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## BREAKING LITIGATION NEWS...

# FRIMEL MOVES TO HEFFERNAN SEUBERT & FRENCH SEASONED TRIAL ATTORNEY BRINGS IP DISPUTE HEFT LEAVES BIG LAW – SEEKS BIG LOVE AT SMALL LAW



Menlo Park, California... Silicon Valley boutique business law firm Heffernan Seubert & French LLP announced today that noted litigation lawyer Bill Frimel has joined the firm as a partner.

Frimel is a seasoned trial lawyer. He has conducted more than 20 trials and arbitrations before juries and judges. He also has extensive mediation experience.

Frimel was previously a partner with the Silicon Valley office of global law firm DLA Piper (US) LLP, and its predecessor, Gray Cary Ware & Freidenrich LLP, where he specialized as a business, technology and real estate litigator. For the past 18 years he has represented companies of all sizes and types as well as entrepreneurs, investors, developers and property owners. His practice includes pre-litigation counseling and contract and business tort disputes; intellectual property, trade secrets and proprietary rights litigation; internet, social network and online gaming litigation; and lease and other real estate disputes.

## Real Estate

### Pacific Sun Gourmet's Extra Virgin Olive Oil Kudos:

We're proud to report that HS&F client Pacific Sun Gourmet's Tehama County Blend extra virgin olive oil got some mighty nice publicity recently. Cook's Illustrated's September-October 2009 issue reviewed ten well-regarded California extra virgin olive oil products, and the Cook's experts concluded that only four merited their coveted "Recommended" status. Alas, Pacific Sun Gourmet olive oil was among the chosen four.

Olive oil tasting is quickly gaining as a major event that's become popular with "foodies". And California olive oils, for years overshadowed by Spanish, Greek and Italian producers, are starting to command real respect among aficionados.

Pacific Sun Gourmet's olive oil was found by Cook's Illustrated's tasters to be "... buttery... smooth... with a fruity aroma... notes of passion fruit, pineapple and melon... with a nutty finish... like walnuts." We couldn't have said it better ourselves. And, we might add, it pairs well with aubergines.

### A New Twist On "Flipping":

We were intrigued by a recent story in the New York Times of a large New York real estate portfolio owned by three brothers for many years. The oldest brother unexpectedly decided that he wanted to operate independently of his two brothers. A provision in their reportedly six-page partnership agreement permitted any of the three brothers to withdraw at any time.

Their agreement called for the mere flip of a coin to determine whether the withdrawing brother - or the remaining brothers - would get the right to select which properties would go to the withdrawing brother. The selections were required to reflect, in the aggregate, a pro rata share of the current market value of the withdrawing brother's 40% partnership interest. A coin was flipped, and the withdrawing brother won the toss.

Astonishingly, even though their partnership held literally hundreds of large commercial and multi-family properties worth several billion dollars, the withdrawing brother's selections required little discussion or fine-tuning, and a separation of the properties was documented by lawyers within a few days.

We think the odds of such a harmonious and expeditious outcome ever occurring again are about as good as getting Barack Obama to verify an Elvis sighting by Dick Cheney on Santa Cruz Avenue in Menlo Park.

HS&F, coincidentally, was recently asked by a real estate partnership client to advise it concerning a proposed coin-flipping method for resolving all disputes between the two partners. We weren't surprised when we didn't find much reported law on this. We concluded that while it was legally feasible, and would possibly have the effect of motivating the partners to work out their disputes more amicably, it was also open to legal challenge on any number of grounds.

Our client, whose property holdings are substantial (but regrettably not in the billions) ultimately decided against the coin-toss idea. The creative dispute resolution method they ultimately selected, which was crafted by HS&F, of course remains confidential attorney-client work product.

## Corporate

### Web-Based Startup ClientShow Debuts:

ClientShow, an angel-backed startup client of HS&F and a finalist in last year's TechCrunch50 competition for the most innovative new web-based companies, recently announced a private beta launch of its new virtual offering for creative professionals.

ClientShow's elevator-pitch: it helps creative, advertising and marketing professionals show, pitch, share and sell their work to more clients more effectively through real-time collaboration and communication.

As the popular tech blog TechCrunch recently put it: "ClientShow is similar to WebEx for creative professionals. It allows users to essentially create a "virtual agency" to collaborate and share ideas with clients."

Congratulations to co-founders Dann Ledwick, CEO, Collin Brown, CTO, and Emma Kelly, CFO and their hard-working team!

### Virtual Goods: The Next Big Thing? Or Much Ado About Nothing? Or Both?

Let's face it, until fairly recently we had only a vague idea of what the term "virtual goods" meant. But because we've recently had the opportunity to work with a couple of startups which use the sale of virtual goods as the central component of their revenue model, we've learned a little about how this all works.

