



Davidoff Malito & Hutcher LLP

***Helping Businesses Overcome Their Challenges
From Wall Street to State Street***

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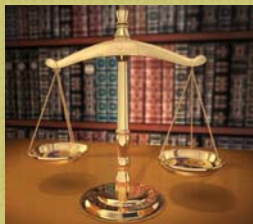
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**Welcome to Davidoff Malito & Hutcher LLP's
June 2011 e-newsletter.**

Breaking the Second Marriage Trust

It is very common upon remarriage to put in your will that you leave everything to your spouse in Trust and then your assets come back to your first family rather than your second spouse's family. We recently litigated a case where the husband provided such a Trust for his second wife. The Trust was to provide her enough money to maintain her lifestyle, and then upon her death, whatever was left was to come back to the husband's family. The husband appointed two Trustees, the second wife and a member of the first family, to make certain distributions would be fair.

[Click here](#) to continue article.

For more information on Trusts, please contact:

Michael Zapson at MZ@dmlegal.com or 516-247-4431.

NY Law Journal "Decision of Interest"

One of our recent victories was highlighted as a "Decision of Interest" in the NY Law Journal on May 5, 2011:

Banking Law Section 602 Provides Capital One Same Entity as North Fork by a Merger

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About Us

Davidoff Malito & Hutcher LLP is a full service law firm offering the scope of services of a large firm, as well as the personal service of a small firm. We pride ourselves in attention to detail, and assisting our clients in solving

Capital One, a successor by merger to North Fork Bank, moved for summary judgment on two promissory notes in lieu of complaint against defendant Alarm Warehouse. The motion was also made against the individual defendants who executed personal guarantees agreeing to be liable for Alarm's indebtedness to Capital One then existing or arising thereafter. Defendants objected, arguing Capital One lacked standing to begin the action as there was no submission of a written assignment of the notes or guarantees from North Fork. The court noted Banking Law Section 602 provides that a receiving corporation is considered the same entity as a merged corporation and is considered to have been actually named in any document that took effect before the merger. Thus, the payee was not required to submit proof a particular loan was assigned to establish entitlement to summary judgment. Also, where a guarantee was given in consideration of past and future extensions of credit, it was enforceable under General Obligations Law 95-1105. The court found plaintiff demonstrated its entitlement to summary judgment in lieu of complaint, ruling Capital One was considered the same entity as North Fork Bank regarding the notes and guarantees.

For more information, please contact:

Ralph Preite at REP@dmlegal.com or 646-428-3237.

New Bills Introduced to NYC Council's Housing Committee

Three bills have been introduced to the NYC Council's Housing Committee that impact lenders/owners and banks/mortgagees, with the intent of addressing the distressed residential/ multi-family mortgage properties. Any mortgagee commencing a foreclosure action shall: be required to file a registration statement with the City within 10 days of commencing a foreclosure; be responsible for maintaining the property in question; be required to post a compliance bond no less than \$10,000. DMH is working with stakeholders to insure that the bills, as drafted, will not unduly burden the lending community so as to maintain the economic viability of multi-family affordable housing lending.

For more information, please contact:

Sean Crowley at SEC@dmlegal.com or 646-428-3266; or Charles Capetanakis at CC@dmlegal.com or 646-428-3206

New Attorney Joins DMH



Davidoff Malito & Hutcher announces the addition of a new attorney, [Edward Schauder](#). He has joined the firm as the Chairman of the Firm's Sports and Entertainment Practice Group and a

their problems.

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member of the Corporate & Securities Law Group.

Ed has more than 20 years of experience handling complex corporate and finance transactions. Ed has maintained a sophisticated corporate and finance practice, advising clients in mergers and acquisitions, venture capital, public and private debt and equity offerings, leverage buyouts, financings, SEC compliance and general corporate planning.

Throughout his career, Ed has also been intimately involved in both the legal and business side of the sports and entertainment industries. Prior to joining Davidoff Malito & Hutcher, Ed conceived and implemented a unique concept in sports marketing. By forming incorporated entities made up of members of championship sports teams or professional athletes linked together by similar accomplishments, he created programs to protect and market their intellectual property.

Mr. Schauder can be reached at EHS@dmlegal.com or 646-428-3216.

Upcoming Seminar

Charles Klein will be taking part in a panel, along with Gary Broder of Salibello & Broder LLP, concerning auditing of license agreements, on June 14th in Mandalay Bay in Las Vegas.

Mr. Klein can be reached at CK@dmlegal.com or 646-428-3240.

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Davidoff Malito & Hutcher LLP

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The purpose of this alert is to inform our clients and friends of recent developments in the law. It is not intended nor should it be used as a substitute for specific legal advice or opinions, as legal counsel may only be given in response to inquiries regarding particular factual situations.

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