



Barry M. Heller

Partner

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Barry Heller is the firm's most senior franchise litigation partner.

For over 30 years, Barry's practice has consisted almost exclusively of representing clients in franchise and distribution disputes throughout the country, both in litigation, arbitration and mediation.

Much of Barry's practice has focused on franchise termination matters, as well as on more complex franchise cases involving issues affecting the entire franchise system. He has handled cases involving, among other issues, termination, transfers, rights of first refusal, implied covenant of good faith and fair dealing, alternative distribution channels, covenants against competition, trademark infringement, product sourcing and approval, advertising funds, acquisitions of other systems, antitrust and unfair competition. Barry has been involved in both domestic and international franchise matters. He has represented franchisors in actions involving individual franchisees, franchise associations, class actions, group actions, the Federal Trade Commission and suppliers.

CREDENTIALS

Admissions

- District of Columbia
- Virginia

Clerk Experience

- Law Clerk to the Honorable Charles R. Richey, US District Court, District of Columbia (1977 – 1979)
- Law Clerk to The Presidential Clemency Board, The White House (1975)

Recognitions

In every year since 2002, Barry has been listed in *Who's Who Legal: The International Who's Who of Business Lawyers*. Since

RELATED SERVICES

- Commercial Contracts Disputes
- Intellectual Property and Technology
- Class Actions
- Litigation, Arbitration and Investigations
- Real Estate
- Franchise

RELATED SECTORS

- Hospitality and Leisure
- Healthcare

2007, he has been listed in every edition of *The Best Lawyers in America*. Since 2006, he has been named a Virginia Super Lawyer in every year. Since 2007, he has been named a Washington, DC, Super Lawyer in every year. Barry was selected as one of the top 100 Franchise Legal Eagles by *Franchise Times* in 2004 as well as in every year since 2006. Barry was also named as one of *Washington DC's Best Lawyers* in 2015, 2016, 2017 and 2018. Barry was named in 2017 as *Best Lawyers* Lawyer of the Year for Franchise Law in the DC/VA area.

Listed in *Chambers 2016, 2017 and 2018*, Barry is known for his representation of franchisors in disputes involving unfair competition, trademark matters and franchise terminations, among others. He is also considered to be an expert in alternative dispute resolution and mediation. One client commented that Barry is "outstanding in preparation, responsiveness and performance both in and outside of the courtroom."

Barry was named an Acritas Star in 2019.

Education

- J.D., Georgetown University Law Center 1977
Managing Editor, *American Criminal Law Review* (1976 – 1977)
Taught Legal Writing and Research Seminar (1975 – 1976)
- B.A., New York University 1974
summa cum laude
Phi Beta Kappa
Justinian Honor Society

Courts

- Supreme Court of the United States
- United States Court of Appeals for the District of Columbia Circuit
- United States Court of Appeals for the Ninth Circuit
- United States District Court for the District of Colorado
- United States District Court for the District of Columbia
- United States District Court for the Eastern District of Virginia
- United States District Court for the Eastern District of Wisconsin
- United States District Court for the Western District of Wisconsin

Memberships

- American Bar Association
- District of Columbia Bar Association
- Former Director, Founding Member of the Steering Committee, Litigation and Dispute Resolution Division, ABA's Forum on Franchising

Additional Accomplishments

Barry has been honored with a CFE designation after completing the training program from the educational arm of the International Franchise Association, the Institute of Certified Franchise Executives.

INSIGHTS

Barry has authored and lectured on franchise litigation issues, including conducting Legal Roundtable seminars in different cities for the International Franchise Association on franchise litigation matters. He was co-author of a manual entitled *Franchise Litigation Claims* of the Litigation Section of the District of Columbia Bar Association, for whom he conducted a seminar on the subject. Barry's numerous articles on franchise issues have appeared in such publications as *The Franchise Lawyer*, *Franchise*

Legal Digest, Of Interest and the Franchise Law Journal.