Since our clients are all in "stealth mode", we can't talk about them. But we can share some snippets with you of we've learned about this young and dynamically growing Web 2.0 sector.

A Twitter-sized summary: It's about selling stuff that doesn't exist. And the best part: it's legitimate and highly profitable.

Virtual goods are things that can be "purchased" on literally dozens of websites. Why on earth, you ask, would anyone want to do this?

Well, some of the sites offer games that allow the player to play war games, or to attend celebrity parties, and even to operate a farm, to name only a few of the literally thousands of possibilities.

Although playing the game usually costs nothing, a player can increase the range of his or her enjoyment by purchasing for fairly modest sums, all payable on a credit card - the right to use additional game features. For example, in war games, that means bigger and better weapons or armored vehicles. For party games, it can mean designer gowns and high-end jewelry. For farm games, it can mean adding new crops, more farm animals and organic fertilizers.

Unlike "social networking" sites like Facebook and MySpace, social gaming site revenues come not primarily from ads, but almost entirely from the purchase of virtual goods. And the profit margins are high. The combined leverage of the FaceBook platform, the Web and the iPhone has enabled this business sector to experience wildly explosive growth.

And virtual goods aren't limited to the social gaming realm. Some social networking sites are starting to offer their users a chance to send a "virtual gift" to a friend or family member, to congratulate them, cheer them up or maybe even butter them up. The gifts are modestly priced and, of course, payable by credit card. Virtual gifts can be anything: flowers, wine, a spa experience, you name it.

Recent data show that women in their 20's and 30's are becoming increasingly active in social gaming. Active users say that the appeal of virtual gaming is similar to that of reading a novel or going to a movie - an escape to a wholly different place with wholly different people - but with the user being able to participate in selection of the story's props, characters and outcome.

Have any of us taken to dealing in virtual goods? It's sure fun, and possibly addictive, but work has started to pick up, so for now we're just sticking to trafficking in real goods.

## New HS&F Faces

### Maya Blumenfeld, Consulting Attorney



Maya is an experienced corporate counsel and a Consulting Attorney for Heffernan, Seubert & French, LLP.

Prior to working with the firm, Maya was a senior corporate associate at Wilson Sonsini Goodrich & Rosati LLP, representing technology companies at all stages including financings, initial public offerings, public company filings, mergers and acquisitions and corporate governance.

Prior to that, Maya was a corporate associate at the New York offices of Debevoise & Plimpton LLP, where her practice focused on corporate finance, restructurings and mergers and acquisitions.

Maya grew up in Israel, where she served as a Lieutenant in the Intelligence Corps. Following her graduation with honors from her Law and Economics studies at Tel Aviv University and her editorial role in the Tel Aviv University Law Review, she clerked at the Israel Supreme Court, the highest instance in the Israeli judicial system. She graduated from NYU Law School with an LL.M. degree in corporate law.

## Potpourri

This may come as a surprise to many of our readers, but lawyers are subject to rigorous ethical rules and disciplinary scrutiny. We at HS&F always read with a strange mixture of fear and titillation the many California State Bar bulletins and other legal trade news which report on disbarments, suspensions and public reprimands of lawyer scofflaws, miscreants and dunderheads.

There was a recent reported case we couldn't help but share with you. It concerned a young lawyer who appeared in court on behalf of a client wearing a backwards-facing baseball cap, a dirty t-shirt and tattered jeans. When his matter was called, the judge refused to let him argue his case, and admonished him for his unkempt wardrobe. The judge told him that if he came to his court again without being suitably attired, he would be held in contempt of court.

What did the lawyer do? What else? He appealed. And what did the appeals court have to say? They strongly agreed with the lower court judge, citing abundant and long-standing authority that a judge is the master of his or her courtroom, and thus fully entitled to adopt reasonable rules of decorum, including a wardrobe code.

During our thorough due diligence on Bill Frimel, we vigorously quizzed him about his views on this topic, and are pleased to report that we've confirmed that Bill always wears a coat and tie to court. No jeans. No caps. No t-shirts.

## Letters To The Editor

Dear Editor:

I just wanted to tell you how much I adore your Aubergines. A foolish name, if you ask me, but it's more fun to read than Reader's Digest or the AARP Monthly. Keep 'em coming.

Sincerely,

Maureen O'Shaugnessy Heffernan

Age 84

Red Bluff, California

P.S. Do you think you could do a piece on who I can sue if my olive crop is harmed somehow due to global warming? I am worried sick about this. Giving me hives.

## Disclaimer

Aubergines is not legal advice. In fact, it's not advice of any kind. To some, it might be entertainment. To others, it might be an example of why the world's in the quirky state it's in. But don't even think about suing us over anything you read here. It would just be a waste of time.

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