

Gust Rosenfeld Joins Forces with Flagstaff Firm Hufford Horstman



Attorneys joining Gust Rosenfeld from the Hufford Horstman law firm are, left to right: Nathan Schott, Claire DeChambre, Ben Hufford and Joseph Williams.

On January 1, 2023, Gust Rosenfeld P.L.C. ("Gust Rosenfeld") and Hufford, Horstman, Mongini, Parnell & Tucker, P.C. ("Hufford Horstman"), based in Flagstaff, Arizona, marked the new year with monumental news that will benefit clients on each firm's respective rosters. On that date, attorneys from both firms combined their expertise into one, making Gust Rosenfeld among the most experienced in Arizona in its practice areas.

Gust Rosenfeld is more than 100 years old. Ben Hufford and Patrice Horstman founded Hufford Horstman in 1979 in Flagstaff. Both law firms are full-service firms, with many clients in the public sector.

The arrangement started with a conversation between Rob Haws and Ben Hufford. Both attorneys had known each other for many years, both practice in the same areas of law, and both have great respect for the reputation and quality of work of their respective law firms.

"We had been acquainted, and several of our lawyers knew their lawyers, and we just started talking about the possibility of combining and the advantages for our combined clients," Rob said. "The more we talked, the more it made sense."

In September, attorneys from both firms and the Gust Rosenfeld Chief Operating Officer met to discuss the final proposal's details.

Rob added, "Harnessing the energy of a new year to formalize this relationship is especially meaningful for us. We are focused on the future and on a trajectory toward a shared vision of the practice of law in our state."

"Our decision to join makes us a comprehensive, uniquely specialized assembly of legal experts in Arizona," said Ben. "This union is an immediate benefit to our clients and is the right decision at the right time."

The move resulted in the addition of seven attorneys formerly of Hufford Horstman. The Flagstaff office remains intact with Claire DeChambre and Nathan Schott as capital members, Gehl Tucker and Mike Mongini as Senior Counsel, and Leslie McLean as Of Counsel. Ben Hufford and Joseph Williams also joined the firm as capital members working in Gust Rosenfeld's Tucson office.

Gust Rosenfeld and Hufford Horstman clients can immediately access expanded expertise in many practice areas and expect continued acumen for effective legal strategies. The firm is now among the few firms with attorneys admitted to practice in the tribal courts of the Hopi Tribe, Navajo Nation, and the White Mountain Apache Tribal Nation. Gust Rosenfeld represents a wide range of Fortune 100 companies, as well as many public entities, including school districts and municipalities.

Gust Rosenfeld maintains the former Hufford Horstman location in Flagstaff at 125 East Elm Avenue, close to downtown Flagstaff. The Flagstaff location joins Gust Rosenfeld offices in Phoenix, Tucson, Wickenburg, Las Vegas, Denver, and Albuquerque.

SEE **FLAGSTAFF** INSIDE PAGE



Laura Sever Blanco and **Melissa San Angelo** were ranked in the Top 100 Lawyers in Arizona by AZ Business Magazine.

Christina Noyes authored the Arizona chapter in the book, "Covenants Against Competition in Franchise Agreements, Fourth Edition." This book gives franchise stakeholders a single source for the most current franchising statutory and decisional law in each of the 50 states, Washington, DC, Puerto Rico, the US Virgin Islands, Canada, and Mexico.

Scott Malm gave a seminar titled "Defending Against Escrow Fraud: Think Like a Football Coach" for the Land Title Association of Arizona. Also, **Scott** recently taught a class on seller financing for real estate agents and escrow officers.

Chas Wirken was nominated by the State Bar of Arizona to Governor Hobbs to serve on the Arizona Commission on Appellate Court Appointments. The body screens applicants and nominates them for appointment to the Arizona Supreme Court and Arizona Court of Appeals.

In December, **Gust Rosenfeld** helped sponsor the Angel Ball in Tucson which raised \$1,322,451 to benefit local children.

Robert Haws was appointed to sit on the University of Utah's S.J. Quinney College of Law Alumni Board of Trustees.

Michael Goodman was appointed to the Maricopa County Bar Association's Environmental and Natural Resources section board.

James Giel presented "302 Renewable Energy Project? Let's Look at the 30% Direct IRS Subsidy from the 2022 Inflation Reduction Act" at the annual Arizona Association of School Board Officials conference in April. He also presented "Bond and Override Elections Process" at the Stifel School District's Elections Seminar in February.

James Kaucher was a presenter at the Inflammatory Bowel Disease West Conference in January where he discussed some of the medical issues involved in the treatment of patients with Crohn's Disease and other forms of inflammatory bowel disease.