As a founding member of the Steering Committee of the Litigation and Dispute Resolution Division of the ABA's Forum on Franchising, he has participated in presentations concerning franchise litigation and dispute resolution at ABA conferences, including the ABA Annual Meeting. He was selected to lecture on franchise litigation in a seminar sponsored by the New Jersey Institute for Continuing Legal Education.

Publications

Top franchise developments of 2018

11 APR 2019

DLA Piper IPT attorneys Barry Heller, John Hughes and Karen Marchiano recently conducted a webinar reviewing 2018's top franchise developments. Two stand out from the rest.

California Supreme Court adopts broad "ABC" test for determining employment relationship

11 MAY 2018

FranCast Series

Franchisors are taking note of this long-awaited decision.

Top franchise cases of 2017

30 MAR 2018

DLA Piper Franchise lawyers Barry Heller, John Hughes and Karen Marchiano recently conducted a webinar reviewing 2017's top franchise decisions.

Top franchise cases of 2016

30 MAR 2017

Joint employer and employee misclassification claims remained hot in franchising throughout 2016.

Top franchise decisions: two standouts from 2015

29 MAR 2016

What is a joint employer? Two significant cases.

Top franchise matters of 2014

24 MAR 2015

Summarizing three of the year's most significant matters

Top franchise cases of 2013

26 MAR 2014

DLA Piper lawyers Barry Heller, John Hughes and John Dwyer are conducting a webinar reviewing 2013's top franchise decisions. Three significant 2013 cases from their webinar are summarized below.

FDA's new menu labeling and vending machine requirements: 10 key answers for food businesses

2 DEC 2014

The new requirements apply nationwide and preempt existing state laws

Top franchise cases of 2012

7 MAR 2013

Top franchise cases of 2011

30 Mar 2012

- Author, "International Franchise Arbitration: Outside Counsel Perspective," *International Arbitration: 21st Century Perspectives*, October 2017
- Author, "NLRB Blues? How To Avoid Being Viewed as a Joint Employer," *Franchise Update Magazine*, June 22, 2016
- Co-author, "Top Franchise Decisions: Two Standouts From 2015," *Intellectual Property and Technology News*, 2015
- Co-author, "Important Decisions in 2014," *The Licensing Journal*, May 2015
- Author, "The Legal Issues When A Franchisor Operates Competing Systems," *Inside Counsel*, May 14, 2015

Events

Upcoming

International Franchise Expo 2019

30 - 31 MAY 2019
New York

Previous

Top 10 franchise cases of 2018

21 MAR 2019
Webinar

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- Moderator, "Vicarious Liability in Developing Areas: Damned If You Do and Damned If You Don't!," November 2016
 - Co-Presenter, "Principles of Franchising," IFA's 56th Annual Convention, San Antonio, Texas, February 19, 2016
 - Presenter, "The Best of the Forum on Franchising: The 7 Most Significant Franchise Cases of All Time," ABA Forum on Franchising, (February 4, 2015)
 - Presenter, "Striving for a litigation proof franchise system," Best Ideas and Leadership Summit (August 6-8, 2014)
 - Speaker, "Economics and Policy of Franchising," Georgetown University's McDonough School of Business (November 8, 2013)
 - Presenter, "Principles of Franchise Management," IFA Annual Convention, Las Vegas (February 17-20, 2013)

NEWS

DLA Piper lawyers and practices were highlighted in the 2017 directory of Who's Who Legal

22 DEC 2017

DLA Piper is pleased to announce *Who's Who Legal* designated us as both the Real Estate Firm of the Year and the Franchise Firm of the Year for 2017.

MEDIA MENTIONS

- Interviewed, "Grow Your Business Through Franchising," *Credibly Business Journal*, Vol. 1
- Interviewed, "Franchise Litigation - Getting Your Ducks in a Row," *Franchise Today Blog Talk Radio* (May 2, 2013)