

AREAS OF PRACTICE

Administrative Law

The growth of state and federal regulatory environments has placed an emphasis on handling many types of complex business and legal issues before administrative agencies, boards, and commissions, rather than in the courts. The Firm's administrative law practice represents clients before government agency bodies and in appeals from their decisions. Attorneys at Hutchison & Steffen represent public and private clients before federal, state, and local administrative bodies. Our clients have included major corporations, governmental units, and individual license holders.

Alternative Dispute Resolution

The Firm offers a distinct alternative dispute resolution practice. The Firm provides advice and representation to clients who desire to resolve disputes in mediation, arbitration, or other alternative dispute resolution processes. The Firm's attorneys are seasoned practitioners before mediators and arbitrators.

Appellate Litigation

The Firm's attorneys bring to their clients an extensive history in the practice of appellate law. They have participated as counsel in cases before the United States Supreme Court, Federal Appellate Courts, and the Nevada Supreme Court. The Firm's experience in the Nevada Supreme Court is unparalleled in the state, and two of Hutchison & Steffen's attorneys offer combined experience of almost thirty years. One was with the Court for fifteen years, retiring as Chief Justice, and another was both a staff attorney and a long-time supervising staff attorney at the Court.

Asset Protection & Business Planning

Our attorneys understand the importance of protecting a client's assets against claims by potential creditors. The Firm's attorneys employ a variety of asset protection techniques to discourage or make impractical the seizure of assets or the collection of judgments. Hutchison & Steffen's asset protection strategies include the creation of Spendthrift Trusts, Offshore Asset Protection Trusts (OAPT's), Separate Property Trusts, retirement plans, family limited partnerships, and the gifting of property to descendants.

Business & Commercial Litigation

Hutchison & Steffen brings extensive experience to most major areas of commercial litigation. The Firm's practice handles matters of corporate, contract, intellectual property, environmental, employee relations, and product liability. Additionally, counsel is provided in preventative measures to avoid litigation. Litigators at Hutchison & Steffen have experienced repeated success before juries and judges for large national companies, local companies, and individuals.

Construction Law

Our construction-defect practice brings extensive experience and a solid reputation with the select group of mediators, special masters, expert witnesses, plaintiffs' attorneys, developers' attorneys, and subcontractors' attorneys who dominate Nevada's construction-defect legal practice. The attorneys of Hutchison & Steffen have litigated and tried many construction-defect cases and possess extensive educational and hands-on experience in the construction industry, providing a broad base for representing a variety of clients in construction-defect litigation.

Corporate & Transactions

The Firm's attorneys provide clients with a broad range of legal services related to corporate transactions. These services include drafting documents for the formation and sale of business entities such as corporations, general partnerships, limited liability partnerships, and limited liability companies, as well as contracts and related documents covering many facets of business transactions. Additionally, legal services are provided to clients who wish to obtain protection of their intellectual property rights (e.g., trademarks and copyrights) under both state and federal laws.

Creditor's Rights & Bankruptcy

Our attorneys regularly serve as counsel to creditors in proceedings filed under Chapters 7, 11, and 13 of the U.S. Bankruptcy Code. With an approach both aggressive and thorough, the Firm effectively guides troubled entities through the reorganization process and a return to profitability. Hutchison & Steffen routinely handles consumer and non-consumer bankruptcy filings and related bankruptcy litigation in the bankruptcy courts of Nevada, Utah, and California.

Employment Law

Hutchison & Steffen offers diverse experience in the complex environment of employment/labor law, with particular expertise in non-competition and confidentiality agreements. Offering knowledgeable advice with regard to various aspects of federal and state labor law and regulations, the Firm represents clients before administrative bodies on various employer/employee matters such as unemployment and workers' compensation claims.

Family Law

Hutchison & Steffen offers a complete range of legal services in the practice of family law. The Firm's attorneys are well-respected by family court judges, mediators, special masters, and practitioners for their experience, family-law knowledge, and aggressive representation of clients. The Firm represents clients in all aspects of family and domestic law, including separation and divorce proceedings, community property division and settlement, child custody, visitation and support, child abuse, termination of parental rights, spousal support, and domestic violence (including protective orders).

Fiduciary Litigation

The disposition of estates and trusts sometimes results in disputes that end up in court, particularly when significant family wealth is at stake. Problems and legal issues can surface when there are conflicting interpretations of the wishes of the person who made the estate plan, or if family members have conflicting opinions about what to do with family real estate and other assets. Hutchison & Steffen's attorneys have extensive experience in successfully representing clients in disputed trust and estate litigation before special masters, commissioners, judges, and juries who decide these disputes.

Healthcare Professionals Advocacy

Hutchison & Steffen's attorneys represent physicians and healthcare organizations in a variety of matters, including physician contracting, litigation, medical-malpractice defense, physician licensing, and credentialing. Additionally, the Firm is active in mergers of medical practices, managed-care contracting, hospital contracts, and the purchase and sale of professional practices.

Insurance Defense

The Firm's attorneys have successfully represented the insureds of insurance companies in hundreds of challenging and varied cases. The scope of the Firm's representation includes general commercial liability, auto liability, premises liability, and professional malpractice defense. The Firm's attorneys also provide counsel to insurance companies in bad-faith litigation.

Landlord/Tenant

The Firm's attorneys litigate on behalf of owners/landlords in a comprehensive array of landlord/tenant issues. These matters include commercial and residential evictions related to nuisance, lease violations, abandonment, breach of contract, and non-payment of rent. The Firm has one of the largest and most active landlord/tenant practices in Nevada, and its attorneys are recognized as leaders in the field.

Personal Injury

The Firm offers a personal injury practice which carefully selects the representation of individuals who have suffered personal injuries or damages by motor vehicles, bad faith, wrongful death, and medical malpractice. The Firm has extensive experience in litigating major personal injury actions to successful conclusion.

Professional Liability Defense

Hutchison & Steffen has successfully defended numerous claims of malpractice filed against attorneys, doctors, dentists, and other professionals. Fellow professionals demand the highest degree of aggressive and competent representation, and the Firm has enjoyed tremendous success in the defense and prosecution of these cases.