New Protections for Pregnant and Nursing Workers in 2023

Two new laws from late 2022 expand federal protections for both pregnant and nursing workers.

The Pregnant Workers Fairness Act (PWFA), which takes effect June 27, 2023, requires private or public sector employers with at least 15 employees to provide reasonable accommodations to their employees for pregnancy, childbirth recovery, and related medical conditions, including lactation. Such reasonable accommodations may include flexible hours, additional break time, and/or light work activity and must be determined via a good faith discussion between the employer and employee to determine what accommodations are appropriate. A covered employer is required to provide these accommodations unless they would cause an undue hardship, or significant difficulty or expense, for the employers.

The Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act), which in part took effect on December 29, 2022, expands employer obligations under the Fair Labor Standards Act (FLSA) to provide reasonable break time – and a clean, private space that is not a bathroom – for an employee to express breast milk for their nursing child for one year after the child's birth each time the employee has need to express the milk. With the PUMP Act expansion over the previous law, nearly all employees, regardless of gender, are now covered. Employers of all sizes must comply, with the exception of employers with fewer than 50 employees who can show undue hardship. Further, effective April 28, 2023, the PUMP Act permits an employee the right to file a lawsuit for monetary remedies for an alleged violation.

If you have any questions regarding the new PWFA or the PUMP Act or need assistance updating your policies and practices or finding creative solutions for complying with these new laws, please contact a Gust Rosenfeld attorney.

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Megan focuses her litigation practice on complex insurance coverage analysis and litigation and insurance defense.

Impact Fees: You Better Show Your Work

Suppose a friend asks to stay in your spare bedroom. However, the room is south-facing and won't be comfortable unless you upgrade your A/C unit. You think your friend should pay for the upgrade because your friend is the only reason you need it. Your friend, however, thinks you should pay for the new unit because it will benefit the entire house. Who should foot the bill—those increasing the burden or everyone enjoying the benefit?

Arizona's tremendous growth in recent years brings this issue to the forefront. Just as you might bill your friend for part of the A/C cost, a local government may charge part of new public services/improvements to the development that makes them necessary. This is done through development impact fees: one-time charges assessed to new development by local governments to recover the proportional cost of providing necessary public services (e.g., water, streets, recreation, etc.) to the new development.

Development impact fees have been the subject of myriad legal challenges since the 1982 enactment of the impact fee statute, A.R.S. § 9-463.05, including, most recently, in *S. Arizona Home Builders Ass'n v. Town of Marana*, 522 P.3d 671 (Ariz. 2023).

The Town of Marana upgraded and expanded wastewater facilities with the *intent* of serving new development. Despite the "incidental" benefits to existing residents, the Town allocated nearly all the cost of the new facilities to new development. The Arizona Supreme Court found that the Town's intent was irrelevant; it should have allocated fees based on actual benefits.

Section 9-463.05 requires cities and towns to allocate development costs through discrete, evidence-based findings of fact that consider the actual benefit to existing residents rather than the intent of a subject improvement.

The Court clarified that the post-2011 legislative rewrite of § 9-463.05 greatly constrained municipal authority to assess development fees. Before the rewrite, courts were highly deferential to a local government's decision regarding impact fees. Now, however, § 9-463.05 requires that a new development's proportionate share of the cost "shall not exceed" that new development's proportionate share of the benefits. Additionally, the statute expressly directs that all powers conferred on municipal governments in the impact fee section shall be narrowly construed to ensure that such fees are not used to impose on new residents a burden all taxpayers of a municipality should bear equally. Thus, to the extent that the existing residents will benefit from the necessary public service, they must also pay their proportionate share.

If you have questions about development impact fees or navigating the requirements of A.R.S. § 9-463.05, please contact a Gust Rosenfeld attorney.

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Michael Goodman's practice focuses on government, municipal and public law.

FLAGSTAFF FROM FRONT PAGE

Of course, there have had to be some adjustments, some easy and others challenging. For example, for the first time in its 100-year history, Gust Rosenfeld declared a "snow day" for its Flagstaff office staff. The former Hufford Horstman personnel had to adapt to a new accounting and personnel reporting system. However, through it all, there was energy, excitement, and enthusiasm about the new opportunities that come with this addition.

The vibrant charm of Flagstaff has not escaped the other Gust Rosenfeld attorneys who have enthusiastically welcomed the Flagstaff staff. "We have spent time getting to know each other on a personal level. Each of the new Flagstaff and Tucson partners brings a unique view of what it is like to practice law in northern Arizona," said Susan Segal, a member of the firm's Executive Committee, who practices education and public law.

