availability of public computers and free or low-cost Internet connections.

However, the rise in sponsor use of promotions focused on mobile devices and apps has revived the consideration specter. For example, does offering a promotion only through an app that must be downloaded to the participant's smartphone implicate consideration? What if the app is free? What if it isn't? What if the participant uses some of her paid data to enter the promotion? What if she uses a wifi/free connection instead of data? What if the entry process requires not only downloading an app but also completing a lengthy entry form via the app? What if the participant doesn't have to pay for the app but does have to input credit card information before submitting her promotion entry?

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KEEPING YOUR SOCIAL MEDIA CONTESTS COMPLIANT, *continued*

CHANCE

The specific requirements of a “contest” vary among jurisdictions, and the intricacies regarding whether a promotion includes any disqualifying element of chance are many. However, most agree that in a contest qualified judges select the winner based predominantly on his/her skill using criteria specified in the promotion’s official rules. Contest questions or puzzles cannot have multiple possible answers. Spelling bees, cooking contests and math contests are usually deemed skill contests; guessing games are not. It is generally settled law that contest winners may be chosen based on the creativity and originality of their entries (e.g., essay contests, photo contests, or art contests).

To boost media-savvy audiences’ participation and interest in their promotions, sponsors are increasingly turning to the public to select online “contest” winners. However, the use of a popular vote to select a winner not only promotes “vote farming” (soliciting votes using social media, email, and other means, without regard to the judging criteria) but also calls into question the promotion’s status as a true contest. Arguably, a winner chosen in this manner is not selected by qualified judges or based on specified criteria or a skill. Further, allowing the public to choose a winner could lead to undesirable results for the sponsor (e.g., what if the winner’s entry contains language/images/etc. that are actually uncomplimentary to the sponsor’s product or brand or that defame an individual or entity?

FEDERAL LAW

SPECIFIC LEGISLATION

Sponsors using the Internet to promote or operate a sweepstakes or contest must comply with a number of specific federal acts, including the Children’s Online Privacy Protection Act (COPPA), which prohibits unfair or deceptive acts or practices in connection with the collection, use, and/or disclosure of personal information from and about young children (individuals under the age of 13) on the Internet, and the Controlling the Assault of Non-Solicited Pornography and Marketing Act (CAN-SPAM), which establishes a set of national standards for the use and transmission of commercial email, criminalizing certain types of commercial email and giving recipients the right to opt out of receiving certain email.

Due to the prevalence of smartphones, sponsors are anxious to advertise and conduct their promotions using texts. Promotions involving telephone (including cell/mobile phone) calls or texts are subject to the Telephone Consumer Protection Act (TCPA). For TCPA purposes, a text is the equivalent of a telephone call. Among other things, the TCPA requires a company to obtain a consumer’s written consent before sending a commercial text to the consumer. The company cannot simply add such consent to its privacy policy and have the consumer accept the privacy policy change; nor can it include such consent as part of its promotion rules or use a text to obtain the required consent. The Federal Trade Commission (FTC), which administers the TCPA, has issued no guidance that would allow sponsors to work around the requirements by using push notifications within an app to administer their promotions.

DECEPTIVE OR MISLEADING ADVERTISING

A current hot topic in advertising is hashtag contests, where users post on social media using a unique hashtag. All Tweets/posts made during the promotion’s stated entry period become entries, provided that they include the required hashtag. Sponsors favor these promotions because they are often cheaper to administer than website-based promotions and can require relatively short lead times.

However, the FTC has expressed concern that many readers might not understand that the hashtag means that the poster made the post as part of a sweepstakes or contest and in return for a chance to win a prize. According to the FTC’s Endorsement Guides, “Making the word ‘contest’ or ‘sweepstakes’ part of the hashtag should be enough. However, the word ‘sweeps’ probably isn’t, because it is likely that many people would not understand what that means.” Creative marketing departments have already concocted possible workarounds. For example, will the FTC crack down on sponsors who, arguably, can avoid these disclosure requirements by allowing entrants to simply repost a sponsor statement?

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KEEPING YOUR SOCIAL MEDIA CONTESTS COMPLIANT, *continued*

OTHER LIMITATIONS

When advertising or operating a sweepstakes or contest via the Internet, an app, or social media, sponsors must also comply with numerous non-governmental obligations, including web site terms of use (e.g., advertising rules, community standards, and privacy policies), contracts with ad agencies or others assisting the sponsor in conducting the promotion, contracts with third parties (e.g., name and mark licensing agreements), and their own privacy policies. Failure to comply with these obligations can result in premature termination of the promotion, negative publicity, termination of the sponsor's account privileges, and/or breach of contract claims or intellectual property disputes.