Real Estate Law

The Firm provides a wide-range of legal assistance to clients for transactions related to the acquisition, development, and disposal of real property. The Firm also provides land-use planning, eminent domain, and zoning advice to clients. In its experienced representation of businesses and developers against defaulting lending institutions, the Firm has been highly successful.

Trust & Probate Litigation

As part of the Firm's fiduciary litigation practice, Hutchison & Steffen represents trustees, banks, investment professionals, and private individuals who are involved in disputes concerning estates and trusts. When appropriate, the Firm works closely with other trust and estate professionals to maximize the client's opportunities for a successful resolution of these disputes.



PECCOLE PROFESSIONAL PARK
10080 WEST ALTA DRIVE, SUITE 200
LAS VEGAS, NEVADA 89145
702-385-2500 • FAX 702-385-2086
INFO@HUTCHLEGAL.COM
HUTCHLEGAL.COM

HUTCHISON & STEFFEN

ATTORNEYS

2009

ACCOMPLISHMENTS

Nevada
Civil
Practice
Manual

FIFTH EDITION

THE COMMITTEE
OF THE STATE
BAR OF NEVADA

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CHAPTERS 1 - 25

 LexisNexis



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The *2009 Accomplishments* document is intended to share information about the Law Firm of Hutchison & Steffen, a Professional LLC. This document outlines examples of Firm accomplishments our attorneys have attained for clients in particular legal matters. For each case, the results were dependent upon case-specific facts.

This *2009 Accomplishments* document is merely a communication for our clients, former clients, and other parties with whom we have had a prior business relationship. The *2009 Accomplishments* document is not an advertisement or solicitation to any party, regardless of how any jurisdiction defines an advertisement or solicitation.

The attorneys of Hutchison & Steffen are not represented herein as specialists or experts in any particular area of the law. In addition, specific examples of matters outlined herein should not be construed to represent, guarantee, or predict similar results for future legal matters handled by the Firm.

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PARTNERS

Mark A. Hutchison
John T. Steffen
James H. Randall
Joseph R. Ganley
L. Kristopher Rath
Michael K. Wall
Scott A. Flinders
Mark J. Connot
Patricia Lee

OF COUNSEL

Thomas L. Steffen
Fredrick P. Waid
Kevin J. Blair

ATTORNEYS

Christina M. Alexander
Kumen L. Taylor
Richard G. Smurthwaite
Deidre J. Call
G. Asa Ginapp
Kevin M. Sutehall
Kristol B. Ginapp
Todd W. Prall
Cynthia G. Milanowski
Stephen J. Mayfield
Shannon R. Wilson
Christian M. Orme
Jeffrey R. Hall
Cami M. Perkins
Traci L. Cassidy
John H. Gutke
David W. Gutke
Jacob A. Reynolds
Steven M. Rogers
Jeremy C. Cooley
Arun Gupta

REPRESENTATIVE CLIENTS

ABC Cab Company
Ace Cab Company
Ahern Rentals, Inc.
American Safety Insurance
Anesthesiology Consultants, Inc.
The ASNY Company, LLC
Aspen Financial Services
California Wholesalers
Century Steel, Inc.
Chicago Title, Inc.
The Dentists Insurance Company
Desert Radiologists
Ditronics Financial Services
Fidelity National Title, Inc.
Finley Company
Ford Insurance Adjusters
Gornowich Sand & Gravel
Harrah's Entertainment, Inc.
Honeywell International, Inc.
Lake Mead Radiologists
Leavitt Insurance Agency
Lunas Construction
Medicus Insurance
Mill Street, LLC
Mt. Nebo Anesthesia Service, LLC
Nevada Capital Insurance Co.
Nevada Eye Care Professionals
Pueblo Del Sol Mobile Home Park
Sierra Health Services, Inc.
Truline National Truck Lines
Western Cab Company
Western Litigation, Inc.
Woodridge Villas



HUTCHISON & STEFFEN
ATTORNEYS

COMMUNITY

HUTCHISON & STEFFEN SUPPORTS PALO VERDE HIGH SCHOOL SENIORS WITH SCHOLARSHIPS

Firm partner Mark A. Hutchison represented Hutchison & Steffen at University of Nevada, Las Vegas for The Public Education Foundation's 10th Annual Scholarship Recognition Luncheon. More than 200 Las Vegas Valley high school seniors were awarded higher education scholarships made possible by a range of corporate, private, and foundation donors.

This year, the Hutchison & Steffen Scholarship was awarded to deserving Palo Verde High School students, each with impressive records of performance. Hutchison & Steffen worked closely with Palo Verde High School's administration to review the applications of those seeking the scholarships. "We are very involved in the selection process," notes Hutchison. "The scholarships are awarded to scholar-athletes who live well-rounded lives and have worked hard in the classroom, on the field, and by serving members of their community."

The Firm continues its support of the Summerlin community, including this second year of awarding scholarships. "When we reviewed the applications, we put a lot of emphasis on community service and individuals who have taken the time to help others through participation in community and charitable events. We believe that idleness is a problem that plagues many of our youth, and we are trying to encourage and reward those students who have set goals and are active in worthwhile endeavors," explained Hutchison.



Mark A. Hutchison pictured with high school students Alexander Bonczyk, Natalie Brown-Denby, David Castro, Nicole Gneiting, Michael Zurowski.

THE PUBLIC EDUCATION FOUNDATION BACKGROUND

In 1991, The Public Education Foundation was established as an independent 501(c)(3) non-profit Nevada corporation. Since then, the foundation, inspired by a belief that improving our public schools was too big a task for a school district to accomplish alone, has worked tirelessly to mobilize community resources to improve public schools. The Public Education Foundation recognizes that community and business involvement is vital to school improvement. The foundation is dedicated to generating community resources and facilitating collaborations and partnerships to ensure high-quality public educational opportunities for all children.

FIRM PHILOSOPHY

The Firm's philosophy is to understand and meet client needs and expectations while adhering to, and enhancing, the highest and best traditions of the practice of law.

Hutchison & Steffen's attorneys pride themselves on their ability to provide effective, judicious representation at a cost-effective rate—and it is with the values of honesty, integrity, and professionalism that the Firm approaches every legal matter.



