

David E. Holmes

Franchise Expert Witness

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Executive Summary

- Practiced domestic and international franchise law from 1975 until his retirement in 2008.
- Associate General Counsel - International House of Pancakes.
- Vice President and Counsel - Century 21 Real Estate Corporation.
- Partner - Homes & Lofstrom, LLP, specializing exclusively in domestic and international franchise law.
- Twice Co-Chair, State Bar Franchise Law Committee - current member of that committee and various subcommittees re special legislative and regulatory projects.
- Member, State Bar Business Law Section Executive Committee.
- Chair, State Bar Franchise and Distribution Law Advisory Commission.
- Member, State Bar Board of Legal Specialization.
- Certified Specialist Franchise and Distribution Law - The State Bar of California Board of Legal Specialization
- Executive Editor, CEB practice book: Franchise and Distribution Law and Practice in California.

Detailed Biography

David E. Holmes practiced law in the domestic and international franchising area beginning in 1975, having graduated from the University of Southern California in 1966 and its Law School in 1969. From 2002 to September 5, 2008, David was a Partner with Holmes & Lofstrom, LLP, which represented businesses in a wide range of industries and professions, and with a concentration in franchising.

From 1975 to 1980 David was Associate General Counsel for International House of Pancakes, where his responsibilities included legal aspects of all franchise operations (including franchise registration and disclosure), related training of marketing and operations personnel, and real estate matters and acquisitions/dispositions of various units.

From 1980 through 1983 David was Vice President and Counsel for Century 21 Real

Estate Corporation, where his duties covered franchise and other legal compliance matters and related training, governmental relations, litigation supervision, acquisitions, and system-wide legal training programs.

David and a partner owned and operated a subfranchise company in Southern California, Fantastic Sam's, from 1983 to 1984.

From 1985 to 2008, David was in private practice, specializing exclusively in franchising, including structuring and development of new and established franchise systems, system design, drafting of documents for registration and legal compliance, management of litigation, franchise system negotiations and legal aspects of system compliance, along with related training.

From 2002 to September 5, 2008, when he retired, David was a Partner with Holmes & Lofstrom, LLP, which represented businesses in a wide range of industries and professions, and with a concentration in franchising. During David's tenure, the firm's clients were located throughout North America and abroad, and included mature franchise systems, as well as new and beginning franchise companies.

He has also been involved in the structuring and negotiation of international expansion activities for American franchisors in a number of foreign markets, as well as entry by foreign-based franchise systems into North America.

David has actively contributed to the International Franchise Association ("IFA") by serving on its Legal/Legislative and Franchise Relations committees, including serving as a senior liaison, has spoken and presented papers at IFA Annual Conventions, Legal Symposia and other events, has been a member of the IFA Legal Symposium Task Force (which determines the content and speakers for each year's Legal Symposium), and has authored various IFA publications (or portions), including being a co-author of the original edition of the IFA publication A Dispute Resolution Handbook for Franchisees and Franchisors. In 2007, David assisted the IFA's Franchise Relations Committee and its Best Practices Product Review Task Force in updating their materials. David moderated a panel discussion at the 2005 IFA Legal Symposium on Franchise Disclosure and was a member of the IFA Supplier Forum Advisory Board. Shortly after adoption of the revised FTC Franchise Rule, he presented, as part of an IFA panel, an educational program on the (then) most recent revisions to the Federal Trade Commission Franchise Rule and its disclosure requirements. He has led various roundtables at IFA events, including at the IFA Convention and Legal Symposium. He was also a chapter Editor for an American Bar Association monograph on Earnings Claims. David has also, at the request of the IFA, prepared revisions to the IFA's Handbooks on Best Practices in Transfers and Succession Planning.

David also presented papers and seminars at various IFA and other meetings and seminars, in the United States and abroad, as well as conducting franchise law training sessions for domestic and foreign franchise systems.

He has appeared at hearings before legislative and administrative bodies in California and other states and has testified on the business and legal aspects of franchising and the

possible effects of proposed legislation and regulations.