For example, social media sites/platforms often have written (but sometimes difficult to locate) guidelines about advertising and operating promotions like contests and sweepstakes there. While many of the promotion guidelines contain some common requirements (e.g., each participant in a promotion must release the website/platform from any liability related to the promotion, the promotion must clearly state that the website/platform is not sponsoring, endorsing, or administering the promotion, etc.), specific guidelines do vary on social media. Confirm that your proposed promotion is an acceptable use of a particular site or platform before utilizing it to run or advertise your promotion.

Companies can benefit greatly from using evolving technology to advertise and administer their product promotions. But, as Tumblr's promotion guidelines advise marketers, "Keep in mind that you're always responsible for the legality of your contest, sweepstakes, or giveaway...and lots of detailed state and federal laws apply (at least in the U.S.), so we urge you to take them seriously and ask a lawyer if you have questions or concerns."

FAILURE TO FOLLOW FRANCHISING DISCLOSURE LAWS ISN'T NECESSARILY UNFAIR TRADE PRACTICE

Alexander M. McIntyre Jr., 504.566.5215, amcintyre@bakerdonelson.com

The recent *Cooper v. Primary Care Solutions* considered, among other things, franchising law in the context of the Louisiana Unfair Trade Practice Act (LUTPA), which punishes unfair and deceitful conduct in the conduct of trade and commerce, whether in the retail context or concerning the relationship among and between businesses. As shown below, the court ultimately decided that violations of state or federal franchising law do not necessarily include the intent or level of deceit required for a violation of the LUTPA.

Defendant Primary Care Solutions, Inc. (PCS) provides services for individuals with severe emotional, behavioral and developmental disabilities. Until May 2015, PCS operated a facility in Baton Rouge, Louisiana. William Bullock is the CEO of PCS and Monica Lewis and Kim Roundtree are managing directors of PCS, all located at the company's headquarters in Charlotte, North Carolina. In April 2014, PCS entered into a Site Director Consultant Agreement with Tammy Cooper, the sole member of plaintiff Cross Over Therapy, LLC, whereby Cooper was to serve as director of a new PCS site in Donaldsonville, Louisiana, approximately 40 miles south of Baton Rouge. In July 2014, Kendall Brown executed an agreement to serve as site director for a new PCS site in St. Francisville, approximately 30 miles south of Baton Rouge.

As plaintiffs in a suit against PCS, Cooper and Brown alleged that the named officers of PCS (Bullock, Lewis and Roundtree) engaged in a "fraudulent franchise investment scheme" to cause Cooper and Brown to purchase equity interests in the company by establishing and operating the Donaldsonville and St. Francisville PCS locations, when in fact the company was undercapitalized and insolvent. These plaintiffs alleged that, in furtherance of the fraudulent scheme, the defendants did the following:

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FAILURE TO FOLLOW FRANCHISING DISCLOSURE LAWS ISN'T NECESSARILY UNFAIR TRADE PRACTICE, *continued*

- held themselves out as offering franchising opportunities but failed to provide franchise disclosure documents;
- created false spreadsheets misrepresenting the amount of monthly income that could be generated by the St. Francisville and Donaldsonville locations;
- coerced the plaintiffs to subsidize PCS's operations by using their own money to operate the PCS facilities while also charging the plaintiffs administrative fees;
- traveled to Louisiana and made numerous misrepresentations directly to the plaintiffs concerning various aspects of the business; and
- sold PCS's Louisiana operations to another behavioral health care and treatment company without consulting the plaintiffs, thus breaching the defendants' obligations to Cooper and Brown concerning their operations of the St. Francisville and Donaldsonville facilities.

The defendants' Motion to Dismiss the plaintiffs' original complaint was granted in large part with leave to amend. The plaintiffs then filed an amended complaint alleging six causes of action:

- unfair and deceptive practices in violation of LUTPA;
- breach of contract;
- tortious interference with contract;
- conversion;
- unjust enrichment and
- violations of the Fair Labor Standards Act (FLSA).