PARTNER NAMED

HUTCHISON & STEFFEN IS PROUD TO ANNOUNCE THAT PATRICIA LEE IS NOW A PARTNER IN THE FIRM



Patricia Lee

Since joining the Firm in 2002, Patricia Lee has practiced primarily in the areas of business and commercial litigation, partnership/shareholder disputes, contract enforcement/defense, non-competition agreements, and commercial lease litigation. In addition, Patricia practices in the areas of trademark registration and litigation, collections, mechanic's liens/foreclosures, and medical claims billing.

John T. Steffen, managing partner at Hutchison & Steffen, comments, "I am delighted that Patricia has achieved this level of professional success. She has earned her place as a partner through hard work, dedication and her extraordinary commitment to the highest standards of legal practice. She's an excellent attorney and an exemplary role model for other attorneys at the Firm. All of us welcome her as a partner and look forward to her many contributions as we move forward."

Originally from the small town of Lompoc, California, Patricia earned undergraduate degrees in psychology and communications from the University of Southern California. While at USC, she received several awards for academic excellence and community involvement, including the Thurgood Marshall Leadership Award and the Order of Troy. After her graduation, she worked for the California Science Center in Los Angeles and helped to establish the Rosa Parks Community Computer and Learning Center for inner city youth.

Patricia then attended law school at George Washington University and earned her Juris Doctorate in 2002. She continued her involvement in the community and was elected the community service director for the Student Bar Association. She also served as the student director of the Small Business Clinic, which provided valuable experience assisting small businesses with their legal needs in distressed communities. Patricia also interned for the U.S. Department of Justice and the United States Postal Service while attending law school.

Patricia joined Hutchison & Steffen immediately upon her graduation. Currently, she serves as a volunteer attorney for the Clark County Child Advocacy Program and has received awards for her pro bono commitments.

When Patricia is not working for the Firm, she enjoys spending time with her husband, Ronnie, and daughter, Brianna. Patricia also enjoys traveling and reading, and is an avid sports enthusiast.



Q&A WITH MARK A. HUTCHISON

Dec. 18-31, 2009

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I know your firm is handling the MGM Mirage CityCenter condominium case. Tell me about that and how that came about?

My partner Mark Connot is handling that. That came in with just a couple of clients who felt like there were problems with MGM at their condos. Then, we (got together) with a couple of Los Angeles-based lawyers and I think a couple in Florida who heard we were starting to do this, and they had clients with concerns and issues. They referred stuff to us. It snowballed and now we represent 40 or 50 or something like that.

What is the beef?

The beef is that the clients were sold a product and a product that has never been delivered.

But it hasn't been delivered yet. What do you mean?

The beef is there has been a serious decline in the value of the property. You may say that is a decline in the real property of real estate and welcome to the world of real estate. I don't necessarily agree with that. There is a cause in the decline in the value that goes beyond the market decline. It goes to, in particular, the serious construction defects out there and the product that wasn't delivered because of that. This was supposed to be top-shelf, high-end living and condo life, and they haven't been constructed that way.

What about the 30 percent cut in prices MGM offered buyers. What do you want?

I don't know if Mark has put a percentage on it, but I know we think 30 percent isn't enough. We think the values have declined through no fault of our clients, more than that.

What is going to happen?

We are trying to negotiate with MGM to come out with a more equitable resolution.

Could you do something separate from other people who are closing on their units?

Yes. We certainly could do something different, and MGM should deal with our clients on a case-by-case basis.

Will buyers close on their units?

I see a real risk of litigation if MGM doesn't come up with a serious solution. There are not people who are buying \$80,000 condos. They are professional, sophisticated men and women who were sold a product that was expected to be delivered, and it wasn't.

How will closings go in general?

I think MGM will probably negotiate a lot of closings and will wind up probably closing a good portion of CityCenter, but I think the construction defect and other issues I described are not going to go away. They know they have to fully deal with those. The question is what is the price going to be.

How can they deal with them?

They have insurance to deal with that. First, (MGM officials) have to understand the scope of the problem: "What are the construction defects at CityCenter and how much has it affected the value; what are the remedies; and what are the ways we are going to fix it so we can deliver the product to the clients?" There will be a construction litigation evaluation analysis, which is going to take (time). If they don't go in and say, "We realize we have a problem upfront and we are going to try and make you happy and we are going to try and find a resolution to this," we are going to wind up with massive construction defect litigation like we have seen in Las Vegas over the last 15 years. Those cases drag on for years and years.

But aren't those who are closing going to waive rights.

I am sure that MGM, which is represented by a bunch of sophisticated lawyers, if they are going to give a 30 percent discount, they are going to get every possible right and legal remedy that those buyers have waived.

What will be the outcome of your case?

I think the outcome of our case is that our clients will win (laughs). Our clients hope MGM will be reasonable and settle without litigation. We will litigate if we have to.

What are Vegas odds of that?

If MGM doesn't come up from 30 percent, I would say those odds are good.

Do you get pressure on this case?

We have had comments that we will never do work for MGM in our lives. There are a lot of powerful big players that are important to the economy of Las Vegas, and I don't expect the MGM Mirage ... is going to hire Hutchison & Steffen to represent them in a big piece of commercial litigation. It isn't so much the pressure. You understand you are averse to people who are pretty powerful in this town and control a lot of legal work.

Could they influence others who hire you?

They could put pressure on other businesses they work with or contractors or suppliers. Do I think they will do that? No. I think they have more class and are a better group of

people than that. They understand our clients have a legitimate (complaint). MGM and its executives and shareholders understand this is a legal dispute and it is not a matter of Hutchison & Steffen wanting to crater an important part of the Las Vegas economy. For Pete's sake, my children are the fourth generation in Las Vegas. I want Las Vegas to succeed as much as anybody else, but I also want my clients to realize their contractual rights.

What would you do with your life if everyone got along and there were no disputes?

Let me put it this way: I am not sure what I am going to do in heaven ... We are not litigating in heaven. This is not a perfect society, and if it were, there would be nothing for me to do.

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Is that typical?

