

FRIDAY MONDAY TUESDAY WEDNESDAY **TODAY**JUDICIAL PROFILES **CORPORATE COUNSEL Q&A** ADR PROFILES

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Thursday, December 22, 2011

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Erika C. Frank

California Chamber of Commerce GC Erika C. Frank guides small businesses through tough times.



Erika C. Frank

Vice President and General Counsel
California Chamber of Commerce
Sacramento

Size of legal department: 4 attorneys

It's been a rough three years for small businesses in California. Since the recession, many companies have had to reduce staff while others have had to shutter their doors. Meanwhile, the California Chamber of Commerce, the state's largest nonprofit business organization, has been doing what it can to help its approximately 14,000 members weather the storm.

Erika C. Frank, general counsel for the group, has been at the center of the battle.

"The economy has hit everyone, and businesses have had to be very strategic on where they put their money," she says.

Frank, who joined the chamber in 2004, says the organization and her legal department have been working hard to lobby against new policy that discourages employment growth. The chamber has also joined the State Bar in an effort to raise awareness of the impact of budget cuts on the state court system.

Frank recently sat down with Daily Journal staff writer Saul Sugarman to discuss lobbying efforts, court closures, and what inspired her to take an in-house position in politics. Here's an edited transcript of what she had to say:

Daily Journal: This is your first in-house role and general counsel role. What drew you to the position?

Frank: Given my political background, working at the Capitol for two assembly members, I've always had that passion for politics. A friend of mine at the time was working at the California Chamber of Commerce and gave me a call at 11:30 at night when I was still working. I'd heard about the position, so I applied and the rest is history.

Court funding and the ability to resolve disputes quickly is really important to businesses in California.

DJ: How has your job evolved since joining?

Frank: I've become much more involved in the business side of the association. When I began, I was very much involved in the regulatory side - amicus briefs, and that sort of thing. And then I became more involved in contract negotiations, vendor agreements, working more with our employment counsel with assisting members to comply with labor and employment laws. We have a number of products that we sell

Law Practice

After malpractice verdict, firm searches for a wedding

A little more than six months after a jury issued a \$10 million malpractice verdict against Rutter, Hobbs & Davidoff Inc., its lawyers are shopping the 38-year-old Los Angeles firm in hopes of either getting acquired or merging.

Criminal

Victims hope Marsy's Law will yield crime details

Victims in two Orange County criminal cases have filed suits demanding copies of police reports, witness statements and other evidence, even as the cases are being investigated, demands the district attorney's office previously rebuffed.

Intellectual Property

Oracle-Google trial over Java must wait

Oracle Corp. will likely have to wait until late next year for its patent and copyright infringement trial against Google Inc., a federal judge said in a hearing Wednesday.

Government

SF's plans to develop renewable energy get off the ground

San Francisco is moving forward with a plan to buy green power and create a large order of small-scale clean tech projects.

Litigation

Toyota faces new suit involving throttle

Toyota Motor Company faced a new lawsuit this week filed on behalf of an Iraq War Veteran who died in a fatal car crash in 2010, showing the automaker is still fighting to contain the legal fallout from its unintended acceleration scandal.

Real Estate

Real Estate Deals

LBA Realty LLC bought four warehouses in Northern California totaling more than 1 million square feet.

Government

CCMS director to step down at year's end

The executive program director for California's developing computerized case management system is stepping down at the end of the year.

Energy Law

New solar coalition wants companies to back off China

Months after a coalition of solar manufacturers rose to challenge China's allegedly unfair solar industry subsidies, a new cadre of solar companies is pressing for the case to be dropped.

Litigation

Court upholds De Beers settlement

The 3rd Circuit Court of Appeals upheld a \$295

to our members and non-members that help them navigate through California's labor and employment laws.

We're a business. We do have agreements for our products and we have online training. As any company would have, we have business-to-business contracts. When I'm involved, I need to make sure terms and conditions of agreements are fair. I also need to make sure confidentiality and trademark concerns are addressed.

DJ: What are "job killers"?

Frank: At the end of the year, we always put together a list of what we deem to be the most significant new laws that will affect employers in California. For the most part, these laws take effect Jan. 1 in the next year. We try to get notifications out in ample time so businesses can prepare for them.

This year, we had a few laws we identified. AB 22, which is on credit checks and whether businesses can run credit checks on applicants. We knew a lot of businesses did previously use that as a form of checking references on their applicants, and now there's restrictions on who a business can run credit checks on. But it really depends when it comes to who it might impact. With the new law, there is a very limited pool of applicants that employers could run credit checks on, but it doesn't preclude all the other types of background checks employers are allowed to do.

DJ: How do these laws influence what you do as in-house counsel?

Frank: As in-house counsel, I wear a lot of hats. One hat is that I'm working hand-in-hand with human resources, and I'm helping them with any type of internal employment matters. I need to know how these bills apply to our own organization.

The other hat I wear is on our business side with our products and compliance services to our members. I need to make sure we understand these laws to make sure we're communicating effectively to our members and our customers.

DJ: How do the bills impact lawsuits in California?

Frank: The U.S. Chamber of Commerce always ranks states based on litigation and fairness. California ranked 46 for the fairness of its litigation environment in 2010. Part of this is the regulatory environment and another part is the number of ways businesses can get sued. It's a very litigious state.