Ben Hufford is a colorful (and humorous) storyteller about his history of practicing law in Arizona. He has a wealth of experience representing school districts in Arizona and Native American clients. He even slept in his sleeping bag (which he always packs in his car) outdoors once after an unexpectedly long school board meeting in rural northern Arizona. "It was 2

a.m. and I knew there were no hotels around, so I just found a spot for my sleeping bag," Ben related.

Claire DeChambre grew up in Flagstaff across the street from the Flagstaff office and is a fourth generation Flagstaff native. Her love of nature, hiking and northern Arizona, and her interest in tribal issues, has led her to base her law practice in Flagstaff.

Joseph Williams also represents Arizona school districts, Native American agencies, and health care providers. Joseph has a long history with Hufford Horstman, as he worked as a clerk for the firm before attending law school. He is based in Tucson, Arizona, and works with Flagstaff-based clients.

Nathan Schott was a research scientist in the Grand Canyon before law school and is a former river guide and whitewater kayaker. Like Claire, Ben and Joseph, Nate advises Arizona school districts and clients from the Navajo Nation, Hopi Tribe and across Arizona.

Our Flagstaff office is at:

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NEW PARTNERS

Gust Rosenfeld Elects Brandon A. Caywood as Partner



Brandon A. Caywood

Gust Rosenfeld is pleased to announce that Brandon A. Caywood has been elected a Partner.

Brandon is a member of Gust Rosenfeld's Public Finance and Tax Law groups. He advises clients in connection with tax-exempt financings allowed under Section 103 of the Internal Revenue Code of 1986, providing tax guidance and technical structuring advice for a variety of finance

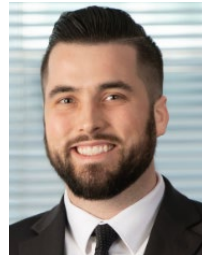
transactions in the public finance area.

He serves as bond counsel and is experienced in providing representation in transactions involving general obligation bonds, lease-purchase financing, conflict financing, revenue obligations, refunding bonds, special assessment bonds and industrial development bonds. He represents counties, cities, towns, community colleges, school districts, fire districts, improvement districts, community facilities districts and governmental agencies throughout Arizona.

Brandon is recognized in the most recent edition of Best Lawyers in America® Ones to Watch for Tax Law. He was also named in the 2023 Southwest Super Lawyers® list as a Rising Star in the categories of Tax Law and Government Finance. Most recently, Brandon was selected as a Top Lawyer in Tax Law by Phoenix Magazine.

Brandon received his LL.M. in Taxation from the University of Florida Levin College of Law. He earned his JD from the Sandra Day O'Connor College of Law where he was named the Tax Law Section Outstanding Tax Student in 2017 by the State Bar of Arizona and was awarded the Pro Bono Graduate Award with highest distinction. He earned his BS in Accounting from Brigham Young University-Idaho.

NEW HIRES



George Gould

George is a member of the firm's Real Estate & Transaction Group. His areas of practice include business and corporate transactions, trusts and estates, corporate compliance, corporate entity formation, real estate transactions, estate planning, trust administration, probate, and probate litigation. Before joining the firm, George served as a law clerk at the United States District Court of Arizona for the Honorable Judge Michael T. Liburdi and the Honorable James A. Teilborg.

George received his JD from the Sandra Day O'Connor College of Law at Arizona State University, where he was the Sandra Day O'Connor Scholar for the class of 2021, the Arizona Issue editor and a staff writer for the Arizona State Law Journal, and an editor for the Harvard Journal of Law and Public Policy. He was a Pedrick Scholar and earned the CALI Award in Estate and Gift Tax and the Pro Bono Service Award with Highest Distinction. He obtained dual degrees at Arizona State University, a BS in Mathematics and a BA in English Literature, graduating summa cum laude, after receiving the New American University Scholar – President's Award. Before attending law school, George taught Language Arts at the Odyssey Institute for Advanced and International Studies.

ET·Y·MOL·O·GY COR·NER

Welcome Blizzards

Our colleagues in Flagstaff are quite familiar with "blizzards," but the origin of the term is a white-out (20th Cent. for loss of vision due to weather conditions). After sifting through a blizzard of paper, it is no clearer. Some believe the term comes from the dialectal English "bliz" for violent blow or the Old Saxon for white or whitish. While perhaps inconvenient for our northern friends, those of us in the lowlands appreciate the additions to the snowpack.

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Rick, our etymologist, practices in the areas of
commercial law and litigation.*

Phoenix Magazine Names Gust Rosenfeld in 2022 Top Lawyers Publication

Gust Rosenfeld is pleased to announce that 27 of the firm's attorneys were named to the 2022 list of Top Lawyers by Phoenix Magazine. Local members of the Arizona Bar Association elected the elite group of attorneys to be published in the magazine.