There are some firms such as Randall Jones who's good at handling high-stakes business and commercial litigation on contingency basis. It is a different business model and a different animal that I was just never trained in or accustomed to. I am more comfortable with the hourly rate. But I do think the business and practice of law is changing in that clients are looking more for that. Clients are looking for and we are considering more of a risk sharing with clients. The way we have done that is we will agree to lower our hourly rates for a piece of the successful outcome or maybe a holdback on part of our hourly pay. If we are successful, we may get a multiple of that. I do think, particularly in this economy, clients are looking for a lot of value and creative ways that they can still have top-shelf, high-caliber lawyers without paying a fortune by sharing some of the risk with the outcome.

Is that because they don't have the money right now?

Legal departments in major corporations are suffering like most departments in major corporations. They are looking for cost-saving measures. Businesses just don't have much money to invest in litigation as they have in the past.

Does that put you at risk or will you do better?

In the end, our firm will do better for two reasons. One is we are going to be willing to consider some of the risk with the clients and also recognizing clients are in a tough financial position and as a result lower our hourly rates. More regional and national firms have a difficult time justifying that in New York or Boston

or Philadelphia. I think that's a competitive advantage that local firms like ours have.

How are they going to fare in this economy?

I think the national and regional firms that come here with a business model that has worked throughout the country when times were good — they tend to have more of a national and regional hourly rate structure, and that structure is not as flexible as far as lowering hourly rates, taking on risk allocation and taking on different types of clients. A lot of bigger national and regional firms have been in the past averse to taking on more local clients. They want more of the national clients.

How has the economy affected firms?

I can speak for my firm and what I have talked to colleagues about their firms. Our firm, the biggest impact has been clients either not paying and filing bankruptcy or being a lot slower paying. We are as busy as we have ever been for the actual work. But when it comes to the payment for that work, it hasn't been as good as it has been in the past (laughs).

We just work through the issues and try to work with our clients and be smart working for clients who can pay us and working for clients we have a relationship with. And if we don't have a relationship with a client, we require a higher retainer.

We have been fortunate in that we haven't had to lay off any lawyers. There have been other firms who have experienced the same sort of things we have, but there are other consequences. You have heard of the layoffs, but those are the firms that have been concentrated in areas hardest hit by the economy. If you've got firms focused on real estate or focused on construction or financial services, there are going to be layoffs there. They just

don't have that kind of work.

Fortunately, for firms like ours, which is primarily civil litigation; people are litigious in good times and bad. When people are being laid off or partners are experiencing a decrease in revenue or lost business, unfortunately, they start blaming each other.

Are the types of cases you handle in this economy changing?

Yes. In one way, we handle a lot more real estate disputes because the bottom has fallen out of the real estate market, and so partners start to blame each other. Or they blame people initially involved in the transaction. They will blame professionals, creditors and partners where we have seen an increase. It is really more real estate dispute litigation and or business failure litigation.

We have a couple of large litigation matters right now where companies purchased a ... business during the boom times and now times aren't so booming. Instead of recognizing that the economy has caused the decrease in revenue, there are allegations that "You didn't disclose certain financial materials or certain business aspects and so we are going to sue you now for fraud or breach of your obligations to us."

So how are the cases different from the boom times?

It is interesting. You typically have the same players involved. You still have businessmen suing each other or partners suing each other, employers and employees suing each other, it's over different things. Now, it is over deals gone bad. Before it was, "You promised to sell me this land at \$2.5 million, and I thought it was a steal at the time and you breached the contract and sold it to someone for \$3 million. Now, I am going to sue you for my lost business opportunity." Two years ago, everyone wanted

to be in Vegas. Now, everyone wants to be out of Vegas (laughs).

What side are you typically on — the plaintiff or defendant?

Usually, we are representing companies or individuals who have been sued, but we will also represent companies who are seeking to enforce their legal interest against other companies. But more often, we are on the defense side. And a large part of our practice is health care related and we represent a lot of doctors and medical institutions in malpractice actions. We defend those. For example, United-Healthcare and Sierra Health Services are big clients of ours.

Where is your industry heading?

I think most strong local firms are going to be fine, and the regional firms that came in and merged with good strong local firms will be fine. The regional firms and national firms that are in trouble are the ones that came in that picked up a practice that wasn't that strong or maybe hired lawyers who weren't that strong and believed because of their national reputation that they would be able to take over the market. I expect these kind of conditions with our firm to continue for the next two or three years.

My own belief is Las Vegas is going to be challenged coming out of the recession for all the reasons it was booming when the rest of the country wasn't doing as well. I also believe there are governmental and business policies that won't be conducive to growth over the next couple of years in Las Vegas. We will have some challenges.

Then we aren't going to see another flood of attorneys come to town?

No. No. We are not going to have a bunch of out-of-state lawyers to remind us how good they are and how bad we are (laughs).

HUTCHISON & STEFFEN

ATTORNEYS

Dec. 18-31, 2009

Q&A

Mark Hutchison

CO-FOUNDER, HUTCHISON & STEFFEN



STEVE MARCUS / STAFF PHOTOGRAPHER

High-stakes litigator: Attorney Mark Hutchison, shown in his Hutchison & Steffen office, says he likes the high-stakes bet-the-business, bet-the-farm litigation.

Interviewed by Brian Wargo, Staff Writer

Amid all the hoopla of CityCenter's opening this holiday season, one local law firm has come across as Scrooge to some. Hutchison & Steffen, co-founded in 1996 by Mark Hutchison, is taking on MGM Mirage to get the gaming company to further lower prices it is charging for its condominiums at CityCenter.

Hutchison, a Las Vegas native who attended BYU's J. Reuben Clark Law School, said the firm doesn't mind taking on giants such as MGM, threatening litigation if its clients don't get their way.

Hutchison said he doesn't have any remorse picking on a project that is so important to the city's success right now, as he must advocate for his clients.

CityCenter has sold more than half of its 2,500 residential units. Mandarin Oriental has 217 residential units that are above a hotel. Veer comprises two towers of 670 residential-only units. Vdara has 1,570 units that are hotel rooms owned by individuals.

IBLV: Were you thinking about a career in law in your early college days?