One example is meal and rest periods. California employers have faced countless class action lawsuits on whether they're complying with meal and rest periods. The California Supreme Court Right now is sitting on what we think will be a landmark case that hopefully will provide clarity to that issue. Certainly, we've lobbied heavily over the years for some kind of reform for meal and rest periods.

DJ: Why is it important to the California Chamber of Commerce that the courts remain open?

Frank: Court funding and the ability to resolve disputes quickly is really important to businesses in California. It impacts every end of the spectrum, from a business owner who needs to get a contract dispute resolved to a clerk who has a child custody issue and has to take time off work to go stand in line all day just to deal with that. So businesses have a vested interest in knowing that they can get their issues resolved quickly. To that end, we've always been supportive to proposals and measures that would increase access to the court. We're also sensitive to anything that would erode or eliminate funding, and therefore prevent people from being able to deal with these issues quickly.

DJ: What about your relationship with outside counsel? How many firms do you work with?

Frank: We do work with different firms depending on their area of expertise. We've been involved in litigation ranging from Proposition 65, to worker's compensation, to environmental issues, such as the beverage container recycling fund. We work with about four or five firms.

DJ: That's a pretty small number.

Frank: We're a business association, so luckily, we don't have a lot of legal exposure that big corporations typically have. We've been very fortunate to stay

million settlement of a class action that alleged South African diamond company De Beers had conspired to monopolize the diamond market and inflate prices.

Law Practice

Irish law firm makes its way into Palo Alto

Ireland corporate law firm A&L Goodbody will open a new Silicon Valley office, the firm announced Wednesday.

Energy Law

Google expands solar investment in California

Silicon Valley giant Google has made its first investment in large-scale photovoltaic solar, announcing Tuesday that it will put \$94 million toward four facilities to be built near Sacramento.

Government

House delays vote on controversial Internet piracy bill

The House Judiciary Committee postponed Wednesday's hearing and expected vote on a controversial Internet piracy bill, giving the legislation's opponents extra time to try to stop its march towards becoming law.

California Courts of Appeal

Panel orders disclosure in case involving execution drug

A state appellate court Tuesday ordered the Department of Corrections and Rehabilitation to disclose the names of potential suppliers of a lethal injection drug that's been in short supply across the country.

Intellectual Property

Solar company sues over patent infringement

Zep Solar Inc. of San Rafael on Tuesday filed a patent infringement suit against Westinghouse Solar and several other companies, claiming they violated Zep's patents in creating a solar panel-joining mount.

Judges and Judiciary

Sole practitioner named as bankruptcy judge

Redding sole practitioner Fredrick E. Clement has been appointed to the Eastern District bankruptcy bench, the 9th Circuit announced Wednesday.

Labor/Employment

Retaliation claims up in California

California workers are filing more workplace retaliation charges than ever with the Equal Employment Opportunity Commission, according to statistics released by the federal agency.

Criminal

Criminal cases that made a splash in 2011

Talk about expecting the unexpected - that was the running theme for this year's most popular criminal cases. By **Lou Shapiro**

Environmental

The 9th Circuit's top 10 environmental decisions in 2011

Once again, 9th Circuit decisions top the "influential" meter when it comes to

under the radar in terms of lawsuits against California Chamber of Commerce.

DJ: What firms do you work with?

Frank: Shaw Valenza LLP, Morrison & Foerster LLP, Nielsen Merksamer Parrinello Gross & Leoni LLP, Mueller & Naylor LLP, and Finnegan, Marks, Theofel & Desmond.

DJ: The majority of the membership at California Chamber of Commerce is small businesses. How has the downturn impacted those businesses, and in relation, membership to your organization?

Frank: I definitely think the economy has hit everyone. And in doing so, businesses have had to be very strategic on where they put their money. So naturally, the economy did impact the California Chamber of Commerce. We did see that many businesses had to weigh affording a membership or instead making payroll.

But what we provide is very unique. We're the only business organization that can provide legislative advocacy, but compliance on the labor and employment side. That's something that makes us unique to all other business organizations.

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Editorial Id: 919869

Publication Date: 12/22/2011

environmental law. By **Richard M. Frank** of UC Davis School of Law

**Health Care & Hospital Law
Health care: the individual mandate and its critics**

This January, the fate of the individual mandate will belong to the U.S. Supreme Court. By **Timothy Sandefur** of the Pacific Legal Foundation

**Criminal
FCPA: 2011 kicks off new era of enforcement**

This year gives teeth to the Justice Department's vow to up the ante in FCPA enforcement. By **Bethany Hengsbach** of Sheppard Mullin & Hampton LLP

**Entertainment & Sports
Five important cases you should watch in 2012**

'Tis the season: Five entertainment cases to watch out for in the new year. By **Ken Basin** of Greenberg Glusker Fields Claman & Machtinger LLP

**Judicial Profile
Andre Manssourian**

Superior Court Judge Orange County (Newport Beach)

**Corporate Counsel
Erika C. Frank**

Vice President and General Counsel for California Chamber of Commerce Sacramento

**Solo and Small Firms
Leading the Parade**

Each year, the Pasadena firm Hahn & Hahn LLP virtually shuts down the last week in December as a third of its lawyers volunteer their services to put on the city's premier event: the annual Rose Parade.

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