Baker Donelson Boosts Data Protection Practice With New Hire in Florida

by Dylan Jackson

Baker, Donelson, Bearman, Caldwell & Berkowitz has hired attorney Aldo Leiva, who specializes in privacy compliance and cybersecurity issues, to work in its Fort Lauderdale office as a member of the firm’s data protection, privacy and cybersecurity team as well as its business litigation group.

Leiva joins the firm as of counsel. Leiva has extensive experience in data security and will be a great addition to that practice, said James M. Talley, managing shareholder of Baker Donelson’s Orlando and Fort Lauderdale offices.

“His knowledge of the rapidly changing laws impacting data security and privacy at federal, state and international levels will be a tremendous asset to our clients across numerous industries,” Talley said.

Memphis-based Baker Donelson already boasts a 30-member data protection and cybersecurity practice with clients in numerous industries spanning from financial services to health care.

Prior to joining Baker Donelson, Leiva worked in a variety of capacities within the security realm, including as counsel on privacy compliance and cybersecurity for numerous companies and in collaboration with the FBI on infrastructure protection.

SEE LEIVA, PAGE A6

South Beach Tourist Mecca Looks at Taxing District for Security, Sanitation

by Lidia Dinkova

Some property owners along the most popular stretch of Ocean Drive and Collins Avenue in South Beach might face a tax for more police, sanitation and an overall push to advance the bustling tourist area.

An executive with Jesta Group, owner of the Clevelander and Essex House, wants to form a business improvement district on Ocean Drive from Fifth and 15th streets and on Collins Avenue from Fifth to 17th streets.

“It’s going to unify the ownership groups into one vision, and then in that vision we can create a platform for improving the safety, the cleanliness, make it a much more high-level experience for our guests and residents,” said Mike Palma, Jesta Group executive vice president for the Southeastern U.S.

SEE SOUTH BEACH, PAGE A2

This Law Group is Providing a 'Playbook' for Resistance in the Time of Trump'

by Zach Schlein

Top LGBTQ attorneys are speaking out on how the Trump administration has forced them to rethink where they file complaints and how they engage with the justice system.

On Monday, roughly 200 litigators and advocates representing lesbian, gay, bisexual and transgender communities gathered at the NSU Art Museum’s Horvitz Auditorium in Fort Lauderdale for the eighth annual Full LGBTQ Leadership Forum. The panel was hosted by South Florida-based and LGBTQ-oriented philanthropy group, Our Fund Foundation, in partnership with Lambda Legal, the oldest LGBTQ legal advocacy group in the United States.

The discussion, led by Lambda Legal’s chief strategy officer and legal director Sharon McGowan, centered around the civil rights organization’s strategy for achieving legal victories for Resistance in the Time of Trump.'
YOGASHOOTING

for Women Lawyers, Jennifer Shoal Richardson, who appointed Hodges to her post.

Beierle had a history of making racist and misogynistic statements. In 2014, he posted several videos on YouTube, which had names like “Plight of the Adolescent Male” and “The Rebirth of my Misogyny,” according to Buzzfeed News.

"Respect for women and the bodies of women is of central importance for us, and that’s not a partisan issue and it should not be," Richardson said. “We’re so proud of Sarah for using her voice from this experience to encourage people to vote on election day.”

Just days after the shooting and on the eve of Florida’s midterm elections, Hodges wrote an opinion piece for the Tallahassee Democrat, condemning the Florida Teacher’s Association has set up a GoFundMe account to raise money for the shooting victims and yoga studio owner. Hodges declined to speak with the Daily Business Review while she recovers with her family and young daughter.

"I think that just speaks to who she is, that she would use her time in a hospital bed to encourage other people to vote and really think about what respects means," said Richardson.

(from page A1)

Lambda

during — as the forum referred to it — "The Time of Trump.”

Two years into President Donald Trump’s tenure, many of the federal agencies that sought to protect LGBTQ citizens from discrimination under the Obama administration have pulled back from their roles. Instead, the transgender military ban announced in March and the recently leaked Department of Health and Human Services memo on gender identity seem to illustrate that some agencies have lurched hostility toward individuals identifying as queer or homosexual.

"The federal government, a place where students turned to seek assistance, is sort of closed for business," said Paul Castillo, Lambda Legal’s senior attorney for the association’s eight-state South Central Regional Office.

McGowan agreed.

"I think that the progress we experienced during the last administration created an expectation where people thought and came of age thinking the federal government had an obligation to protect them," she said. "What we are experiencing now is a rollback of that protection and an abdication of that responsibility.

McGowan and her fellow panelists said the biggest result of the Trump administration’s policy shift has been a reduction of priorities for the organization and other LGBTQ groups. Rather than trying to secure protections and favorable interpretations of the federal civil rights laws, justice advocates have instead refocused on trial courts and in "being strategic about where we bring cases."

"Sometimes we turn to state courts when federal courts become hostile or claims become more difficult to win," she said, attributing these localized legal gains to states whose constitutional provisions "have more robust protections for equality and liberty.

"We use that to build the garden ... that will turn to progress on the federal level when we have more hospitable environments in which to work," she continued.

"Not as sexy as the big wins, but it’s a really important part of preserving the playing field for the future when we want the ability to continue to make progress going forward,”

Ethan Rice, a former child welfare attorney who serves as Lambda’s Fair Courts Project attorney, said many recent of the LGBTQ community’s recent legal gains have come from efforts to inform judges, prosecutors and larger legal groups about the realities of discrimination against queer people in the U.S.

“I’ve seen such an amazing change in the last three or four years,” he said. According to Rice, most judges and prosecutor in the past would not have raised their hands when asked if they’d worked with LGBT groups. But things have changed.

"Now at least half of people raise their hand when asked about working with LGBT youth," Rice said, adding that a multiyear push to educate the court system has been “a successful project.”

"Trial level judges are interacting with our community the most," Rice added, noting that trial judges are likely to ascend to the appellate bench down the line. “I’m hoping that by talking to judges at the trial level — as they are going to be hearing Lambda Legal cases perhaps later on in their career — they’ve had this education about LGBT issues.”

Speaking on Lambda Legal’s July 2018 victory in their lawsuit against a Jacksonville school board for discriminating against transgender teen Drew Adams, the panelists affirmed the importance of humanizing their stories by sharing their stories. McGowan said she knew the organization’s legal team "moved the needle" when hearing the judge presiding over Adams’ case deliver his ruling.

"You can hear the voice of the judge talking about this young man and this judge was changed," she said. "He now knows something that he did not know before, and he knew it because [Castillo] and all the amazing lawyers from Lambda and our co-counsel ... shared that story and changed it from an abstract legal issue into a story about this young man and his ability to go to school.”

Zach Schlein is a writer based in Miami. Originally from Montville, New Jersey, he holds a B.A. in political science from the University of Florida and is the litigation reporter for Daily Business Review. He can be reached at his email address, zschlein@alm.com.

The BID would need to be approved by a majority of property owners in an election expected to be held November 2019. First, the Miami Beach City Commission has to have the power to sign off on the details of a special taxing district, including the boundaries and assessments.

Owners could be assessed by linear foot of their buildings, feet of street frontage or another way. Other BIDs, for example, levy 50 cents to $1.20 per linear foot on the credit card tax bill, Palma said.

Business property owners rather than residential owners would be taxed.

Two other BIDs cover Lincoln Road and Washington Avenue from Fifth to 17th Street.

The current target is home to some of the top tourist draws in Miami Beach. The hotels include the Clevelander, Essex House, Avalon Hotel, Lowes, DeLesse, The Betsy and Dream South Beach. Other well-known venues are the News Cafe and Mango’s Tropical Cafe.

This is in essence the Times Square of Miami Beach. It’s where the energy is and where people want to be. We want to be able to see visible police on the street," Palma said.

The push is in part an effort by business owners to create area-specific marketing and improve garbage collection while tackling security concerns.

"These enhanced services for police and sanitation will be spread across every property owner in the district, there-by better defraying the cost and providing more unity to be able to kind of drive their own police, sanitation, marketing."
Google Asks Full Federal Circuit to Decide If Servers Can Create Venue

by Scott Graham

Google is asking the entire Federal Circuit to review a divided panel decision that let the company be sued for patent infringement in the Eastern District of Texas. U.S. District Judge Rodney Gilstrap ruled in July that Google servers housed in internet service providers in the district meet the “regular and established place of business” requirement of the U.S. patent venue statutes. Google and a host of tech companies complained to the Federal Circuit that Gilstrap is defying the Supreme Court’s TC Heartland v. Kraft Foods Group Brands decision on patent venue and the Federal Circuit decisions applying it.