Hutchison: No. I wanted to be a coach and high school teacher, and then I found out that a first-year teacher with two children qualified for federal assistance (laughs). I thought that wasn't the best course for me to pursue. I served an LDS

mission and one of my companions — his father was a professor at BYU Law School — started talking about that. I took a look at that and decided to pursue a career in law.

What prompted that?

I started to think, what am I good at? I always have been able to talk very well, and I love trying to per-

suade. You can either be a professional politician, debate coach or a trial lawyer (laughs).

You worked as a lawyer for a national firm in Chicago and Los Angeles and moved back to Las Vegas and ultimately started your own firm. Why did you branch out on your own?

It had always been a goal of mine to have my own law firm and be able to hire lawyers and control my own practice.

How did it come about?

I knew John Steffen. We had been friends. In 1996 we both got together and said it would be great to go out and start a practice. Las Vegas was booming. If you had a heart beat you did well. We had a handful of clients. Both of us left on very good terms with our law firms. We got a lot of referral business from our old law firms. They were very generous to us, and away we went.

What was it like to start?

It was just John and me and our firm administrator. It was incredibly stressful. Both John and I ended up in doctors' offices for heart palpitations. We both thought we were dying. It was all stress related. For the first two years of practice, I saw John three or four times as much as I saw my wife.

What kind of cases did you handle back then?

ONLINE:

An extended version of this Q&A can be found at inbusinesslasvegas.com.

We were litigators and still are. We were doing civil litigation, commercial litigation, business litigation and business disputes, contract disputes, employment disputes.

Why did you choose to focus on those areas?

I really like high-stakes bet-the-business, bet-the-farm litigation. It is very intellectually and professionally stimulating, and you also have some of the best lawyers you work with and try cases against.

What do you mean by high stakes? Are you taking such cases on a contingency?

We generally don't work on contingency. When I say high stakes, I generally mean for the client and not for the firm. We get paid fairly on an hourly basis. We prefer the hourly rate.

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FIRM GROWTH



Kevin J. Blair

KEVIN BLAIR JOINS FIRM AS OF COUNSEL

Hutchison & Steffen proudly welcomed Kevin J. Blair as Of Counsel. Kevin brings tremendous experience in corporate law, real estate, and loan documentation, as well as employment law having practiced before the Nevada Equal Rights Commission and the Equal Employment Opportunity Commission.

Kevin received his Juris Doctorate from California Western School of Law, and received his Bachelor of Science Degree in Finance from California State University, Fresno.

"We are very pleased to have Kevin working with us," says John T. Steffen, managing partner of the Firm. "He brings a wealth of experience and will be a valuable asset for our existing and future clients."



Richard G. Smurthwaite

RICHARD SMURTHWAITE JOINS FIRM AS ASSOCIATE

Hutchison & Steffen welcomed Richard G. Smurthwaite to the Firm. Richard practices in the areas of estate planning, partnerships, corporations, and transactions. He is admitted to practice in Utah and will work in Hutchison & Steffen's Utah office.

Mark A. Hutchison, a founding partner of the Firm, commented, "We are delighted to welcome Richard to the Firm. His experience and varied background are tremendous assets for our clients as well as for Hutchison & Steffen. We are confident that he will make great contributions to the Firm and to our Utah office."

Richard is a graduate of Brigham Young University, where he earned a degree in mathematics with a minor in German. After a successful career in management, he returned to BYU for graduate school. He received an MBA from its Marriott School of Management and a law degree from the J. Reuben Clark School of Law. In both schools, he finished in the top 10% of his class. After graduation, Richard worked in the office of the general counsel at Beneficial Life Insurance Company and, later, as its vice president of marketing services before returning to the practice of law in 2001.

ACCOMPLISHMENTS

STEFFEN CO-AUTHORS BOOK, STRATEGIES FOR GROWING A LAW FIRM



John T. Steffen

Hutchison & Steffen's co-founder and managing partner, John T. Steffen, recently co-authored a book for law firms. In the book, Steffen identifies opportunities for law firm growth, particularly during a recession. Sub-topics include overall growth strategies, operational considerations, attorney attraction and retention, and marketing approaches. Paramount to all of the strategies outlined, Steffen encourages practitioners to remain focused on client service provided by exceptional legal talent.

Since co-founding the Firm with Mark A. Hutchison in 1996, Steffen has taken an active role in expanding the Firm through the addition of dozens of attorneys and the addition of practice areas essential in serving the Firm's expansive client base. "I truly enjoy not only practicing law, but also working to expand the Firm year over year. Co-authoring this book allowed me to share my experiences with other professionals across the country," remarked Steffen.



The book is available through Thomson Reuters/Aspatore, ©2009.

FIDUCIARY LITIGATION TEAM HOLDS TRUSTEE ACCOUNTABLE FOR BREACH OF DUTIES



Mark J. Connot

Hutchison & Steffen was retained by the beneficiaries of a family trust to pursue a trustee for breaches of fiduciary duties in wrongfully administering a family trust and misusing trust assets for personal use. Hutchison & Steffen partner Mark J. Connot and Stephen J. Mayfield were successful in having the trustee removed and a successor trustee appointed. Following the appointment of the successor trustee, and after reviewing the trust records, it became apparent that the former trustee had breached her duties to the trust. The former trustee used the trust as her own personal bank account throughout the administration of the trust, thereby effectively disinheriting one of the beneficiaries.

At trial, the Firm proved that the former trustee misused funds of the trust for her personal use, including purchase of a \$160,000 timeshare unit in Los Cabos, Mexico, for her personal benefit, as well as numerous and substantial "loans" from the trust for the sole benefit of the former trustee and her husband. Under cross examination at trial, the former trustee admitted that distributions from the trust to herself and her husband were not legitimate loans as she had alleged, and that all documents of accounting and substantiation, which she produced during discovery, were a fabrication that she created after the litigation began. Following trial, the Court disallowed any management fee taken by the former trustee and entered judgment in excess of \$1,340,000 against the former trustee.

Connot, lead counsel for the successor trustee, explained, "This result sends a message to all trustees that they must adhere to their duties as a fiduciary to administer the trust with the utmost fairness to the beneficiaries, or be held accountable."