The defendants again moved to dismiss the complaint, arguing that the court did not have personal jurisdiction over Bullock, Lewis and Roundtree; the complaint failed to state causes of action against the individual defendants for breach of contract and tortious interference with contract; the complaint failed to state a claim against any of the defendants for violations of LUTPA or FLSA; and, the plaintiffs failed to state a claim against any defendant for unjust enrichment or conversion.

Addressing the jurisdictional issues, the court rejected the plaintiffs' attempt to base personal jurisdiction on the theory that Bullock, Lewis and Roundtree were "alter egos" of PCS, and so individually liable for the company's actions.

However, the court also rejected the defendants' argument that the "fiduciary shield doctrine" applied, and that specific personal jurisdiction could not be asserted over Bullock, Lewis and Roundtree because all of their activity in Louisiana was undertaken solely in their capacities as officers of PCS.

The court ultimately ruled that the plaintiffs had made a sufficient showing that Louisiana courts could exercise specific personal jurisdiction over Bullock, Lewis and Roundtree. However, the court also found that the plaintiffs' allegations were insufficient to infer that the individuals – as opposed to PCS – directly benefited from the alleged wrongdoing, and because Bullock, Lewis and Roundtree were neither parties to the contracts with the plaintiffs nor "alter egos" of PCS, none of the asserted causes of action stated a claim against any of the individual defendants. Bullock, Lewis and Roundtree were thus dismissed from the lawsuit.

PCS, however, did not fare as well. It is now well established in the jurisprudence that mere breaches of contract will not suffice to make out a claim under the LUTPA, and many of the allegations in the complaint related to failure to meet contractual obligations. In addition, the court noted that the only other Louisiana court to consider the legal ramifications of the failure to provide franchise disclosure documents held that even willful inattention to franchise disclosure law does not amount to an unfair trade practice absent accompanying fraud, deception or unethical conduct. However, the court did find that, "[w]hile the majority of Plaintiffs' specific allegations are directed to a traditional breach of contract claim," the plaintiffs had sufficiently alleged fraudulent and deceitful conduct to state a claim against PCS. Similarly, the court ruled that there were sufficient allegations concerning PCS to survive the Motion to Dismiss plaintiffs' claims for LUTPA violations, conversion, breach of contract, interference with contract and, although only as an alternative to their contract claims, unjust enrichment. Finally, the court noted that, at least in the Fifth Circuit, under appropriate circumstances, a franchisor can qualify as the FLSA employer for a franchisee's employees. Given that authority, and "[i]n light of the remedial purpose of the FLSA and plaintiffs' (albeit weak) allegations of PCS's supervision and control," the court allowed the FLSA count against PCS to stand.

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FAILURE TO FOLLOW FRANCHISING DISCLOSURE LAWS ISN'T NECESSARILY UNFAIR TRADE PRACTICE, *continued*

While this is a lengthy and involved opinion largely focused on the issue of whether the Louisiana court had personal jurisdiction over the individual officers and employee of the North Carolina franchisor (as opposed to jurisdiction over the company itself), a few other points are worthy of note. For example, the opinion underscores how important it is to tend to corporate niceties so as to clearly delineate between corporate, as opposed to individual, acts and to thereby avoid individual liability. Additionally, the opinion makes clear that fraudulent or deceitful conduct are foundational to a successful LUTPA claim, and that no matter how egregious a breach of contract is, if the facts do not sufficiently describe some pattern of significant delusive behavior a plaintiff cannot make out a LUTPA violation. Finally, the opinion shows how weak a plaintiff's allegations of control and supervision can be to state an FLSA claim – although, of course, far more is required to actually prove an FLSA violation.

TEN SIMPLE STEPS TO AVOID EMPLOYMENT LAWSUITS

Adam H. Gates, 601.969.4661, agates@bakerdonelson.com

You're striving to operate as efficiently as possible to increase your company's competitive advantage and, ultimately, its profit margin. But then someone in the company steps on a legal landmine and you spend $50,000 to win a lawsuit. If you settle or lose, you could spend $150,000 or more, and all of the margin you worked so hard to gain is gone. You can take steps to prevent this scenario. Here are ten of them we've gleaned from defending employers in employment disputes:

1. **Make Reporting Complaints Easier**. The earlier you learn of an employee's complaint, the better. You can't fix a problem you don't know about. Providing more than one option for employees to complain ensures that they can bring legitimate issues to management's attention and that a superwvisor cannot hide issues from human resources and upper management. Using the chain of command is often best, but employees sometimes need a direct line to their boss's boss. It promotes accountability and transparency. It may also provide a defense to a lawsuit. If an employee has available to her various ways to complain about harassment but does not take advantage of them so that the employer has an opportunity to fix the problem, she may be barred from recovery. So set up a complaint hotline and email address or make employees aware (in writing) that they can report issues directly to the director of HR if their supervisor is the problem or has ignored their complaints.

