

## Services & Industries

# Retail Companies

## OVERVIEW

Both publicly traded and privately held companies in the retail industry seek our counsel on myriad legal and business issues affecting their business operations. Our retail clients include national and international specialty stores dealing in men's, women's and children's apparel and fashion, footwear, home textiles, housewares, drugstores, home appliances, consumer electronics and computer products. We also represent clients involved in the manufacturing and distribution channels for the retail industry, as well as shopping center operators and retail store developers.

Our approach is to provide "common sense" legal and business solutions for our clients to help them grow and expand their business operations and to assist in the early identification and resolution of potential problems. As a full-service law firm, we pride ourselves on the ability to provide timely, practical and accurate advice on a broad range of matters that arise on a daily basis, including corporate governance, real estate, labor and employment, credit, financing, tax, securities law, advertising, licensing, executive compensation, intellectual property, antitrust, bankruptcy and litigation matters.

### **Commercial Real Estate, Construction, Development and Financial Services**

We provide a full range of legal services relating to real estate, including the purchase, sale and leasing of commercial properties, landlord/tenant matters, construction contracts, developer agreements, land use and environmental issues, structuring of complex financing for real estate development projects, and related transactions.

### **Corporate, Tax, Mergers and Acquisitions**

We serve as securities and corporate counsel to a wide array of NYSE-, NASDAQ- and AMEX-listed companies, as well as private companies. We provide counseling in the areas of corporate structure and governance, securities law reporting and SEC compliance, regulatory matters, general corporate law, international and domestic tax issues, and mergers and acquisitions. Our attorneys serve as counsel to targets, acquirers and investment banks in a variety of public and private company mergers.

### **Employment, Labor, Executive Compensation and Employee Benefits**

Representation of management in labor and employment law matters is one of our keystone areas of practice, for which our attorneys have been nationally recognized. We assist retail industry corporate executives, general counsel and human resources professionals in developing and executing their

companies' organizational strategies. We have sophisticated experience in counseling employers on employment contracts, restrictive covenants, employee handbooks, training, employee discipline, wrongful discharge, employment discrimination and termination, labor relations including union representation proceedings and contract arbitrations, National Labor Relations Board matters, employee health and safety, workers' compensation, executive compensation, employee benefit matters, ERISA benefits and compensation plans, and immigration issues.

### **Intellectual Property, Advertising and Promotions**

We provide a full range of services to retailers and manufacturers to meet their intellectual property, advertising and promotions requirements. Our services include the registration, maintenance and enforcement of trademarks, copyrights and patents as well as the negotiation and drafting of marketing, distribution, licensing and franchise agreements. Our attorneys regularly advise retail clients on the creation, production, broadcast, publication and dissemination of all forms of advertising, marketing, promotional, public relations and related services and materials, including specialized e-commerce, trade secret and privacy issues.

### **Litigation and Antitrust**

Our attorneys have substantial experience representing retailers in all facets of commercial litigation, including contract disputes and landlord-tenant, labor and employment, vendor, franchising, and distribution matters. Clients regularly look to our attorneys for preventive counseling and representation on antitrust matters, as well as advice during the course of regulatory investigations. We have represented clients in civil actions alleging anti-competitive behavior, including price fixing, tie-ins, monopolization, price discrimination, employee raiding and theft of trade secrets, and have counseled our clients as to the antitrust risks of mergers, acquisitions, joint ventures and strategic alliances.

### **Bankruptcy, Restructuring, Reorganizations and Workouts**

We have counseled many clients in out-of-court restructurings and Chapter 11 proceedings in the retail/consumer services sector. We represent secured and unsecured creditors, trustees, lenders financing debtors-in-possession, lessors of equipment or real estate, and creditors' committees to protect their respective interests. We have also represented large creditors' committees and various local and out-of-state secured creditors in a number of well-publicized bankruptcies.

## **EXPERIENCE**

*Prior results do not guarantee a similar outcome.*

### **Commercial Real Estate, Construction, Development and Financial Services**

- Represented retail tenants and landlords in the negotiation and execution of shopping center and stand-alone retail store leases

- Development and leasing of retail shopping centers
- Represented a national drugstore chain in land use matters

### **Corporate, Tax, Mergers and Acquisitions**

- Represented the Special Committee of the board of directors of an AMEX-listed company in evaluating a proposal from a party holding a majority of the company's stock to acquire the remaining shares and take the company private.