Stephen J. Mayfield

FIRM IN THE NEWS

FIRM'S REPRESENTATION OF CLIENTS NOTED IN NATIONAL MEDIA

Hutchison & Steffen continues to represent clients in complex business matters of national importance. Below is a sampling of the dozens of news agencies that have been covering various stories:

The Wall Street Journal

Forbes.com

Yahoo! Finance

FindLaw Legal News

Boston Business Journal

Silicon Valley Business Journal

San Francisco Business Times

Dallas Business Journal

Houston Chronicle

Washington Business Journal

Los Angeles Times

Reuters.com

FOX News

Los Angeles Business

Sacramento Business Journal

Denver Business Journal

In Business Las Vegas

Philadelphia Business Journal

CBS

Phoenix Business Journal

Finance Industry Today

Austin Business Journal

ABC

Yahoo! UK

Dayton Business Journal

Houston Business Journal

NBC

Atlanta Business Journal

St. Louis Business Journal

Pacific Business Journal

Plus dozens of other media outlets



FIRM IN THE NEWS

HUTCHISON & STEFFEN TAKES LEAD ROLE IN NEGOTIATING MGM MIRAGE CITYCENTER CONDOMINIUM BUYER MODIFICATIONS



Mark J. Connot

In 2009, Hutchison & Steffen began representing numerous buyers who agreed to purchase condominium units in the MGM CityCenter project. The project is the most ambitious in Las Vegas history, with an overall estimated value of \$8.5 billion and with 6,000 high-end hotel rooms and 2,400 luxury condominiums. Hutchison & Steffen partner Mark J. Connot and Cami M. Perkins represent many of the original buyers who signed purchase agreements during the project's early stages. Since that time, CityCenter has been confronted with numerous construction issues, and real estate values in Las Vegas have fallen dramatically.

In July, MGM Mirage emphatically stated to The Wall Street Journal that it was not offering discounts to current buyers. MGM Mirage promoted itself as the only entity in the world with the resources and talent to construct a project of CityCenter's magnitude. Hutchison & Steffen assumed a lead role among various media outlets in pointing out that construction problems, and questions regarding the extent of those problems, significantly impact the value of all condo units at CityCenter. While refusing to publicly discuss that issue, MGM Mirage acknowledged that the condo units under contract are priced significantly higher than their actual market value in today's economy.



Cami M. Perkins

In August, MGM Mirage announced it planned to cut the price of condominiums by 30% to appease buyers. Connot responded to media inquiries by stating that the 30% price reduction does not reflect market realities and clients who have retained Hutchison & Steffen are unwilling to accept that offer. Moreover, the price reduction offered by MGM Mirage requires buyers to forgo substantial legal rights.

"Given the realities of the market in general, and the issues with this project specifically, MGM's offer to reduce prices by 30% is woefully inadequate," remarked Connot. "MGM has recently taken a write-down of well over 30% of the value of its interest in CityCenter, yet has only offered a 30% reduction to purchasers of condos in CityCenter. Our clients were disappointed by MGM Mirage's initial offer and remain steadfast in their determination to reach a realistic resolution with MGM on an individual and collective basis."

Hutchison & Steffen continues representation of clients who purchased condominium units at CityCenter. In the meantime, Connot continues serving as a legal source to multiple media outlets across the country.

ACCOMPLISHMENTS

JURY RETURNS DEFENSE VERDICT



Kumen L. Taylor

The Law Firm of Hutchison & Steffen recently achieved a defense verdict for their client in a case filed in Salt Lake City. The plaintiff claimed that the client's negligence caused the plaintiff to suffer severe injuries (including head injuries) and sought significant monetary damages against the client. Hutchison & Steffen's Kumen L. Taylor convinced the jury that the client was not negligent and that he was not the cause of the plaintiff's injuries. Extensive battles ensued throughout the case as medical and personal records and other evidence was subpoenaed to discredit the plaintiff's testimony. The case eventually progressed to a jury trial, during which Taylor challenged key differences in the plaintiff's testimony versus contradictory information contained in his personal medical records.

"The whole case simply did not add up," explained Taylor. "The plaintiff's testimony at trial did not correlate or support the extent or types of injuries claimed by the plaintiff."

CLIENT PREVAILS IN STATE TAX PROCEEDING

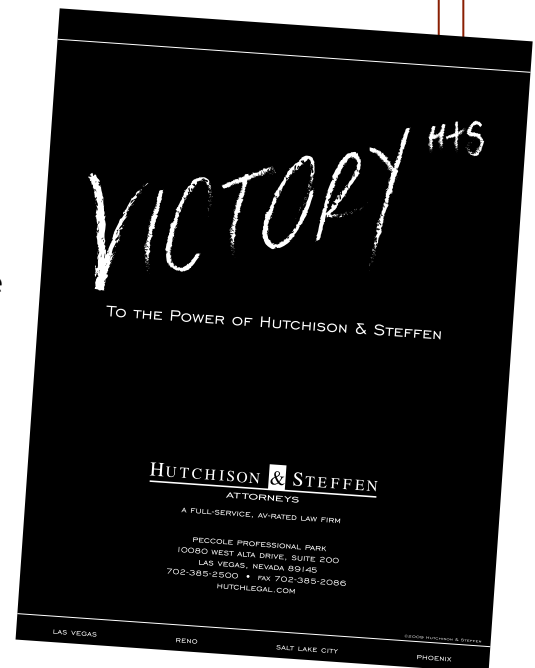


Joseph R. Ganley



Deidre J. Call

Hutchison & Steffen partner Joseph R. Ganley along with Deidre J. Call successfully secured title to real property in a unique, remainderment tax procedure that resulted in a lucrative return for the client. The government agency challenged the procedure that vested title in the client who employs a complicated legal process to secure title to real property. The case involved demanding evidentiary and timing issues that the case team was able to navigate against challenging, pedantic government officials, and ultimately prevailed for the Firm's client.