The Federal Circuit turned away Google by a 2-1 vote Oct. 29, holding that venue challenges should wait until after trial unless they pose “broad and substantial constitutional ‘corrections’ implicating the administration of justice. Google’s case is too fact-specific to meet that standard, the court stated in a per curiam order. Hogan Lovells partner Neal Katyal argues in a petition for rehearing filed Tuesday that Gilstrap’s order is already having a broad impact. Before July, Google hadn’t been sued once for patent infringement in the Eastern District of Texas, he states. After Gilstrap’s order, three suits were filed. And in just the two weeks since the Federal Circuit’s order, 14 more times “Suitors against other defendants will proliferate based on the same flawed theory of venue,” Katyal writes. “Refusing to stem that tide now is not a sensible way to administer a patent system.”

The patent owner in the case, SEVEN Networks, is represented by Thompson & Knight. The servers represent “a physical, geographical location in the district from which the business of the defendant is carried out,” thereby meeting the Federal Circuit’s test for venue, the company argued in previous opposition signed by partner J. Michael Heinlein. Katyal can probably count on one vote for en banc review. Dissenting Judge Jimmie Reyna wrote that the majority — Judges Timothy Dyk and Richard Taranto — had failed to recognize “the far-reaching implications of the district court’s ruling.”

Whether Google can find six more votes among the court’s remaining nine members is doubtful, given that Chief Judge Sharon Frost made clear earlier this year that the court has little interest in hearing further TC Heartland-related challenges before trial. Plus, Google appears to be running out of time. Trial is scheduled for January in SEVEN Networks v. Google. Nevertheless, Katyal is giving it his best shot. Gilstrap’s order, he writes, will “subject numerous companies to suit or the threat of suit where they have no proper place of business. It will restore the permissive venue regime that the Supreme Court, in TC Heartland, sought to end. The Federal Circuit’s BigCommerce decision from earlier this year, he concludes, “If ever this court’s ‘supervisory [and] instructional’ function were essential, it is now.”

Scott Graham focuses on intellectual property and the U.S. Court of Appeals for the Federal Circuit. Contact him at sgraham@al.com.

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Scott Graham focuses on intellectual property and the U.S. Court of Appeals for the Federal Circuit. Contact him at sgraham@al.com.

Gibson Dunn Backs CNN, Acosta in White House Press Pass Lawsuit

by Ellis Kim

Gibson, Dunn & Crutcher duo Ted Boutrous and Ted Olson are representing CNN and reporter Jim Acosta in a lawsuit challenging the Trump administration’s decision to suspend Acosta’s White House press pass. The lawsuit, filed in Washington, D.C., federal court, aims to restore Acosta’s well-deserved press credential against a White House aide over the use of a “創業” with a White House press pass, where he has covered the Trump administration for CNN. The civil complaint said the White House’s revocation violates the First Amendment, the Fifth Amendment right to due process, as well as the Administrative Procedure Act.

“ Plaintiffs bring this action to enforce this constitutional commitment, restore Acosta’s well-deserved press credential, and ensure that the press remains free to question the government and to report the business of the nation to the American people,” the complaint said. The White House revoked Acosta’s access after a contentious press conference last week, which saw a tense exchange between him and a White House aide over the use of a microphone. The Trump administration, which has long been critical of CNN and has derided it as “fake news,” claimed Acosta acted inappropriately in the incident. The complaint by Boutrous and Olson challenges the White House’s explanation for the move. “The content and viewpoint of CNN’s and Acosta’s reporting on the Trump administration — not his interaction with the staffer at the November 7 press conference — were the real reason the White House indefensibly revoked his press credentials,” the filing said.

After news of the revocation first broke last Wednesday evening, Boutrous tweeted of the decision: “This sort of angry, irrational, false, arbitrary, capricious content-based discrimination regarding a White House press credential against a journalist who has long been critical of CNN and the Trump administration? Just the First Amendment. See Sherrill v Knight (DC Cir 1977).”

Ellis Kim, based in Washington, D.C., covers the federal judiciary, D.C. courts and national litigation trends. Follow her weekly newsletter, Trump Watch. Contact her at ekim@al.com, or on Twitter: @elliskim.

Tech Firm Pays $775K for Attempt to Squash Union With Mass Firing

by Erin Mulvaney

A San Francisco-based software company reached a $775,000 agreement to settle a National Labor Relations Board charge that claimed the firm fired a group of engineers attempting to organize the union. The NLRB complaint, the company ultimately fired the group who filed a petition to form a union with a local branch of the Communication Workers of America, The Washington-Baltimore News Guild Local 32055.

Zwerdling, Paul, Kahn & Wolff represented the union. Ogletree, Deakins, Nash, Smoak & Stewart represented the company. Ogletree attorney John Ferrer did not respond to a request for comment.

The union announced the settlement Monday in a press release. It said the company agreed to pay the $775,000 to the 15 programmers, in addition to removing the terminations from its records, outlining the terms of the agreement and posting a statement at every location detailing workers’ rights to organize. “This is a landmark win for tech workers,” former Lanetix developer Sahil Talwar said in a statement. “We have shown what can be accomplished by standing together and standing strong.”

The NLRB issued a complaint in August against Lanetix, alleging numerous violations of federal labor law, including the decision to fire its programmers in retaliation for the workers’ decision to form a union. The union said the issues between the engineers and the company began when a female software engineer spoke out and was fired after seeking more paid time off. Her colleagues then said the dismissal was unfair and brought the concerns to management, and they say they were encouraged to stop discussing “workplace conditions as a group,” Talwar said.

In response, we wrote a letter asking management to do two things: Do right by the fired engineer, and recognize our right to organize,” he said. He added, “Rather than back down, we decided to fight for our co-worker and we made the decision to unionize.” He said 10 days later, Lanetix fired the other 14 employees. According to the union, the settlement payment “restores the pay and benefits the company clearly violates the First Amendment. See Sherrill v Knight (DC Cir 1977).”

Erin Mulvaney covers labor and employment issues from the Swamp to Silicon Valley. She’s a Texas native based in Washington, D.C. Contact her at emulvaney@al.com, or on Twitter: @erinmulvaney.
The Pennsylvania Superior Court has rejected one pharmaceutical company's effort to have Goodwin Procter disqualified from representing a rival in a Philadelphia case.

Impax Laboratories had appealed to the Superior Court over Goodwin Procter's representation of Teva Pharmaceuticals. Teva is suing Impax for indemnification after Teva settled a false advertising case over a drug the two companies worked on together.

According to the court's Nov. 2 opinion, the Am Law 50 firm previously represented both Teva and Impax in a patent infringement case brought by GlaxoSmithKline. But, the Superior Court said, no evidence from that patent case was substantially related to the indemnity case at hand.

"Any confidential information Goodwin Procter may have received from Impax regarding bioequivalence or the development history of Budeprion XL is not relevant in this action," Judge Jack Panela wrote for a three-judge panel of the court. "There is no danger that Impax will be denied due process if Goodwin Procter continues to represent Teva in this action."

According to the opinion, Impax and Teva have a strategic alliance agreement by which Impax develops generic drugs and submits them to the U.S. Food and Drug Administration for approval, and Teva markets those drugs once they are approved. The two companies were co-defendants to a patent infringement claim filed by GSK and Biovail over the generic drug Budeprion XL, a bioequivalent to Wellbutrin XL.

In that case, Teva ultimately settled with GSK on its false advertising claims. Teva then filed a case in the Philadelphia Court of Common Pleas seeking indemnification from Impax under their strategic alliance agreement.

When Teva initially sought indemnification, Impax argued that advertising was solely Teva's responsibility under their strategic alliance agreement. Once the case was filed, Impax filed a motion to disqualify Goodwin Procter.

The court said it can disqualify an attorney "whose representation constitutes a breach of the duty of confidentiality and loyalty to a former client."