David has been a guest speaker on various television and radio shows relating to franchising, conducted numerous training sessions for franchisor personnel and was a regular speaker at educational seminars for franchisors and franchise attorneys. In addition, Holmes & Lofstrom, LLP sponsored quarterly regional meetings for the International Franchise Association, where David often spoke. He has also written for various publications on international franchising matters.

He has also been designated, and testified, as an expert witness on franchising matters, in both federal and state courts.

During 2003-2004, David served his second term as Co-Chair of the California State Bar Franchise Law Committee (the "FLC"), where he drafted (and oversaw the drafting of) the most extensive changes to the California Franchise Investment Law since its original enactment. During that time, David was the primary liaison between the Franchise Law Committee and the senior staff of the Department of Corporations, including working with the Department on new legislation and revisions to the Department's policies and procedures with respect to franchise registration and disclosure matters, as well as negotiating the final form of the bill with state legislators and their staff.

In the Summer of 2010, David was invited to serve on the State Bar Franchise Law Committee once again. He primarily focuses on regulatory and statutory matters, and currently sits on the FLC's Development Agent, Trade Shows and Negotiated Sales Subcommittees.

David continues to be involved in special projects for the California State Bar Franchise Law Committee, including the formulation of new legislation and the drafting of affirmative legislative and regulatory proposals and related discussions with regulatory officials, most recently involving the regulation of franchise area developers. He currently serves on a subcommittee of the Franchise Law Committee in a proposed general re-writing and modernization of substantial portions of the California Franchise Investment Law, as well as possible revisions to the California Franchise Relations Act and the California Seller Assisted Marketing Plan law.

In October of 2004, David was selected to serve on the Executive Committee of the Business Law Section of the State Bar and served, among other duties, as the primary liaison between the Franchise Law Committee and the Executive Committee, as well as Secretary of the Executive Committee.

In October of 2006, David was appointed to the newly formed State Bar Franchise and Distribution Law Advisory Commission as its Vice-Chair. That Commission is charged with developing and administering standards and procedures for certifying California lawyers as franchise and distribution law specialists, the first bar association in the country to do so. In 2007 he became that Commission's Chair and had overall responsibility for the accomplishment of its objectives, and into September of 2009 served that Commission as its former Chair. He was also a member of the State Bar's Board of Legal Specialization, to which the Commission reports, and served on the New Specialties Subcommittee of the Board of Legal Specialization.

Effective in September of 2009, David was appointed to the State Bar's Board of Legal Specialization, which supervises all certified legal specialties in California, including franchise and distribution law, and also serves as Chair of its Examination Committee. He was recently advised that his name will be presented to the Board of Bar Governors for the office of Vice Chair of the Board of Legal Specialization for the 2011/2012 bar year.

David is certified as a Franchise and Distribution Law Specialist by the State Bar of California's Board of Legal Specialization.

He was also appointed by California Continuing Education of the Bar (CEB – a joint University of California/State Bar program) as the Executive Editor of a new CEB publication on Franchise and Distribution Law and Practice in California, published in 2009, and was again the Executive Editor for the following edition of that book, published in 2011.

In addition, David was a member of the State Bar-CEB Business & Intellectual Property Law Advisory Committee, which advises CEB with respect to publications, continuing legal education programs and other matters.

David was a member for many years of the American Bar Association's Franchising Forum, and served on the American Association of Franchisees and Dealers' (AAFD) Fair Franchising Standards Committee and assisted that committee in the drafting of portions of their Fair Franchising Standards.

He has also been a member of the American Arbitration Association's Franchise Advisory Panel, which advised the AAA regarding arbitration policies and personnel and taught upper division and graduate level classes on business law at The California State University, Long Beach.

David has been selected by his peers as a "legal eagle" in the franchising community, as part of Franchise Times' Annual Legal Eagle recognition program, and has been also listed in The International Who's Who of Franchise Lawyers.

David is a widower, has two adult sons and resides in San Luis Obispo, California.