

# OUR PRACTICE

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## Hospitality

**Hospitality is the business of hotels and restaurants, and the myriad suppliers, vendors and service providers who participate in the marketplace for what hotels and restaurants need. If that's your business, we deliver to you the legal experience your business needs to thrive.**

**As the industry recovers from the impact of COVID-19, we are actively working with industry clients to navigate reopening of businesses and to address concerns of guests and employees.**

Baker Donelson's Hospitality Team is comprised of a multi-disciplinary group of trusted advisors who offer our clients proven experience in corporate, labor & employment, litigation, real estate and tax law issues. We represent clients in diversified properties, including hotels, restaurants, casinos, luxury resorts and government buildings. We understand the business and legal issues faced by the hospitality industry and have the experience to help you navigate it.

Our services for the hospitality industry include the following:

## Operations

- Franchise and license agreements
- Branded hotel management agreements
- Third-party hotel management agreements for branded and independent hotels
- Area development and multi-unit development agreements
- International master license agreements
- Ghost and dark kitchen agreements
- Operating and service agreements
- Supply chain, procurement, event and performance agreements
- Convention services, destination management and transportation services
- Alcoholic beverage licensing
- Federal and state public policy (legislative) representation and lobbying
- Regulatory compliance
- Compliance training for managers
- Workplace policies and procedures
- Regulatory compliance audits

## Development

- Raw land and existing building acquisitions and dispositions
- Historic property acquisition and renovation
- Ground and space leasing and shopping center out lots
- Net leases, subleases and tenant improvements
- Sale and leaseback transactions
- Architectural, construction and renovation contracts
- Debt and equity financing
- Owner tax structuring, planning and restructuring
- Tax-exempt financing for convention centers and related hotels or industrial development revenue bonds
- Tax increment financing

- Government grants and assistance
- Conventional mortgages, capital leases, loans and working capital lines
- Subordination, non-disturbance and attornment agreements for lenders, borrowers and third parties
- CMBS financing, restructuring, workouts and servicer issues
- Franchise brand comfort and estoppel letters
- Environmental diligence and compliance
- Hotel condominiums
- Historic tax credit financing
- New market tax credit financing
- EB-5 financing
- Property tax assessment appeals

## Environmental

- Due diligence for site acquisitions
- All types of site cleanups and brownfield agreements allowing for the redevelopment of previously used properties
- Wetlands and green design issues
- Environmental agreements and opinions with lenders and other parties
- Compliance permitting and utilities for new and existing facilities
- Mold and asbestos concerns
- Litigation strategies and defense
- Single unit and multiple locations

## Corporate Financing and Transactions

- Public and private debt and equity offerings
- PPP loans and impact on business transactions
- Asset securitizations
- CMBS transactions
- Project finance
- Sarbanes-Oxley compliance and director training
- Public company reporting
- Executive compensation
- Tender offers
- Mergers and acquisitions

## Data Protection, Privacy and Cybersecurity

- Privacy policies and customer engagement communication
- Terms of use for web sites and content review
- Vendor management and transactional due diligence
- Privacy and data protection law compliance planning and implementation
- Information governance
- Data breach readiness, response and litigation

## Franchise and Distribution

- Franchise offering circulars
- Federal and state regulatory compliance and compliance training, including FRAN-GUARD
- Regulatory compliance audits

- Franchise transactions – unit agreements, area development and multi-unit operator agreements, master license agreements, area representative agreements, special stipulations, ancillary support forms, lender estoppel and attornment agreements
- Franchise broker and referral source agreements
- Franchise recruitment advertising
- Franchise agreement enforcement and litigation
- Franchisee advisory councils
- Franchise disclosure documents
- International distributor agreements
- Domestic distributor agreements
- Broker distributor agreements
- Distribution compliance training

## Intellectual Property

- Trade secret protection planning
- Employee and contractor work for hire and assignment agreements
- Trademarks and service marks
- Copyrights
- Patents
- Confidentiality and non-disclosure agreements

## Information Technology

- Computer hardware and software acquisition and licensing
- Telecommunications
- Internet access services
- LAN/WAN technology
- Building system management systems
- Property management systems and reservation systems
- Point of sale systems
- Back office accounting systems and customer databases

## Labor & Employment

- EEO, FLSA, ADA, Title VII, ADEA, and wage and hour employment law compliance
- ERISA and benefit plans
- OSHA and COVID-19 workplace rules
- OFCCP
- NLRB, union organizing campaigns, union avoidance training and collective bargaining representation
- Workers' compensation
- Wrongful termination and discrimination claims

## Litigation and Dispute Resolution

- Mediation
- Arbitration
- Litigation
- Vicarious liability defense
- Premises liability and tort claims
- Business divorces
- Contract disputes

## Real Estate Investment Trust

- Public and private formation
- Capital raising
- Real estate acquisitions
- Mergers and acquisitions
- Joint ventures
- Tax compliance
- Executive compensation
- Securities compliance



## Case Studies

- STR, Inc. - Sale
- Unanimous Jury Defense Verdict in Premises Liability Trial - Product Liability Litigation
- Summary Judgment Victories for Choice Hotels International, Inc. - TVPRA Litigation



## Representative Matters

### Labor & Employment

- Successfully defended a casino and won summary judgment motion on all claims filed by the plaintiff, a former blackjack dealer, who alleged discrimination based on disability and failure to accommodate such disability in violation of the Americans with Disabilities Act (ADA). The plaintiff further asserted claims for retaliation and interference with her rights guaranteed under the FMLA.
- Obtained summary judgment for a national restaurant operator in a lawsuit asserting claims of sexual harassment.
- Defended a federal court lawsuit in which restaurant managers brought FLSA claims to recover unpaid overtime on the grounds that they were misclassified as executive exempt due to the employer's policy of docking their pay for cash shortages and damaged or missing property. The case was conditionally certified and settled after years of litigation.
- Obtained a favorable resolution in defense of a publicly traded national restaurant chain in collective action under the FLSA with a putative class of more than 550 members.
- Successfully defended and obtained full summary judgment on behalf of a national restaurant client in a hotly contested case in which the plaintiffs claimed sexual harassment, retaliation, and gender discrimination and sought over \$400,000 in damages and reinstatement.

### Litigation

- Settled an eminent domain matter on behalf of a fast food restaurant corporation involving a corner interstate site in Clayton County in metro Atlanta. The Department of Transportation condemned the principal access to the site, thus decreasing the value of the property. The DOT paid \$2.3 million pursuant to the consent judgment to conclude the settlement, which represented a 200 percent increase over the original sum offered by the DOT.
- Obtained a favorable settlement for a major restaurant chain in a suit alleging inadequate security that led to customer's stabbing and ultimate death.

### Transactions

- Served as lead construction counsel for a turnkey developer of a luxury hotel project in Philadelphia, Pennsylvania in connection with construction and design contract negotiation and construction arbitration.
- Represented an owner in a design-build project for the redevelopment of a former United States courthouse into a luxury hotel in Tampa, Florida.