According to the opinion, GSK took issue with the fact that Teva advertised Budeprion as a bioequivalent to Wellbutrin. Impax argued that the advertising was a duty assigned to Teva, so Impax would not have a duty to indemnify Teva. However, the Superior Court said, Impax had agreed to provide a drug that was bioequivalent, and failed to do so, based on Teva's allegations, which would mean Impax had breached the agreement.

Any evidence surrounding the bioequivalence question is no longer relevant to determine whether Impax was required to defend Teva from the false advertising suit, the court said.

"Impax argues the development history of Budeprion XL and the data associated with its evasion of the patent are necessarily relevant to Teva's indemnification claim. We disagree," Panela wrote.

Senior Judge Eugene Strassburger wrote a brief opinion concurring with the majority's decision on the disqualification question. He dissented, however, with regard to whether the Superior Court should have considered the question as a collateral order appeal.

In Pharma Dispute, Goodwin Disqualification Bid Fails on Appeal
by Lizzy McLellan

Impax Laboratories argued that Goodwin Procter shouldn't represent Teva Pharmaceuticals because the firm had previously represented both Teva and Impax in an underlying case. But a Pennsylvania Superior Court said no evidence from that patent case was substantially related to the indemnity case at hand.

The Moosejaw litigation isn't Bursor & Fisher's first business of law at firms of all sizes. Contact him at McLellan@alm.com. On Twitter - @lizzyMCLellan.
Plaintiffs Firms Gear Up for Camp Fire Litigation
by Cheryl Miller

Plaintiffs firms, some already battling utilities over their possible roles in California’s past rash of deadly wildfires, are preparing to sue Pacific Gas and Electric Co. in the coming days over catastrophic damage caused by the Camp Fire.

The Butte County blaze, which claimed 42 lives and destroyed 6,453 residences as of Tuesday morning, is still burning with full containment not expected until the end of the month. But Joe Cotchett said Monday that his firm, Cotchett, Pitre & McCarthy, is “ready to go” to court.

“We’re not only ready to go, I’m having a conference call with our lawyers this afternoon” about a legal challenge, Cotchett said. “We’ll be on file not too long from now.”

The Camp Fire, which started Nov. 8 in the foothills northeast of Chico, has charred 113,000 acres and is currently tied for the deadliest wildfire on record in California.

Utilities Commission. The information provided in this report is preliminary and PG&E will fully cooperate with any investigations.

PG&E is already facing potentially billions of dollars in legal claims from fires that scorched the Wine Country last year. A coalition of attorneys from Cotchett Pitre; Dreyer Babich Buccola Wood Campora; Panish Shea & Boyle; Walkup, Melodia, Kelly & Schoenberger; and aberr, Weitzelsen, Warren & Emery filed three separate lawsuits in San Francisco Superior Court last November alleging that the utility failed to properly maintain its power lines in the fire area as well as the property and brush surrounding them.

PG&E has been representation in those cases by Wilson Sonsini Goodrich & Rosati. In criminal litigation over a 2010 explosion of a natural gas line that killed eight people in San Bruno, PG&E turned to Latham & Watkins and later Jenner & Block.

Dreyer Babich partner Steven Campora confirmed on Monday that the Sacramento firm is also preparing multi-firm litigation against PG&E that could be filed within the next 10 days.

In the wake of the latest fires around the state, state Sen. Jerry Hill, D-San Mateo, one of PG&E’s biggest critics since the San Bruno explosion in his district, suggested he may introduce legislation to dismantle the state’s investor-owned utilities.

“At some point we have to say enough is enough,” Hill told San Francisco radio station KQED. “Maybe when profits are the reason that you’re doing your job, that creates a question, especially in light of the safety aspect of it.”

PG&E’s stock price tumbled 17 percent on Monday following a 16.5 percent drop on Nov. 9. The utility was already warning this summer that it might file for bankruptcy protection.

Seigel called a bankruptcy filing from PG&E “a real possibility.”

“They sought relief from the legislature for the 2017 fires, but that relief required a financial stress test,” Campora said. “Now they have a fire where more than 6,500 homes have been destroyed and [42] people are already known to have died, with 200-plus missing.”

Gov. Jerry Brown signed legislation this fall that will make it easier for utility companies like PG&E to pass along some recovery costs from the 2017 wildfires to rate-payers after regulators conduct a “stress test” of companies’ financial stability. The bill did not, however, dismantle California’s strict reliance on inverse condemnation laws, which are strictly liable for wildfire damages.

“I have no doubt that PG&E is fully intending ... to try to abolish inverse condemnation when the Legislature returns,” said Michael A. Kelly, a partner with Walkup Melodia.

Walkup Melodia has sued PG&E on behalf of clients who lost homes and property in last year’s fires in Sonoma and Napa counties. A banner on the firm’s website says “Walkup Melodia is leading the litigation against PG&E.” Kelly said they’ve received calls from victims of the Camp Fire who are now immediately planning to run to court.

“I think it’s worthwhile to take a little time to let the smoke clear before right now it’s just chaos,” he said.

Cheryl Miller covers the California Legislature and emerging industries, including autonomous vehicles and cannabis. Contact her at cmiller@alm.com. On Twitter: @CapitalAccounts.

Fee-Sharing Agreement Between PI Firms Ends in Litigation
by Charles Toutant

A legal battle has erupted between two New Jersey personal injury firms over the alleged breach of an agreement to pay referral fees for cases that were shared.

The Fort Lee firm headed by Jae Lee claims in a lawsuit that it had a written agreement in 2010 with the Ridgewood firm now known as Seigel Law for referral of personal injury cases. The terms call for the Seigel firm to refer 30 percent of its fees from cases it received, the suit claims.

What’s more, the agreement stated that if the Seigel firm were discharged or if any file were transferred to another firm, Lee was to be apprised of the change and Seigel would advise him of any superseding lawyer of the firm. But Lee was to be apprised of the change and Seigel would advise him of any superseding lawyer of the firm. Lee claims in a lawsuit that it had an agreement in 2010 with the Butte County firm that was reported 18 minutes before the fire was first reported. The utility received the “incident report” which occurred approximately one mile away from the fire’s start, to the state’s Public Utilities Commission.

“The cause of the Camp Fire has not yet been determined,” the company said in a prepared statement, referring to an initial report, which was released by the incident report to the Safety and Enforcement Division of the California Public Utilities Commission. The information provided in this report is preliminary and PG&E will fully cooperate with any investigations.

PG&E is already facing potentially billions of dollars in legal claims from fires that scorched the Wine Country last year. A coalition of attorneys from Cotchett Pitre; Dreyer Babich Buccola Wood Campora; Panish Shea & Boyle; Walkup, Melodia, Kelly & Schoenberger; and Abbey, Weitzelsen, Warren & Emery filed three separate lawsuits in San Francisco Superior Court last November alleging that the utility failed to properly maintain its power lines in the fire area as well as the property and brush surrounding them.

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Seigel and Lee held a meeting in August 2010 to discuss the transfer of Capozzi’s personal injury cases to Seigel. After the meeting, Lee sent Seigel a letter to memorialize the terms agreed to, according to the lawsuit. Seigel sent a confirmation letter on receiving Lee’s letter, the suit said. The Seigel firm has periodically made payments to Lee’s firm over the years.

Capozzi left Seigel’s firm with three other attorneys in July 2016 to join Brauch Eichler in Roseland.

Capozzi said his departure was the result of the dispute rather than to say he was not involved in administration of the fee-sharing deal.

Barry Epstein of the Epstein Law Firm in Rockefeller Park, who represents Lee, declined to comment on the case when reached Monday. Seigel did not return a call requesting comment.

Lee’s firm lists five attorneys on its website. Seigel’s firm lists 10 attorneys.

Charles Toutant is a litigation writer for the New Jersey Law Journal, an ALM affiliate of the Daily Business Review. Contact him at ctoutant@alm.com.
by Roy Strom

Here’s some good news for your upcoming holiday parties: Demand at large law firms grew more in the third quarter of 2018 than any three-month period since 2011, according to the Thomson Reuters Peer Monitor Index.

So far this year, demand has risen 0.9 percent, which may sound miniscule but represents the strongest performance since 2014. Demand had fallen through three quarters in each of the past two years, down 0.6 percent last year and down 0.3 percent in 2016, Thomson Reuters said.