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ACCOMPLISHMENTS

ANESTHESIOLOGISTS SECURE COURT ORDER PREVENTING UNLAWFUL ENFORCEMENT OF EXCLUSIVE CONTRACT



Mark A. Hutchison

About 50 local anesthesiologists sued Seven Hills Surgery Center when it informed the anesthesiologists that they would be barred from performing anesthesiology medical services for patients because Seven Hills had entered into an exclusive agreement with a small anesthesiology group to perform all anesthesiology services at the surgery center. This past October, Hutchison & Steffen, the anesthesiologists' lawyers, secured a preliminary injunction from the District Court preventing Seven Hills from barring the physicians from exercising their medical privileges and practicing at Seven Hills. The Court held that the anesthesiologists with current privileges had a contractual right to continue performing medical services at Seven Hills and that if Seven Hills wished to terminate those privileges, the surgery center had to adhere to its own by-laws governing when a physician's privileges may be terminated.



Jacob A. Reynolds

Mark A. Hutchison, lead counsel for the anesthesiologists, explained that the District Court's decision reinforced important broader legal principles. "One party to a contract cannot unilaterally decide to terminate a contract or to interfere with the other party's rights under the contract. For some reason, some surgery centers, and even hospitals, believe that entering into an exclusive contract with a medical specialty group somehow cancels other physicians' privileges to continue practicing medicine within that specialty. A medical facility cannot simply change from an open system to a single provider without honoring existing contractual obligations to physicians with privileges at the facility."

Jacob A. Reynolds worked closely with Hutchison on this case.

CASE DISMISSED AGAINST MEDICAL PROVIDER



Mark J. Connot

Hutchison & Steffen defended a major radiology medical group in a case filed by the plaintiff for alleged medical malpractice. The plaintiff sued the radiology group and a radiologist because the radiologist allegedly read and attributed the wrong MRI to the plaintiff. Based on the reading, the plaintiff alleged that she was diagnosed with multiple sclerosis and went through treatment based on this diagnosis.

The plaintiff was later informed that the MRI attributed to her was not her own MRI and that she did not have multiple sclerosis. The plaintiff then sued the client alleging that it employed a radiologist who negligently attributed an MRI reading from another patient to the plaintiff, resulting in the plaintiff being diagnosed with multiple sclerosis. The plaintiff also alleged that the client did not have adequate policies and procedures in place to prevent the alleged error.



Jeffrey R. Hall

The plaintiff also alleged that the radiology group was liable under various alter ego theories. Hutchison & Steffen attorneys Mark J. Connot and Jeffrey R. Hall successfully obtained a dismissal of the case against the client by demonstrating to the District Court that the radiology group did not provide the radiology services, did not employ the radiologist, and the alter ego theories did not apply in this case.

AWARDS

MOUNTAIN STATES SUPER LAWYERS RECOGNIZES THREE HUTCHISON & STEFFEN ATTORNEYS



Mark A. Hutchison

Hutchison & Steffen partner Mark A. Hutchison was recently named to the 2009 Mountain States Super Lawyers list. In addition, two Firm associates — John H. Gutke and Kevin M. Sutehall — were named 2009 Mountain States Rising Stars, which is part of the prestigious annual Super Lawyers list.

Hutchison is a founding partner of the Firm and holds an AV-rating from Martindale-Hubbell®. He practices primarily in the areas of business and commercial litigation, tort litigation, medical malpractice, employment law, trust and probate litigation, and appellate litigation.



John H. Gutke

Gutke practices primarily in business and commercial litigation, healthcare professionals advocacy, corporate and transactional law, and real estate. Sutehall has focused his growing practice on business and commercial litigation.

ABOUT SUPER LAWYERS

Super Lawyers is a listing of outstanding lawyers from more than 70 practice areas who have attained a high degree of peer recognition and professional achievement. Super Lawyers is published as a special supplement in leading newspapers and city and regional magazines across the country. Super Lawyers magazine, featuring articles about attorneys named to the Super Lawyers list, is distributed to all attorneys in the state or region, the lead corporate counsel of Russell 3000 companies, and the ABA-approved law school libraries.



Kevin M. Sutehall

ACCOMPLISHMENTS

THE FIRM SECURES SUMMARY JUDGMENTS FOR CLIENTS IN SIGNIFICANT CASES



Mark J. Connot

The Firm's client built a home in Las Vegas, Nevada, with an estimated value of \$20 million. By all accounts, the home is considered to be one of the biggest and most beautiful homes in all of Las Vegas. After the sale of the home, the plaintiff sued the client for allegedly breaching a contract to sell the home via auction. Hutchison & Steffen partner Mark J. Connot and Christian M. Orme filed a motion for summary judgment on behalf of the client, which the Court granted on all counts. Further, the Court ordered the plaintiff to pay the client for all of the attorneys' fees and costs he expended in the matter. This was a tremendous result for the client who resolved the case successfully prior to the expense of trial and was repaid all attorneys' fees and costs for defending the case.



Christian M. Orme

Hutchison & Steffen represented a manufacturer of vinyl fencing that sells the product in a variety of colors for commercial and residential building projects. A fence was installed using the client's fencing at a Las Vegas development project. The plaintiff alleged that the client breached the contract, warranty, and the implied covenant of good faith and fair dealing. Hutchison & Steffen partner Scott A. Flinders and Christian M. Orme filed a motion for summary judgment on behalf of the client on all claims, which the Court granted. The client was able to short-circuit the plaintiff's case completely while saving significant money and time.



Scott A. Flinders

Hutchison & Steffen's client was a real estate consultant for a land purchase estimated at \$8.8 million. After the sale of the land, the plaintiff sued the client for a portion of the commission. In his complaint, the plaintiff alleged causes of action for breach of contract, unjust enrichment, and fraudulent misrepresentation. Firm partner L. Kristopher Rath and Christian M. Orme filed a motion for summary judgment on behalf of the client, which the Court granted on all claims, saving the client from further litigation costs and exposure.



L. Kristopher Rath

A construction worker was killed in a construction related accident at the Trump International Hotel & Tower in Las Vegas, Nevada. The worker's estate filed a lawsuit against a national rental company, which is a long-time Firm client, and other companies for negligence, among other claims. Kumen L. Taylor and Christian M. Orme of Hutchison & Steffen filed a motion for summary judgment on behalf of the client on the negligence claim. Despite significant opposition from opposing parties, the court granted the motion on behalf of the client.