2. **Timeliness is Next to Godliness. Be Proactive.** This is simple to understand but difficult to do. Once you learn of a problem, you have to respond. The company's response will obviously depend on the problem, but understand that the response – or lack thereof – will be scrutinized. Simply documenting the issue may be enough. Other times, an investigation that results in disciplinary action will be necessary. But the company must act. If management or HR becomes aware of a problem (whether it's overheard in the breakroom or received as a written complaint), it must be addressed.

3. **Document Performance Deficiencies**. As every HR pro knows, you document everything. But performance problems and conduct violations are more important than other issues. If you want to discourage a lawsuit, make sure the employee you just fired for performance issues has already been written up twice for poor performance. Under those circumstances, proving the actual reason for her termination was her performance and not her race, gender, or disability is easy. It may be awkward to call a team member out, but it's best for the team.

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TEN SIMPLE STEPS TO AVOID EMPLOYMENT LAWSUITS, *continued*

4. **Don't Make Exceptions**. A big part of being perceived as a fair employer is consistent application of the rules. When you make an exception for one employee, you alienate the others. So, consistent application of policies regarding promotions, vacation, pay, assignments, awards, discipline, and termination is the only way to go. After all, the alleged unfair application of the rules is the basis of almost every employment lawsuit.

5. **Train Your Front Line**. Training does not cost money, it saves money. As frustrating as it can be to pay for good training and interrupt your employees' otherwise productive workday, good training usually pays for itself many times over. Who needs it the most? Well, who interacts with employees more than any other level of management in your company? Front-line managers. They handle the day-to-day gripes that, if not handled properly, become lawsuits. So invest in your first level of management. Train them to spot issues, to be proactive, and to be consistent. Equip them to be good managers now so they don't have to be good witnesses later.

6. **Create Specialists**. Some employment laws have become extremely complex, and expecting one person to stay on top of all of the changes is unrealistic. Use the strength of your team and spread the load. Designate a member of your HR or management team as the FMLA specialist or the ADA specialist, and make sure that person gets additional, specific, and regular training in that area.

7. **Make Your Handbook a Tool, Not a Stumbling Block**. An employee handbook is a tool that communicates a company's expectations to its employees. It should include statements addressing at-will employment; equal employment and harassment issues; work hours; leave and accommodation under the FMLA and the ADA; workplace violence; trade secrets and confidentiality of company information; work rules and the consequences for violating them; and other important issues. But often handbooks include too many policies or complicated policies with unnecessary deadlines and commitments that trip companies up. Simplify your handbook. Keep it up-to-date. And make sure employees sign acknowledgments that they received and read it.

8. **Terminate Slowly**. You're probably an employee. Imagine losing your job; it would be a life-changing event that should not be taken lightly. The decision to terminate someone's employment should therefore at least (1) be reviewed by more than one manager, (2) involve someone with human resources training, and (3) be well documented. If you are unsure of important facts or someone is not available to review the decision, suspend the employee and wait. Get counsel. Sleep on it. A rush to judgment can be expensive.

9. **Consider Severance Agreements**. Sometimes paying a small amount early is smart. A severance agreement usually results in the company paying an employee a few weeks (or even months) of salary in exchange for the employee releasing all claims against the company. If done correctly, this eliminates the chance of a lawsuit. If a mistake has been made, it often saves the company money.

10. **Operate by the Golden Rule**. That's right – when in doubt, treat employees as you would like to be treated. This might be a cliché, but it's also the most important step. If your team can consistently pull this off, it will significantly reduce your company's legal exposure and result in a more loyal and productive workforce.