The report is in line with other surveys this year that have said 2018 is shaping up to be one of the strongest post-recession years for law firm financials. Citi Private Bank said in August that the first half of the year saw the industry grow revenue by 5.5 percent, which was the most since 2007.

While most of the industry’s demand growth has come in recent years from the highest end of the market, the Am Law 100, the Thomson Reuters report says demand lifted for firms of all sizes last quarter. That marks the first time since 2013 that Am Law 100, Second Hundred and midsize firms all experienced demand growth in the same quarter.

Still, Am Law 100 firms are outpacing their peers. With 3.8 percent growth in billable hours in the third quarter, demand for the 100 largest firms by revenue is now up 2.5 percent on the year. Am Law Second Hundred firms saw demand grow 1.9 percent in the third quarter to bring their yearly growth to 0.5 percent. Demand for midsize firms’ time rose 0.5 percent in the third quarter and is now up 0.4 percent year-to-date.

Demand was not the only bright spot. Rates and productivity also saw gains, bringing a Thomson Reuters-developed composite score for the health of the legal market up to 63 out of 100, from 62. It marked the first time that score has risen in consecutive quarters since early 2015.

On the rates front, average worked rates, a figure of what lawyers charge their clients, rose 3.1 percent in the third quarter to bring the yearly growth to 3.3 percent compared with this time last year. It was the fifth consecutive quarter of worked-rate growth of 3 percent or higher.

Worked-rate growth was also more evenly dispersed among firms. All segments (Am Law 100, Second Hundred and midsize firms) saw increases of at least 3 percent.

Realization rates against those rates, the percentage of a worked rate that a firm collects, also rose in the third quarter to 89.4 percent. That is a slight improvement over last year, but has yet to recover from post-recession highs.

Productivity rose 1.3 percent in the third quarter as a result of improved demand and restrained head count growth, Thomson Reuters said. Head count for the Am Law 100 is up 1.6 percent year-to-date after growing by 2.1 percent in the third quarter. Am Law Second Hundred and midsize firms have seen head count grow by 0.5 percent and 0.2 percent, respectively, for the year.

Roy Strom covers law firms with a focus on how the Big Law business model is changing. Contact him at rstrom@alm.com. On Twitter: @RoyWStrom.

Citi Private Bank said in August that the first half of the year saw the industry grow revenue by 5.5 percent, which was the most since 2007.
US Trial to Tell Epic Tale of Mexican Drug Lord ‘El Chapo’ Guzman

by Tom Hays

During the height of Mexican drug wars in 1993, an attempt- ed hit on Joaquin “El Chapo” Guzman went wrong. A team of gunmen sent to rub out the notorious drug lord instead killed a Roman Catholic cardinal at an airport in Guadalajara, outraging the Mexican public enough to touch off a massive manhunt for Guzman. He was captured, but prosecutors say he was undeterred from a brutal pursuit of power that lasted decades, featured jail breakouts and left a trail of bodies.

The story of the botched assassination was part of an epic tale told in a tightly secured New York City courtroom starting Tuesday as prosecutors and defense lawyers made their opening statements in Guzman’s long-awaited U.S. trial.

Guzman, who has been held in solitary confinement since his extradition to the United States early last year, has pleaded not guilty to charges that he amassed a multibillion-dollar fortune smuggling tons of cocaine and other drugs in a vast smuggling operation to recap- ture him.

Despite his diminutive stature and nickname that means “Shorty,” Joaquin “El Chapo” Guzman was once a larger-than-life figure in Mexico who has been compared to Al Capone and Robin Hood and been the subject of ballads called narcocorridos.

Despite his diminutive stature and nickname that means “Shorty,” Joaquin “El Chapo” Guzman was once a larger-than-life figure in Mexico who has been compared to Al Capone and Robin Hood and been the subject of ballads called narcocorridos.

Prosecutors have said they will use thousands of documents, videos and recordings as evidence, including material related to the Guadalajara airport shooting, drug smugglers’ safe houses, Guzman’s 2015 prison escape and the law enforcement operation to recapture him.

More than a dozen cooperating witnesses are scheduled to testify, including some who worked for Guzman’s Sinaloa cartel. Prosecutors say they risk retribution by taking the stand and the court has taken some steps to conceal their identities. U.S. District Judge Brian Cogan barred courtroom sketch artists from drawing them.

Guzman’s lawyers are expected to attack the credibility of the witnesses by emphasizing their own criminal records, saying some have an incentive to lie to win leniency in their own cases. One of Guzman’s attorneys, Eduardo Balarezo, has suggest- ed that he hopes to convince jurors Guzman wasn’t actually in charge of the cartel but was a lieutenant taking orders from someone else.

Now that trial is upon us, it is time to put up or shut up,” Balarezo said.

Described by some as “Shorty,” Guzman was once a larger-than-life figure in Mexico who has been compared to Al Capone and Robin Hood and been the subject of ballads called narcocorridos.

Among the highlights of his lore: how he was known for carrying a gold-plated AK-47; for smuggling cocaine in cans marked as jalapenos; for making shipments using planes with secret landing strips, container ships, speedboats and even submarines.

But Guzman is perhaps best known for escaping custody in Mexico, the first time in 2011 by running on a motorcycle. He escaped again in 2015 through a mile-long tun- nel dug into a sewer in his jail cell that he slipped into before fleeing on a motorcycle.

Guzman’s second escape was a black eye for the Mexican government, an embarrass- ment amplified when the actor Sean Penn was able to find and report for the actor Sean Penn was able to find and report for...
Questions to Consider Before Entering Into Your Next Business Contract

Commentary by Kelly Schulz

"Failing to plan is planning to fail." The familiar adage is often attributed to Benjamin Franklin and likely elicits images of a teacher or parent scolding a wayward child. The lesson, however, transcends any childhood lecture and finds its application in present day contract law. It seems axiomatic that one must plan ahead when entering into a business contract, but too often contracting parties overlook the basics which could become the focus of a future contract dispute. As business litigation attorneys, we are rarely consulted at the time of a contract’s drafting and instead make our appearance once a situation has escalated. Despite the unfortunate reality that contracts meant to ensure one’s interests carry insurance and who or what must pay for additional necessary services? Who must perform the work? By which performance must occur? Are the correct parties named? Have the key terms been properly defined? Too often, parties rely on “handshake agreements” and fail to carefully define the necessary terms of a contract before signing on the dotted line. Ask yourself: is there a date by which performance must occur? Who is responsible for paying for additional necessary services? Who must carry insurance and who or what must it cover? Failure to define such terms can result in a dispute as to the intent of each party when the contract was formed. Similarly, it is easy to be tempted to gloss over lengthy paragraphs defining, usually ad nauseam, remedies available in the event of a breach. The remedies terms, however, can make a substantial difference in the outcome of a lawsuit. Consider a contract that limits each party’s remedies to the money the party initially contributed—essentially seeking to put each party in the same position in which it started. Seems fair, right? To the contrary, this does not cover the true extent of the damages incurred years into a contract. Parties commonly take out loans, enter into additional agreements, or forego alternative opportunities in reliance on the first contract. Should that contract fall through, what initially seemed like fair remedies may become a huge blow to one’s business or personal livelihood. Does alternative dispute resolution make sense for you or your business? Frequently, contracts contain arbitration clauses—ones that essentially eliminate each party’s right to have the dispute decided by a judge or jury. At times, arbitrations clauses are the desirable alternative to leaving the matter up to a jury of six strangers. Submitting to arbitration, however, can end up being a complete foreclosure of one’s right to file a lawsuit and seek entitlement to damages. Of course, you will rarely hear anyone describe litigation as cost effective, but the reality is that arbitration can be just as expensive, if not more so, than traditional litigation. If not properly considered prior to execution of a contract, an arbitration clause can prove fatal to a claim by a small business or individual against a large corporate entity. Do not let a failure to plan expose you or your business to unnecessary litigation. While the law is nuanced and provides various avenues to litigate nearly all aspects of a contract, the fact is that courts defer to the terms included in the contract to interpret the intent of the drafters, making those terms the main tools courts (or arbitrators) use in resolving disputes. A careful consideration of the “basics” can mean the difference between a satisfactory resolution and a devastating adverse judgment. Kelly A. Schulz is an attorney at Reid Burman Lebedeek in West Palm Beach. She practices complex commercial, labor & employment, land use, and personal injury litigation.

