



## BEWARE OF THIS 'TRAP' IN COMMERCIAL INSURANCE

Many commercial insurance policies contain what's called a "protective safeguards endorsement." This gives the property owner a break on its insurance premiums if the owner protects the property through a fire alarm, automatic sprinkler system, fire safety service contract, or other method of preventing harm.

Sounds like a good idea, right? It can be ... but the trick is that these endorsements typically say that the owner must maintain the system in good working order at all times, or notify the insurance company right away if there's a problem the owner can't control. Otherwise, the insurance company won't pay for any losses.



That means the owner must be extremely careful about maintaining its systems. Also, the owner must be extremely careful about not letting a tenant do anything to compromise the systems. If a tenant is allowed to make minor alterations without the owner's approval, for instance, how will the owner know if the tenant does something that unintentionally affects a sprinkler system?

These endorsements can be a money-saver, but property owners need to think long and hard about the potential negative consequences. ■

*Actual resolution of legal issues depends upon many factors, including variations of fact and state laws. This newsletter is not intended to provide legal advice on specific subjects, but rather to provide insight into legal developments and issues. The reader should always consult with legal counsel before taking any action on matters covered by this newsletter. Nothing herein should be construed to create or offer the existence of an attorney-client relationship.*

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NYC imposes new rules for freelance contracts



Could your business be facing a lawsuit over Internet search results?



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# Legal Matters

SPRING 2017

## TWO HIGHLY-REGARDED ATTORNEYS NAMED PARTNER

Long-time firm attorneys Shannon R. Wilson and Russel J. Geist have been named partner. Shannon and Russel, both highly-competent professionals, have spent their years with the firm, since 2006 and 2012, respectively, aggressively representing clients and carrying on the winning tradition of Hutchison & Steffen.

"When considering which of our deserving attorneys to promote to partner, Shannon and Russel stood out for all of the right reasons," said John T. Steffen, Managing Partner. "Since their arrivals to the Firm, they have made meaningful niches for themselves within the Firm and the community."

Shannon practices in the Firm's litigation department, focusing primarily on family

law. She also has extensive experience in commercial litigation and insurance defense in the Firm's Healthcare Professionals Advocacy Group. Originally from Maine, Shannon obtained her undergraduate degree from the University of Southern Maine, then graduated magna cum laude with a Juris Doctorate degree from the Thomas Jefferson School of Law in San Diego, California. During law school, Shannon was the Editor-In-Chief of the Thomas Jefferson Law Review and served as a judicial-extern to the Honorable Roger T. Benitez of the United States District Court for the Southern District of California.

Shannon was the recipient of the 2015 Louis Weiner Service Award for her pro bono work with victims of domestic violence. She currently serves on the Pro

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Shannon R. Wilson



Russel J. Geist

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Bono Advisory Council of Legal Aid Center of Southern Nevada and is the Firm's liaison with Legal Aid to coordinate pro bono matters and service hours amongst dozens of the Firm's attorneys.

Russel focuses his practice primarily in trust and probate litigation. Russel has handled complex trust and probate administration matters in addition to litigation involving trusts and estates representing both fiduciaries and beneficiaries.

Originally from Alliance, Nebraska, Russel earned a bachelor's degree in psychology from the University of Nebraska – Lincoln. He earned his Juris Doctorate degree from

the William S. Boyd School of Law at the University of Nevada, Las Vegas and his Master of Laws degree in Taxation from the Dedman School of Law at Southern Methodist University in Dallas, Texas. Russel currently sits on the Advisory Board of the Congressional Award Council of Nevada where he also serves as its legal counsel.

John Steffen remarked, "As always, we're pleased to have passionate attorneys on our team committed to protecting and preserving the legal rights of the community, and I'm honored to welcome Shannon and Russel to the rank of partner." ■

*Congratulations,  
Shannon and Russel!*



# NEW YORK CITY

## IMPOSES NEW RULES FOR FREELANCE CONTRACTS

The nation's largest city just passed a law that will change the way employers do business with independent contractors. Other cities could follow.

Under the new law, any agreement with an independent contractor for services that pays more than \$800 in a 120-day period must be in writing. The contract must contain the name and mailing address of both the hiring party and the contractor, an itemization of all



services to be performed, the value of the services, the rate and method of pay and the date by which the hiring party must pay. If no date is specified, the contractor needs to be paid within 30 days of the job being done.

Hiring parties that violate this law can face fines and lawsuits and can even be ordered to pay double damages and attorney fees.

While this law only applies in New York City, there's no good reason to think other places won't follow suit.

The law provides the occasion for another reminder that if you are supplementing your workforce with independent contractors, you need to be sure they're really "independent." In other words, if you're exercising significant control over them in terms of scheduling and how they're paid, and restricting who else they can work for, they're employees. Employers that misclassify employees as contractors in order to avoid complying with minimum wage, overtime and benefits laws will get hit hard by the law everywhere. ■



## COULD YOUR BUSINESS BE FACING A LAWSUIT OVER INTERNET SEARCH RESULTS?

Any business would jump at the chance to dictate the order of organic Internet search results that include its name. But that's not so easy.

Still, a judge in Florida recently told a well-known international company that it must find a way to do exactly that. And in the vast world of the web, it's a cautionary tale for businesses of all sizes.

The case involves a Gainesville, Florida, company, Uber Promotions, which has a regional trademark that supersedes the more well-known ride-sharing service's trademark.

The smaller company is an ad agency that does event planning and offers transportation services, among other things. But searching the web for "Uber Gainesville" turns up the bigger company first.

When the Florida company sued the bigger Uber Technologies for trademark infringement, the court said that this search conundrum led to "consumer confusion." That's especially due to the larger company's UberEVENTs division.

The court issued a tall order. It said that Uber must be sure that its listing doesn't rise above Uber Promotions. Specifically, it said that Uber must ensure that a search with the keywords "Uber Gainesville phone" or "Uber Gainesville phone number" returns a result that includes its own local phone number and words that show it's the ride service. And, the judge said, Uber has to make sure that this search result doesn't replace the current result for Uber Promotions with Uber Technologies' phone number. Plus, the flipside must also be true. A search using the keywords "Uber promotions Gainesville phone" or "Uber promotions Gainesville phone number" may not yield the bigger company's phone number.

The end goal is to avoid consumers looking for the smaller company finding the bigger Uber instead, but still allow the latter to continue operating in the area. But that leaves Uber in a bit of an online pickle. How can Uber — or any company for that matter — possibly control organic search results on the web?

One way for businesses to exercise some amount of control over their search engine ranking is through search-term advertising — by paying a search engine to be associated with certain keywords, such as Google AdWords. The judge in the Florida case said that Uber might have

to realign its pay-per-click advertising to achieve the desired result.

The problem is that even with a big spend in AdWords there is little to no way to curtail the confusion that might arise from organic search. The process that yields organic search engine results is quite complex, involving hundreds of elements in a multi-faceted algorithm, such as keywords on the website, how new the content is, the region the company is based in, and more.

What's more is that currently, search engines allow companies to purchase AdWords for their competitors' trademarks and they don't bar choosing trademarks as keywords even if a trademark complaint arises. But a ruling like the one in Florida might be a sign of tighter rules in the future.

If your business plans a move into another region, take care to seek out any companies with similar names in advance. And to avoid these challenges in the first place, if you launch a new business, do your due diligence to avoid selecting a name with similarities to other regional businesses. ■

