

PRACTICE POINTER:

FRANCHISE LAW IN PLAY

Senate Bill (SB) 610, currently awaiting the Governor's signature, is one of three developments putting the law governing franchise agreements in play.

Another development is the July 29, 2014 announcement by the General Counsel of the NLRB that in 43 cases found meritorious nation-wide, absent settlement, complaint will issue against the franchisor McDonald's USA LLC as a joint employer with the franchisee. By this action, the General Counsel will challenge the historical notion that on traditional facts, the franchisor is only liable for unfair labor practices if it exercised the kind of control described below in Domino's Pizza.

The third development is the California Supreme Court's decision in *Patterson v. Domino's Pizza*, issued August 28, 2014. It decided 4 to 3 in a summary judgment case that a franchisor becomes liable for the actions of the franchisee's employees only if the franchisor "has retained or assumed a general right of control over factors such as hiring, direction, supervision, discipline, discharge, and relevant day-to-day aspects of the workplace behavior of the franchisee's employees. (Maj. opn. at page 3)"

Senate Bill (SB) 610 would amend the California Franchise Relations Act, among other ways, to change the legal standard required for a franchisor to terminate a franchise from "good cause" to a "substantial and material breach" by the franchisee of the franchise agreement.

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