### **Employment, Labor, Executive Compensation and Employee Benefits**

- Negotiated collective bargaining agreements with the nation's largest retail clerks union, covering retail and distribution center employees at a national retailer.
- Counseled a publicly traded clothing retailer in analyzing the impact of federal securities laws on its participant-directed 401(k) plan, as well as its equity-based compensation plans, including incentive and nonqualified stock options, stock appreciation rights, and restricted stock grants.
- Coordinated and defended workers' compensation cases for a number of Fortune 100 companies.

### **Intellectual Property, Advertising and Promotions**

- Obtained a permanent injunction against a former franchisee of a petroleum products retailer who attempted to create an "independent franchise" association that included the franchisor's mark in its name and then issued statements criticizing our client.
- Successfully acted as trial counsel for a leading real estate brokerage firm and obtained a permanent injunction against a prominent e-commerce company that was using our client's brands without permission.
- Successfully represented a well-known window treatment manufacturer in a trial involving multimillion-dollar patent claims and antitrust counterclaims.

### **Litigation and Antitrust**

- Defended the U.S. distributor of a Japanese photocopy equipment manufacturer against a competitor's allegations of exclusive dealing, tying and monopoly.
- Prosecuted an emergent action on behalf of a clothing manufacturer against a warehouser to obtain the release of \$5 million of retail clothing inventory.
- Prosecuted trademark infringement and counterfeiting actions and successfully obtained ex parte orders to seize and destroy infringing goods.

## INSIGHTS

### **New COVID-19 Connecticut Executive Order Requires Face Coverings in Public and Business Locations**

April 20, 2020

*Day Pitney Advisory*

### **NLRB Eases Organizing of Temporary Workers**

July 15, 2016

Rachel Gonzalez, Mary Rogers and Patrick McCarthy wrote an article "NLRB Eases Organizing of Temporary Workers" for *CBIA's H&R Safety Newsletter* on the impact of the recent decision of the National Labor Relations Board (NLRB).

### **Colleen Donovan Speaks at NJICLE Site Remediation & Development Seminar**

November 21, 2013

### **Day Pitney Attorneys Present to WESFACCA**

June 13, 2012

### **NACD Connecticut Holds "Corporate Responsibility & Sustainability" Program**

March 28, 2013

## NEWS

### **Walmart Wins At NJ High Court In Fight Over Medical Terms**

March 4, 2019

Day Pitney's representation of Walmart is noted in a *Law360* article, entitled "[Walmart Wins At NJ High Court In Fight Over Medical Terms.](#)"

### **Day Pitney Represents Major Retail Corporation in Personal Injury Case**

September 13, 2018

Day Pitney LLP, led by partner Michael Furey, is representing a major retailer in connection with a personal injury case of first impression that is pending in the Supreme Court of New Jersey.

### **Day Pitney Lands 2 Corporate Finance Partners**

October 4, 2017

Peter Bilfield and Steven Gold were quoted in an article, "[Day Pitney Lands 2 Corporate Finance](#)

Partners," published in *Law360*.

## **Retail Pressures That Doomed Sports Authority May Spread to Wholesale, Real Estate in 2017**

November 28, 2016

Joshua Cohen was quoted in the article "Retail Pressures That Doomed Sports Authority May Spread to Wholesale, Real Estate in 2017," in *TheStreet.com*.

## **68 Day Pitney Lawyers Named to 2016 Best Lawyers List**

August 24, 2015

**Stamford, Conn., August 24, 2015** - Day Pitney is pleased to announce that 68 attorneys have been selected for inclusion in the 2016 Best Lawyers in America. Best Lawyers ranks lawyers through peer-review surveys, and has been published annually since 1983.

## **CONTACTS**



**Warren J. Casey**  
Parsippany, NJ  
[wcasey@daypitney.com](mailto:wcasey@daypitney.com)  
T: (973) 966 8025