Kumen L. Taylor

ACCOMPLISHMENTS

CAB COMPANIES OBTAIN FAVORABLE VERDICTS IN JURY TRIALS



James H. Randall



Kristol B. Ginapp

Hutchison & Steffen partner James H. Randall and Kristol B. Ginapp regularly defend transportation companies in various types of lawsuits. Randall and Ginapp secured important defense verdicts for two of the Firm's cab company clients. In the first case, the cab company was named as a defendant in a lawsuit filed by a plaintiff alleging negligence against the company. The plaintiff sued the cab company and its driver after she tripped on one-way spikes at the entrance to a car rental agency. The plaintiff claimed that the cab driver stopped the taxicab on the one-way spikes and ordered her to exit the vehicle, which is when she tripped on the spikes, injuring her foot. The cab driver denied the plaintiff's claims and testified that the plaintiff herself caused the incident when she opened the door and began exiting the taxicab while it was still moving, forcing him to stop the cab for the plaintiff's own safety. After a trial, the jury returned a verdict in favor of the cab company.

In the second case, the cab company and its driver were named in a lawsuit for damages following an automobile accident. The plaintiff alleged injuries to her neck and back as well as permanent scarring due to burns from airbag deployment. Prior to trial, the Firm successfully excluded the plaintiff's recovery for future damages for medical expenses and pain and suffering. At the conclusion of the trial, the plaintiff requested a significant amount for past pain and suffering damages in addition to her medical expenses. Following Randall's closing argument suggesting a lower amount of pain and suffering damages, the jury returned a verdict awarding the plaintiff her past medical expenses and only \$35,000 in past pain and suffering damages.



ACCOMPLISHMENTS

MICHAEL WALL SUCCESSFULLY PRESENTS APPELLATE CASES BEFORE THE NEVADA SUPREME COURT AND THE NINTH CIRCUIT COURT OF APPEALS



Michael K. Wall

Hutchison & Steffen partner Michael K. Wall was lead appellate counsel on several important cases before the Nevada Supreme Court and the Ninth Circuit Court of Appeals in 2009. Wall's persuasive representation resulted in significant rulings and clarification of law by the Appellate Courts. For example, in *Thompson vs. Brackenbury*, the Nevada Supreme Court clarified real estate law as it applies to adverse possession. The case involved title to a 100-acre parcel of land near Ely with significant underlying water rights. Thompson, the Firm's client, had this valuable property and the water rights taken from him by a summary judgment of the District Court based on a claim of adverse possession. In reversing the District Court's decision and returning the property to Thompson, the Nevada Supreme Court

ruled, among other things, that the District Court had applied the wrong standard of adverse possession.

In another important and nationally reported case, Wall represented Longs Drug in an action involving a pharmacy's liability for personal injury involving prescription drug use. The plaintiff in the case was injured by a driver who was under the influence of prescription medications. The plaintiff sued a number of pharmacies, claiming the pharmacies breached a duty not to fill prescriptions for the driver because they had access to information suggesting the driver was abusing prescription drugs. Imposing such third-party liability would be a significant change in the law and would have far-reaching consequences. Wall was selected to argue the case for all of the pharmacy defendants before the Nevada Supreme Court, en banc. The Court recently ruled in favor of the pharmacy defendants, and the decision was widely reported by national media such as *The Wall Street Journal*.

Wall also argued *Delux Cab vs. Ventemiglia*, a significant case involving the potential liability of physicians who treat accident victims. This case is pending before the Nevada Supreme Court, and will address important issues as to the causes of action of contribution and indemnity not yet resolved in Nevada. In addition, Wall argued a major case involving the rights of attorneys in employment contracts before the U.S. Ninth Circuit, securing a reversal of a U.S. District Court judgment denying compensation to the Firm's client. Wall argued several other cases to the Nevada Supreme Court, and has handled other appeals before both the Nevada Supreme Court and the U. S. Ninth Circuit.

Wall also submitted a number of petitions for extraordinary writ relief to Appellate Courts. One such petition was granted by the Nevada Supreme Court in *Cox vs. District Court*, which was an essential step in Cox's ongoing action seeking to regain clear title to the farm he has owned for over 30 years. Wall's successful experience arguing major cases before the Nevada Supreme Court and U.S. Ninth Circuit speaks to his professional experience and ability to ably represent Hutchison & Steffen appellate clients at the highest levels of appellate practice.

ACCOMPLISHMENTS

NUMEROUS PHYSICIAN CLIENTS SUCCESSFULLY DEFENDED



L. Kristopher Rath

The head of the Firm's Healthcare Professionals Advocacy practice, partner L. Kristopher Rath, successfully represented many physicians before administrative medical agencies and in court.

The Nevada State Board of Osteopathic Medicine served the Firm's client, a general surgeon, with five complaints and set an emergency meeting to summarily suspend the client's license to practice medicine. Rath quickly negotiated a temporary agreement to avoid the suspension and scheduled five Board trials in short order. Rath tried the first case before the Board. The first case involved allegations that the surgeon breached professional standards of care by perforating the patient's colon during a colonoscopy. All of the claims, with the exception of one, were dismissed by the Board's hearing officer following Rath's presentation of evidence at the trial. All five complaints were ultimately successfully settled. The client maintained his medical license.



John H. Gutke

In a major medical malpractice/wrongful death lawsuit, Rath represented the Firm's client, a family practitioner, in a lawsuit naming over 30 medical providers, claiming the plaintiff had been prescribed multiple drug prescriptions, which caused her untimely death. Rath filed and argued a motion to dismiss the case before the District Court. Rath contended that there was insufficient expert support for the claims against the client. The District Court dismissed the case against the client, and the plaintiff did not appeal the dismissal.

In another medical malpractice/wrongful death lawsuit brought against several healthcare providers, including the Firm's client, a hospitalist, the plaintiff alleged the healthcare providers provided sub-standard care to the deceased patient, leading to pressure sores and her ultimate death. The client denied that he committed any malpractice. Rath and attorney John H. Gutke developed a legal procedural strategy. They filed and argued a motion to dismiss the complaint based on improper service on the client. The District Court dismissed the case against the client and the plaintiff did not appeal the dismissal.