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DEAL OF THE DAY
Homestead Retail Building Trades for $1 Million
Address: 24911 S. Dixie Highway in Homestead
Property type: This is a 6,102-square-foot, one-story retail building constructed in 1952 on an 18,000-square-foot lot.
Price: $1,000,000
Seller: US1-249 LLC
Buyer: TMBB 249 US 1 LLC
Past sale: $620,000 in September 2009

A Tale of Two Investment Climates in the US
by John Salustri

This seemingly endless upcycle continues to steam along, although the cap rate environment as we swing into 2019 is giving some investors pause. So says Shaun Riley, senior managing director of Faris Lee Investments. But one investor’s hesitation is another’s opportunity, as foreign capital activity bears out. Here’s how Riley sees the next few months shaping up.

Can you characterize the current climate for investments on the part of both domestic and foreign players in the U.S. market?
Investor demand remains healthy though not as robust as it was a year or even two years ago. We see both institutional and private capital continuing to pursue opportunities, though underwriting has changed due to risk tolerances. Grocery-anchored product remains in high demand, as does street retail in core, in-fill locations.

That said, some of the institutions have pulled back entirely on neighborhood centers and STNL not leased to food uses. The reasoning is that they’re over-weighted in these asset classes and they see more risk than upside going forward. This pullback by the institutions has given foreign capital a great opportunity to acquire well-performing U.S. real estate at better pricing than in the recent past. Foreign capital, especially from China, is willing to take more risk than U.S.-based investors and move capital from riskier political environments where capital and real property can be seized or frozen. It also allows them to move away from fluctuating and often unstable currency rates.

Are you finding more hesitation over interest and cap rates from buyers?
Interest rates have become an everyday conversation. The aggressive monetary stimulus in the U.S. has ended and rates are beginning to return to their long-term mean. The hesitation for investors is really all about acquiring at a price that’s attractive enough to meet their return goals. Generally speaking, investors now need to acquire at higher going-in cap rates to offset the effect of higher interest rates.

Where are they in terms of appetite for risk?
We’re in the late stages of the current real estate cycle and the bid/ask spread on most retail assets is now wider than at any time in this cycle. Underwriting has become more stringent as investors try to account for risks like increasing vacancies, adjusting above-market rents to market levels, and higher interest rates, which may be part of market conditions going into the next real estate cycle. To offset these risks, investors are making adjustments to the NOI which affect the projected IRR and thus what investors can pay for assets.

What markets—both in terms of geography and asset class—are hot right now and which not so much?
From a geographic standpoint, the Southeast U.S. has seen tremendous job and population growth, and thus retail development follows. Additionally, there’s no shortage of investors looking to invest along either coast. The preferred asset classes continue to be grocery-anchored centers and centers with the majority of income stream derived from restaurants, service and experiential tenants. On the STNL side, demand for QSRs, from mostly private capital, remains very strong.

What’s the outlook for investment as we look at 2019?
We see a slight softening of cap rates due to expected interest rate increases and investors requiring lower pricing to compensate for some potential headwinds in the market. The good news is that most investors haven’t bought into the headlines that retail is dead, so there’s still an ample amount of equity looking to be placed and financing is readily available to help facilitate the transactions.

John Salustri reports for GlobeSt.com.
Hedge Funds Seek ICO-Like Returns With Equity-Charged Tokens

by Olga Kharif and Alastair Marsh

Hedge funds aren’t giving up on cryptocurrencies just yet.

Even with the 70 percent plunge in the value of the digital-asset market from its record highs in December, many still have visions of the triple-digit returns that were often realized from being early participants in initial-coin offerings during the peak of last year’s frenzy.

This time around they’re betting on a new crop of equity-like digital tokens that appreci- ate when usage of the underlying stable coins increases. With promises of decreasing volatility by serving as a conduit to facilitate trading between other tokens, stable coins have become one of the hottest sectors in crypto.

“I think that vision is much more interesting,” said Kyle Samani, managing partner at Austin, Texas-based hedge fund Multicoin Capital, which is con- sidering purchasing some of the coins. “It’s much larger.”

The equity-like coins are designed around the centuries-old practice of seigniorage, which references the right of a French feudal lord — seigneur — to coin money. The nobles kept the difference between the face value of the mobile coins and the cost to mint them. Depending on the stable coin, the seigniorage shares will distribute a portion of the profits to its owners. Some fund managers prefer coins that don’t distribute all their proceeds.

Picking a winner could potentially yield returns of as much as 46 times the initial investment, if the underlying stable coin becomes successful, said Travis Kling, founder of the hedge fund Ikigai in Los Angeles, which is also con- sidering buying some coins.

That’s how much stable coin leader Tether’s market cap increased by within 16 months to its peak of $2.8 billion in August.

“Investors in the equity-like tokens associated with a stable utility token are seeing that historical growth in Tether and thinking that if they can get even a portion of that, then obviously you’ll generate tremendous returns,” Kling said. “That’s leading to a lot of the hype and lot of different competitors coming out right now.”

They include MakerDAO, Basis, Carbon, Haven and Reserve. While some are operating and others forthcoming, they’re all looking to unseat Tether, which has had trouble calming investor concern about a lack of transparency when it comes to touting reserves.

“The reason for having the dual-coin mechanism is to have some source of value that can absorb the contraction of demand,” said Robert Sams, chief executive of London-based Clearmatics Technologies Ltd which is developing a blockchain sys- tem using dual coins. “No one is going to do that for free in a decentralized system.

One of the best known, Basis, recently raised $133 mil- lion from traditional venture capitalists such as Bain Capital Ventures. It plans to algorithmi- cally adjust supply using three different tokens: The first one will be the actual stable coin. The second, a so-called bond token, will be auctioned off whenever supply needs to be contracted; each will entitle its owner to one stable coin at a certain future time, but will be sold for less than the face value.

With promises of decreasing volatility by serving as a conduit to facilitate trading between other tokens, stable coins have become one of the hottest sectors in cryptocurrencies. The third, a so-called share to- ken, will offer dividends when demand grows.

Reserve features a stable coin and Reserve Share, the secondary token. The share holders receive a portion of any price appreciation and the income the network earns from trans- action fees. Reserve has sold $5 million of Reserve Shares to 42 funds and angel investors, said Nevin Freeman, chief executive officer of Reserve, which has backing from crypto exchange Coinbase Inc. and billionaire investor Peter Thiel.

For investors, the payoff can be huge because the risks loom large as well. There are already about 120 stable coins in existence, with dozens more in the works. Many have yet to see much traction. Much-touted Gemini Dollar has only attract- ed about $9 million since being launched in September.

There are also questions about how a stable coin — and its equity counterpart — would respond to a sharp drop in de- mand or a market downturn. Regulators fear the world are yet to address how stable coins with secondary coins should be treated.

“The company that dis- tributes instead of reinvest- ing might give shareholders more money up front, but has no chance of turning into an Amazon.com,” said Fred Kim, a partner at crypto investment firm RocketFuel in New York, which has invested in Reserve’s secondary token.

“Secondary tokens in stable coin networks are one of the most popular investment types in crypto right now,” Reserve’s Freeman said. “It could be like getting in on bitcoin at the be- ginning.”

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World’s Most Active IPO Market Starts to Show Signs of Stress

by Crystal Tse

Amid a banner year for Hong Kong listings, cracks are starting to appear in the world’s biggest market for initial public offerings.

A parenting website part-owned by Alibaba Group Holding Ltd. on Tuesday delayed the launch of its Hong Kong IPO, while one of China’s top travel-booking sites canceled a press conference to kick off its listing, counts Alibaba and bil- lionaire Guo Guangchang’s Fosun International Ltd. as investors. It hasn’t announced a new timetable for the deal.

Meanwhile, travel website Tongcheng- Elong Holdings Ltd. started a road show Tuesday for an IPO of as much as $232 million. The company was earlier con- sidering a fundraising target of $800 million to $1 billion, according to people with knowledge of the matter. Unlike most listings in Hong Kong, the deal launched without any cornerstone in- vestors.

Such investors typically commit to hold their stock for six months. That’s become a risky proposition in Hong Kong, where the benchmark index has fallen 23 percent from its January high.

It doesn’t help that roughly three-quar- ters of Hong Kong IPOs this year are trading below their offer prices. A representa- tive for Tongcheng-Elong declined to comment.