The following Gust Rosenfeld attorneys made the 2022 list of Top Lawyers:

- **Kyle Bate** – Tax Law; Wills, Estates & Trusts
- **Michael Bate** – Tax Law; Wills, Estates & Trusts
- **Kent Cammack** – Commercial Litigation
- **Brandon Caywood** – Tax Law
- **Daniel Coumides** – Commercial Litigation
- **Frederick Cummings** – Health Care Law; Medical Malpractice - Defense; Professional Malpractice - Defense & Plaintiff
- **Joseph Estes** – Civil Law Litigation; Government & Administrative
- **John Austin Gaylord** – Land Use & Environmental Law
- **James Giel** – Government & Administrative
- **Robert Haws** – Education; Labor & Employment
- **Thomas Halter** – Real Estate
- **Jennifer MacLennan** – Education
- **Scott Malm** – Arbitration and Mediation; Real Estate
- **James Marburger** – Aviation
- **Andrew McGuire** – Government & Administrative; Land Use & Environmental Law
- **Jeffrey McLerran** – Health Care Law; Medical Malpractice - Defense
- **Christopher McNichol** – Real Estate
- **Christina Noyes** – Corporate Finance/Mergers & Acquisitions - Top Lawyer Rated; Intellectual Property & Technology
- **Carrie O'Brien** – Education
- **Séan O'Brien** – Bankruptcy & Reorganization
- **Heidi Purtzer** – Corporate Finance/Mergers & Acquisitions; Intellectual Property & Technology
- **Barbara Rodriguez-Pashkowski** – Land Use & Environmental Law
- **Shannon Scola** – Intellectual Property & Technology
- **Susan Plimpton Segal** – Education
- **John Shoaf** – Health Care Law
- **Robert Williams** – Bankruptcy & Reorganization
- **Charles Wirken** – Appellate Law

Prop 209 Update: Predatory Debt Collection

Proposition 209, the initiative titled the "Arizona Protection from Predatory Debt Collection Act," which was featured in our Fall 2022 newsletter, garnered overwhelming approval in the election this past November and is now effective. Among other things, it lowered the interest rate cap on medical debt and increased the amount of exempt earnings in garnishment actions and the dollar value of personal property exempt from creditor claims, including boosting the homestead exemption on qualifying homes from \$250,000 to \$400,000. But stayed tuned because there is ongoing litigation in the appellate court challenging the constitutionality of the act.

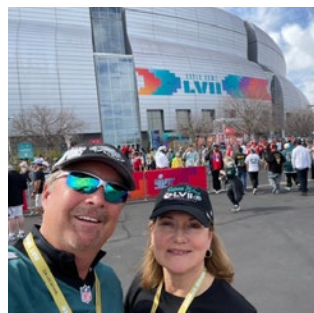
Christopher M. McNichol | 602.257.7496
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Chris focuses his practice on general commercial transactions and litigation, with an emphasis on real property matters.

Susan Segal: Best Lawyers®



Editor's Note: We somehow missed including **Susan Segal** on our list of Gust Rosenfeld attorneys named Best Lawyers in America® in the Fall 2022 newsletter. Susan is listed in the Municipal Law category. Best Lawyers® selections are based on an exhaustive peer-review survey and detailed evaluations. Congrats, Susan.



Super Bowl LVII in the Valley

Philadelphia native, Eagles fan and GR attorney **Chris McNichol** and spouse **Mary Alexander** attended Super Bowl LVII in Glendale in February. Though they enjoyed the event, the Kansas City Chiefs beat the Eagles. Sigh, Eagles, sigh.

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Ranking Arizona: Gust Attorneys Recognized with Top Honors in 14 Categories

Gust Rosenfeld was ranked in 14 categories in the most recent edition of "Ranking Arizona: The Best of Arizona Business." Published annually by AZ Big Media, the 2023 rankings are a result of the largest opinion poll in Arizona that reviewed more than 25,000 Arizona businesses.

Gust Rosenfeld was ranked among the Top 10 Law Firms in the following categories:

- Law Firms of 41 Attorneys or More
- Alternative Dispute Resolution (ADR)/Mediation or Arbitration
- Appellate
- Business/Corporate
- Commercial Litigation
- Construction Litigation
- Creditor's Rights, Bankruptcy/Reorganization
- Creditor's Rights, Collections
- Employment Labor
- Estate/Trust
- Health Care
- Mergers/Acquisitions
- Real Estate
- Tax

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