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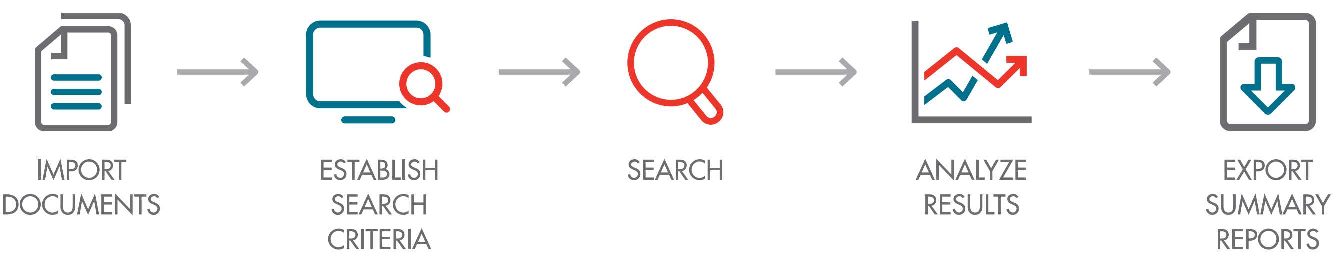
BAKER DONELSON EXPANDS INNOVATION OF LEGAL SERVICES WITH AI SOLUTION FROM KIRA SYSTEMS

In its continuing effort to provide business clients with world-class legal services better, faster and more cost effectively, Baker Donelson has added artificial intelligence (AI) technology to its suite of innovations through adoption of Kira, the market-leading machine learning artificial intelligence software.

Baker Donelson is implementing Kira to conduct due diligence for transactions as well as for contract review and analysis, two key areas where the technology will build on the abilities of the Firm's attorneys to increase efficiency and accuracy. Kira is being deployed on transactions best suited to the use of the platform, such as complex acquisitions and capital raises for businesses with large contract bases like wholesalers, retailers, service providers and franchisors. This award-winning software uses machine learning technology to uncover information in contracts – even when the wording varies from document to document. Lawyers use Kira to help automate the extraction and analysis of key provisions from both structured and unstructured contracts, accelerating and improving the accuracy of due diligence, deal terms studies, general contract reviews, regulatory compliance and more.



LOOK FOR BAKER DONELSON AT IFA BOOTH #212

We hope to see you in Phoenix! As noted above, we'll be showcasing new AI technology that can help our franchisor clients more efficiently track their contracts and FDDs, as well as the Franchisor Toolkit. Come by to say hello, and grab a Goo Goo while you're there.

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SARA M. TURNER RE-APPOINTED VICE CHAIR OF DRI RETAIL AND HOSPITALITY COMMITTEE

Sara M. Turner, a shareholder in Baker Donelson's Birmingham office, has been re-appointed to a second one-year term as vice chair of the DRI Retail and Hospitality Committee.

The DRI is an organization of defense attorneys and in-house counsel dedicated to providing access to resources for attorneys who strive to provide high-quality, balanced and excellent service to their clients and corporations. The Retail and Hospitality Committee provides legal education, professional development and networking opportunities specific to the DRI members involved in the retail and hospitality industries.

Ms. Turner is co-chair of Baker Donelson's Hospitality Industry Service Team. Her trial experience includes product liability, drug and medical device, hospitality, timeshare, complex commercial litigation, class action and franchise claims. She has previously served as chair of DRI's Technology Committee. Ms. Turner has been recognized in *Super Lawyers* since 2011 and was named one of *Birmingham Business Journal*'s "Top 40 Under 40" in 2013 and one of "Birmingham's Top Women Lawyers" by *B-Metro* magazine in 2016 and 2017.

BAKER DONELSON EARNS THIRD CONSECUTIVE PERFECT SCORE IN 2018 CORPORATE EQUALITY INDEX

For the third consecutive year, Baker Donelson has received a perfect score of 100 percent on the Corporate Equality Index (CEI), a national benchmarking survey and report on corporate policies and practices related to LGBTQ workplace equality, administered by the Human Rights Campaign Foundation. Baker Donelson joins the ranks of 609 major U.S. businesses that also earned top marks this year.

The 2018 CEI report rated 1,084 businesses on detailed criteria falling under five broad categories: non-discrimination policies; employment benefits; demonstrated organizational competency and accountability around LGBTQ diversity and inclusion; public commitment to LGBTQ equality; and responsible citizenship. Baker Donelson's efforts in satisfying all of the CEI's criteria resulted in a 100 percent ranking for the third consecutive year and the designation as a "Best Place to Work for LGBTQ Equality."

EDITORS

Sara M. Turner
Executive Editor
205.250.8316
smturner@bakerdonelson.com

Austin K. Smith
Executive Editor
205.244.3823
aksmith@bakerdonelson.com