This all adds up to bad news for a market that has hosted three of the world’s five biggest IPOs in 2018. Hong Kong first-time share sales have raised $97.2 billion this year, more than double the same period last year.

Crystal Tse reports for Bloomberg News.
**BANKING/ FINANCE**

**Love It or Hate It, Volatility Is Back: How Pros Contend With It**

by Abhishek Vishnoi and Divya Balji

In a year full of debate on whether stocks have peaked, one thing’s clear: volatility is back.

Tuesday’s trading showed that in spades, with Japan’s Nikkei 225 Stock Average sliding 3.5 percent at one point before paring to close 2.1 percent lower. China’s Shanghai Composite Index quickly erased its 1.3 percent slump and soared 0.9 percent as traders talked with the U.S. were said to have resumed. And the Hang Seng Index climbed 0.6 percent after slumping more than 2 percent. U.S. index futures also reversed earlier declines.

While Tuesday’s action was triggered by a sell-off in Apple Inc. suppliers, even tech-lite stock markets in Australia and New Zealand slipped at least 1 percent. Recent volatility was triggered by a sell-off in Apple suppliers, and even tech-lite stock markets in Australia and New Zealand slipped at least 1 percent.

While Tuesday’s action was triggered by a sell-off in Apple Inc. suppliers, even tech-lite stock markets in Australia and New Zealand slipped at least 1 percent. It’s all part of a broader pattern that’s seen more frequent moves of 1 percent to 3 percent in either direction. A gauge of 36-day turbulence in the Nasdaq 100 Index has tripled in five weeks, taking it to the highest since 2011.

Both sell-side and buy-side strategists are adjusting to turbulence in global stocks that may be here to stay. The Choe Volatility Index, known as the VIX, is heading for its biggest annual surge since 2007.

Stephen Innes has a mantra: "An increasing chunk of the investor base is of the view that one has to be already positioned for the next downturn," Innes pointed to similar what the VIX is heading for its biggest annual surge since 2007. "The chief investment officer at AMP Capital Investors Ltd. in Sydney. "But there are huge divergences presenting opportunities. We need to have a symmetric view of downside risk versus upside potential. Hence the need to be agile and dynamic.""}

**JPMorgan Says Don’t Play the Downturn, S&P Will Bounce Back**

by Christopher Anstey

While many investors are getting anxious about the lateness of the economic and market cycle, it’s not yet time to abandon U.S. equities, according to JPMorgan Chase & Co.

"An increasing chunk of the investor base is of the view that one has to be already positioned for the next downturn," Stevens pointed. "The VIX is heading for its biggest annual surge since 2007. Stephen Innes has a mantra: "An increasing chunk of the investor base is of the view that one has to be already positioned for the next downturn," Innes pointed.

A panoply of negatives has hit the U.S., and global, stocks since the start of the month, starting with a rebound in benchmark Treasury yields, which has enhanced the appeal of risk-free investments. Worries over a peak in corporate earnings growth, a continuing escalation of trade tariffs, a slowdown in China’s domestic demand and a cooling in the outlook for technology products — the jPMorgan team calling them — have also dented sentiment.

Against that, there’s no sign that the economy is rolling over just yet. And the JPMorgan team cited a series of other reasons not to throw in the towel on American equities:

"There's no sign that the economy is rolling over just yet. And the JPMorgan team cited a series of other reasons not to throw in the towel on American equities:

**BUY DURING DISTRESS**

Fluctuations mean more buy-the-dip opportunities, for those who can take the roller-coaster ride.

"Volatility opens up a buying window for funds with a six-month to more-than-one-year investment horizon," said Cristina Ulang, head of research at First Metro Investment Corp. in Manila. "So the strategy is to accumulate during times of market distress, but very selectively and slowly, with an eye for quality stocks." Ross Cameron, head of Northcape Capital Ltd.’s Japan office, agreed.

"With the return of volatility to equity markets, we have probably seen more opportunities to buy excellent companies at discount valuations this year than in any recent memory," he said.

**PAY ATTENTION**

For anyone other than super-long-term investors, greater fluctuations at the most basic level mean having to keep a close eye on the risks.

"If everything was euphoric and expensive like it was in 2006-07, it would be easy," said Nader Naeimi, head of dynamic markets at AMP Capital Investors Ltd. in Sydney. "But there are huge divergences presenting opportunities. We need to have a symmetric view of downside risk versus upside potential. Hence the need to be agile and dynamic."
‘Tsunami’ of Rollovers Troubles Borzi as SEC Debates New Regs

by James J. Green

The author of the Labor Department’s fiduciary standard, now vacated by a federal court, believes the U.S. Securities and Exchange Commission’s best-interest initiatives are “terrific” steps forward in protecting investors. But Phyllis Borzi also worries about the “virtual tsunami” of retirees who are rolling over their ERISA-protected 401(k) assets while regulators determine the best way to protect those investors.

“It concerns me that the SEC is not addressing rollovers” in its deliberations, Borzi said, adding that consumers who “know best” their retirement plan recordkeepers, many of which have proprietary products, may not be making the most informed choices on where to roll over their retirement assets.

Moreover, she worries that financial services providers who had been “far along in complying” with Labor’s fiduciary standard “have started to roll back” those fiduciary-friendly approaches to the possible detriment of consumers.

Borzi was speaking at a virtual press conference called by the Institute for the Fiduciary Standard, whose speakers included institute co-founder Knut Rostad, Geof Brown of the National Association of Personal Financial Planners and Jim Allen, head of capital markets policy for the Americas at the CFA Institute.

Rostad highlighted findings of The Retail Market for Investment Advice, a study released in October by the SEC’s Office of the Investor Advocate (OIAD) and the Rand Corp. That study, which included consumer focus groups and a survey, focused on whether investors understood the differences between brokers and investment advisers, and what consumers expected from those advice givers, particularly when it came to their compensation and potential conflicts of interest.

The issue of “investor confusion” over the retail advice market has been raised by both sides in the debate over whether all advisers should be subject to a fiduciary standard that puts the interests of consumers first when providing retirement advice.

Rostad reported that the consumer survey found that 51 percent of investors answered that it was “important” or “very important” that their financial professional receive “all his/her compensation from you directly.” Twenty-two percent said it was not important, while 28 percent were unsure of the importance.

Rostad argued that the finding “sharply disagreed” with the “established view of industry, brokers and regulators in key instances” that adviser compensation from fees or commissions “is all the same.” The study’s findings, he said, supports the institute’s view that commissions, especially “hidden” ones, are “inherently far more conflictual and more harmful” than compensation paid to advisers by clients alone. Moreover, Rostad said that “making investor confusion the rallying cry to inform the SEC’s proposed Regulation Best Interest is ‘misplaced at the very least’ and ‘just wrong.’”

One example of Reg BI’s flawed approach, Rostad said, is that it “suggests a limited menu of proprietary products is assumed” to be acceptable to consumers choosing retirement vehicles, but “investors beg to differ,” citing the OIAD/RAND study. Instead, that study showed that “all the brokers” he said, consumers would “choose the lower priced option,” but such a practice is “not encouraged by Reg BI.”

Borzi said that the OIAD/RAND research findings “are consistent with the great body of DOL research” that formed the underpinnings of Labor’s fiduciary rule.

She said that while the differences between brokers and investment advisers “have been muddied over the years,” their “conduct is virtually indistinguishable,” which is why “they should have the same standard.” However, Borzi argued that proper disclosure can reduce any investor confusion, which she said was “the capital for a flawed standard.”

The actual problem, she said, was that “conflicts of interest may change an adviser’s recommendation.”

What is found “most interesting” about the OIAD/RAND study is “the strong investor preference” that payment for advice goes directly from an investor to the provider, she said.

“Consumers believe some recommendations will be made based on third-party payments” to the adviser. That finding, Borzi said, “illustrates that all compensation, ‘sharply disagreed’ with the ‘established view of industry, brokers and regulators in key instances’ that adviser compensation from fees or commissions ‘is all the same.’”

The study’s findings, he said, supports the institute’s view that commissions, especially “hidden” ones, are “inherently far more conflictual and more harmful” than compensation paid to advisers by clients alone. Moreover, Rostad said that “making investor confusion the rallying cry to inform the SEC’s proposed Regulation Best Interest is ‘misplaced at the very least’ and ‘just wrong.’”

Greece Said to Weigh Freeing Banks of $47 Billion Bad Debt

by Christos Ziotis, Sotiris Nikas and Nikos Chrysoloras

Greece’s central bank is working on a plan to help banks cut their bad debts in half, the latest effort to restore trust in the country’s financial system, two people with knowledge of the matter said. Under the proposal, Greek lenders would transfer about half of their deferred tax claims to a special purpose vehicle, which will then sell bonds and use the proceeds to buy some $47 billion of bad loans from the banks, according to the people said, adding that supervision from the banks is required. But this may not be achieved without burning more capital than they currently hold.

The Bank of Greece’s plan has been submitted to the European Central Bank’s Single Supervisory Mechanism and the Greek finance ministry, while any use of public guarantees is subject to approval by European Commission regulators. One of the people said that European regulators could approve both the Bank of Greece’s plan and that from the HFSF, giving lenders more tools to clean up their balance sheets.

While the transfer of the tax credits to the SPV will deplete banks of some of their capital for a short period, their ratios will bounce back once the sale of the bad loans is completed, one of the officials said. After several recapitalizations in recent years, common equity Tier one ratios for Greek banks currently range from about 14 percent to almost 19 percent.

The SPV would buy the bad loans from banks at market prices, one of the officials said. While this may mean a further hit to their capital if the provisions the banks have taken are lower than their market values, the blow would be small and manageable, while lenders would end up with higher quality capital, the person said, adding that supervisors “would be subject to the discipline of the market, the person said, adding that supervisors “would be subject to the discipline of the market.

Amazon Headquarter Locations: Similar Basics But Different Vibes

by Jennifer Peltz and Matthew Barakat

The two communities that learned they are about to become homes to a pair of big, new East Coast bases for Amazon are both riverfront stretches of major metropolitan areas with ample transportation and space for workers. But there are plenty of differences between New York’s Long Island City and Crystal City in northern Virginia.

Set within eyeshot of the nation’s capital, Crystal City is a thicket of 1980s-era office towers trying to plug into new economic energy after thousands of federal jobs moved elsewhere. Rapidly growing Long Island City is an old manufacturing area already being reinvented as a hub for 21st-century industry, creativity and urban living.

“Seattle-based Amazon, which set out last year to situate one additional headquarters, announced Tuesday that it was splitting its project into two. A look at the two communities:

LONG ISLAND CITY

It’s already the fastest-developing neighborhood in the nation’s most populous city, and Amazon could pump up the volume in this buzzy part of Queens. The influx of Amazon to the neighborhood stands to burnish New York City’s reputation as a tech capital.

Landlord Amazon also cements Long Island City’s claim as the center of New York’s faded manufacturing zone to a vibrant, of-the-moment enclave of waterfront skyscrapers, modernized warehouses and artists who’ve crossed the East River from midtown Manhattan.

“I joke that we’re experiencing exponential growth 30 years in the making,” said Elizabeth Lusskin, president of the Long Island City Partnership, a neighborhood development group.

But Long Island City also has been straining to handle its growth. Days before Tuesday’s announcement, the city unveiled a $180 million plan to address Long Island City’s packed schools, street design and a sewage system that flooded in heavy rain. But those projects will just catch up with current needs, said area City Councilman Jimmy van Bramer.

“I know that there are a lot of people cheering for this, but HQ2 has to work for Queens and the people of Queens. It can’t just be good for Amazon,” said van Bramer, a Democrat. After the announcement, he said Amazon had “duped New York into offering unprecedented amounts of tax dollars to one of the wealthiest companies on Earth.”

Once a bustling factory and freight-moving area, Long Island City saw many of its plants and warehouses closed as manufacturing shriveled in New York City’s reputation as a tech capital. The neighborhood’s rebirth began in the 1980s, when officials broached redevelopment of a swath of the waterfront, while artists were drawn by warehouse space, affordable rents and a building that is now the MoMA PS1 museum.

Silvercup Studios — where such TV shows as “Sex and the City,” “30 Rock” and “The Sopranos” have been filmed — opened in 1982.

Long Island City gained a new commercial stature, and the start of a high-rise skyline, when the banking giant now called Citi opened an office tower there in 1989. But the area’s growth lately has been driven by residential building.

Some 9,150 new apartments and homes have been built since 2010, more than in any other New York City neighborhood, according to the city Planning Department. Thousands more units are in the works.

The location identified by the state as the spot for Amazon’s new campus is currently a collection of low-rise industrial buildings and parking lots wrapped around a boat basin.

New York has striven for nearly a decade to position itself as a tech hot spot.

Venture capitalists poured $5.8 billion into New York-area startups last quarter, more than any other region except the San Francisco area, according to the consulting and accounting firm PwC. Established tech giants, including Google and Facebook, have been expanding their New York footprints.

Still, landing HQ2 represents “an incred- ible validation of just how far New York has come,” said Jonathan Bowles, executive director of the Center for an Urban Future think tank.

“Wanna make a bet about it,” Bowles said.

CRYSTAL CITY

If any place in America can absorb 25,000 Amazon jobs without disruption, it may well be Crystal City, Virginia, where nearly that many jobs have vanished over the last 15 years.

The neighborhood in Arlington County is bounded by the Potomac River and the nation’s capital on one side, by the Pentagon on another and Reagan National Airport on a third.

Despite its prime location and abundant transportation options, the neighbor- hood remains vacant. Among other challenges, the area has fought to overcome a reputation for outdated architecture, people who’ve actually worked in Crystal City enjoy a panoramic view of the D.C. skyline, completing a full rotation every 47 minutes.

Sam Getachew, the hotel’s food and beverage manager, said the restaurant fits the neighborhood’s retro atmosphere.

“It’s huge, developmentally,” Getachew said. “People are curious for the curiosity of it.”

The only downside, he said, is that “when customers get up to go to the restroom, they don’t know where they are when they come back.”

When Amazon announced its plans Tuesday, it said its footprint will extend beyond Crystal City into the adjacent neighborhoods of Pentagon City and Potomac Yard, which have collectively been dubbed “National Landing” by the region’s economic development officials.

Jennifer Peltz and Matthew Barakat report for the Associated Press.

General Electric Caution Signs Are Flashing in Credit Markets

by Molly Smith

General Electric Co. may still have a relatively solid investment-grade rating, but investors aren’t taking their chances. They’re snapping up derivatives that protect against losses on the company’s debt.

The cost to insure against a default by GE for five years climbed to as high as 211 basis points in heavy trading. Default swaps prices from CMA show. That’s almost double what it cost just two weeks ago, and it’s the kind of level that hasn’t been seen for the company since the waning days of the global financial crisis.

That’s still well below the peak crisis levels for GE’s finance unit back then (GE Capital CDS surged to more than 1,000 basis points in March 2009). But the pace of the increase has been rapid, particularly when compared with the broader investment-grade market. Yields on some of GE’s bonds have also reached levels that are in line with junk-rated bonds, Bloomberg Barclays index data show.

Chief Executive Officer Larry Calp has tried to reassure investors that the com- pany is prioritizing debt reduction in its effort to combat a multiple-front crisis. Weak demand for gas turbines, high le- verage and a federal accounting probe have fueled a more than 25 percent drop in GE’s stock price since Calp’s surprise appointment on an announced Oct. 1, extending a sell-off that has wiped out more than $200 billion in market value since the end of 2016.

Representatives for Boston-based GE didn’t immediately return messages seeking comment.

In his first earnings announcement as CEO, Calp cut the quarterly dividend to just a penny a share from 12 cents in an effort to reduce debt. Still, credit and equity analysts remain cautious as liquidity concerns “could be escalating,” Gordon Haskell analyst John Inch wrote in a note.

Despite being cut to the lowest investment-grade tier, GE is still three notches above a “junk” rating from Moody’s Investors Service, three steps above speculative grade, and an equiva- lent BBB+ from S&P Global Ratings and Fitch. The company’s bonds are highly liquid, making it easier to raise cash.

Yields on the company’s $1.95 billion of 3.37 percent bonds due in 2025 have climbed to 5.6 percent. That’s higher than the yields on a Bloomberg Barlays index of debt rated in the highest speculative-grade tier.

Meanwhile, GE’s only actively traded perpetual preferred stock now yields more than 14 percent, higher than some distressed credits.

Molly Smith reports for Bloomberg News.
Transatlantic Budget Flying Gets a Reality Check With Sale of Wow
by Egill Bjarnason

Founded in 2012, the airline expanded fast to 37 destinations and reported up to 60 percent annual growth in passenger numbers. Its revenue per passenger, however, has not kept up and fell by about 20 percent in 2017, according to the latest earnings report.

About 70 percent of Wow’s passengers travel between Europe and North America. Combined with Icelandair, the airlines carry about 3.8 percent of transatlantic passengers, according to analysts at Icelandair.

Experts say that what budget airlines such as Wow lack is the big source of money from transatlantic flying: business travelers. The New York-London route is the most lucrative in the world, thanks to the amount of business travelling done between the two financial hubs. British Airways takes in a reported $1 billion a year between those cities alone.

Budget airlines have been trying to tap that market. Wow created a new business scheme and in a presentation to investors this year it predicted that would help it make a profit this quarter. Norwegian Air has also offered “Premium class without the premium price,” reports Flying with modest success.

But it remains to be seen whether companies booking trips will agree to pick budget airlines over established carriers that are often seen as more reliable because they have bigger fleets and deeper pockets.

“I think established airlines are in a good position. They have loyalty programs that hold tight to the most lucrative clients,” said Skarphedin Steinarsen, former CEO of low-cost carrier IcelandExpress and the director of the Icelandic Tourist Board. “It takes longer to build up, but it’s a lot better.”

For now, it is the flagship carrier coming out on top.

Wow founder and CEO Skuli Mogensen urged his staff Monday to “look at this as an opportunity to continue our journey now as a part of a much stronger group.”

The charismatic boss, who has in the past mocked established airlines and used his image to represent the airline, acknowledged defeat with much understatement: “It was not part of the original game.”

Egill Bjarnason reports for the Associated Press.

Petco, Others Respond to Demand for Natural Pet Foods
by Dee-Ann Durbin

Demand for healthy, natural food is extending from humans to their pets. Petco announced Tuesday it will stop selling dog and cat food and treats with artificial colors, flavors and preservatives, both online and at its nearly 1,500 stores in the U.S. and Puerto Rico.

“We are making sure we are always taking the nutritional high ground,” Petco CEO Ron Coughlin told The Associated Press.

Petco’s move, the first of its kind among major pet stores, comes at a time when sales of natural pet foods are steadily rising.

Natural pet products still account for a small portion of the U.S. market share but growth has more than doubled to 6.5 percent between 2013 and 2017, according to Nielsen, a data company. Nielsen said sales of pet food free of genetically modified ingredients jumped 29 percent last year.

According to Nielsen, sales of pet food without artificial preservatives and colors grew 4 percent.

American consumers spent $66.9 billion on pet food last year, up 4 percent from the year before, according to the American Pet Products Association.

Pet food has long mimicked human food, says John Owen, a senior food analyst for market researcher Mintel. In 1959, for example, Gravy Train dog food was introduced so dogs could enjoy gravy too.

As human tastes have grown more sophisticated, so have their demands for their pets, Owen said.

But for now, the numbers don’t add up for budget long-haul flying.

“Part of the business model for low-cost flying across the Atlantic depends on getting cheaper airplane slots, both by departing at odd hours and by flying to smaller cities in the United States. Wow flies to St. Louis and Pittsburgh, for example. The low fares, in turn, mean planes are typically not full,” Coughlin said.

For a budget airline like Wow, where margins are already tight, that means a direct hit to earnings. On top of that, wages have been rising sharply in Iceland, where its employees are based.

“Many of the minerals and some of the fermentation products at the very bottom of the list, I can pronounce every single ingredient in her new food,” said Murphy, who said she doesn’t mind spending more for the food.

Petco’s move to stop selling dog and cat food and treats with artificial colors, flavors and preservatives, the first of its kind among major pet stores, comes at a time when sales of natural pet foods are steadily rising.

For dogs, there are bags of organic, vegetarian and grain-free foods. Some brands claim to mimic ancestral diets, with kibbles made from venison or wild rabbit, or food feature tilapia, rabbit and pumpkin.

Sensing the growing trend, two big food companies—J.M. Smucker Co. and General Mills—spent billions to acquire the natural pet food brands Nutrish and Blue Buffalo earlier this year.

“Petco’s move is to keep growing and lead to even more “natural” innovations, like freeze-dried raw food. Coughlin says the majority of pet food Petco sells now doesn’t contain artificial ingredients, making the change insignificant; Petco sells around $100 million worth of dog and cat food with artificial ingredients each year.

“Petco said food with those ingredients will start coming off the shelves in January. Some suppliers are reformulating their food; others simply won’t sell through Petco anymore, he said.

Food with artificial ingredients that isn’t sold by May will be donated to animal shelters.

Eventually the store plans to expand its ban on artificial ingredients to foods it sells for other animals, he said.

Dr. Whitney Miller, Petco’s top veterinarian, said there is limited research into the impact of artificial ingredients on dogs and cats. And Dr. Hollee Rebo, a veterinarian based in Dearborn, Michigan, said homeowners don’t have to worry because established carriers already limit those ingredients because they add costs.

“People don’t add things such as artificial colorings to foods because they know the food more palatable to humans. I love the idea of getting rid of a lot of useless junk, but it’s really there to sell more product,” she said.

Dee-Ann Durbin reports for the Associated Press.
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‘This Was a Strange Deal’: Miami Attorney Details $40.5 Million Apartment Sale

by Lidia Dinkova

Miami attorney Mark Meland closed a $40.5 million sale of a garden-style apartment complex posing as condominium ownership in Pinellas County.

ESG Kullen, a New York-based multifamily property manager, and the property owner, sold the 250-unit Madison Oaks community in Palm Harbor to Residential Management Inc., a New York-based multifamily property manager. The Oct. 23 deal breaks down to $162,000 per unit.

Meland, a partner at Meland Russin & Budwick, worked with firm associate Bryan Vega on behalf of ESG Kullen.

“This was a strange deal,” Meland said. “It’s a rental project except the actual ownership of this is condominium.”

For tenants and anyone else who drives onto the property, they see an apartment community, and it’s operated like one, Meland said. But in documents and on the Pinellas County property appraiser’s office’s website, the property is owned as if it were 250 individual condos.

Over time, ESG Kullen acquired all 250 units, first buying 205 and then the rest, always operating the units as apartments.

But legally ESG Kullen owned the units as condos, which lowered its property tax bill, Meland said.

“The current seller terminated the condo in 2014, and the condominium went away. It was just like a regular apartment complex. But then we realized that, ‘Oh, that’s how it is’,” Meland said.

“The deed to the property is owned as if it were 250 individual condos. But what they called an actual condominium was owned as a real condominium,” Meland said.

“The current seller terminated the condominium, and the deed was split into 250 individual titles,” Meland said. “We had to save money.”

“The way it was owned, it was a very unusual situation, but it was done to save on the real estate taxes. It’s a very unusual situation, but it was done to save money,” Meland said.

As for how this affected the recent sale, it took some explaining.

“As for how this affected the recent sale, it took some explaining,” Meland said. “The way it was owned, it was a very unusual situation because 250 condo units were sold.”

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“The current seller terminated the condo in 2014, and the condominium went away. It was just like a regular apartment complex. But then we realized that the... tax (on) 250 units would be less than one apartment complex, so we’d save a lot of money,” Meland said.

“Our business model is simple: identify value-add properties in secondary markets and boost NOI by providing ‘best in class’ customer service, superior amenities and top-notch management,” Lubeck said.

American Landmark bought the two properties with Palm Beach-based equity partner Electra America. It’s an affiliate of Electra Real Estate, which focuses on the acquisition, management and improvement of multifamily properties, and is owned by Israel-based, publicly traded Elco Ltd.

American Landmark has been targeting value-add properties to reposition and reposition them in areas with population and job growth.

In a Nov. 5 Associated Press article, American Landmark CEO Joe Lubeck said his focus was on secondary markets.

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The Plantation and Royal Palm beach apartment communities are near big employers.

Siena is a five-mile drive from Plantation General Hospital and the 200-unit Verse at Royal Palm Beach for $105 million from San Diego-based Fairfield Residential in a deal that closed Nov. 1. The combined purchase price breaks down to about $214,431 per unit.

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