

Robert Laplaca

Partner

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Rob has a diverse practice that focuses on two distinct primary areas—commercial litigation and promotion law. Rob's skill sets in these disparate areas enable him to provide a holistic approach to meeting each client's needs: his litigation clients benefit from the practical, real-world advice common in advertising law, while his promotion clients benefit from an outlook that tries to avoid litigation.

From the companies he represents in contractual, employment, real estate, shareholder, and business disputes to the major national brands that look to him for his in-depth understanding and knowledge in promotions, cause-related marketing, and commercial co-ventures, all praise Rob for his outgoing personality and his pragmatic advice. His clients know they can depend on him to accomplish whatever needs to be done in a timely manner.

Commercial Litigation

For more than 25 years in state and federal courts nationwide, Rob has litigated cases before juries in a wide range of commercial actions including contracts, employment issues, intellectual property, commercial lending, and other corporate disputes. He has also arbitrated claims in Connecticut and New York, and before the International Chamber of Commerce.

Rob represents litigation clients in a wide range of industries, including aircraft, paper, food, energy, entertainment, construction, fashion, real estate, and investment funds. A sampling of results in some of his recent cases includes:

- Multimillion-dollar arbitration award for a foreign representative against a commercial cargo aircraft company doing business abroad
- Summary judgment for a member of a Cayman Islands investment fund for wrongful termination of the manager
- Favorable jury verdicts for:
 - The lessee of two 747 aircrafts in a federal breach of lease trial
 - A regional heating oil company against a former salesperson for breach of a non-solicitation agreement
 - A multimillion-dollar investment trust against its manager for

Services/Industries

- Business & Commercial Disputes
- Litigation & Trial
- Food & Beverage
- Retail Food & Beverage

mismanagement

- Injunctive relief:
 - on behalf of a South Dakota producer of prime beef against a distributor for wrongful termination of an exclusive distributorship agreement
 - where a company that had purchased a multimillion-dollar business brought an action against the seller for breach of a non-compete agreement
 - for a short-term commercial lender concerning a portfolio of secured properties
- Successful defense of a claim of trademark infringement against a Florida water purification company
- Enforcing the IP rights of a well-known bicycle manufacturer and the IP rights of a designer of high-end handbags
- Multiple actions on commercial paper and to foreclose commercial property in New York and Connecticut
- Satisfactory settlements in:
 - a suit by a national paper distributor against a customer for non-payment
 - a breach-of-employment-agreement case on behalf of a former president of a Broadway sound company against her former employer
 - a patent infringement case on behalf of a national pool products manufacturer against a competitor

Education

- Brooklyn Law School (J.D.)
- Columbia College (B.A.)

Public Service

- State-Certified Firefighter for the Weston, Connecticut, Volunteer Fire Department (2005-present)

Bar Admissions

- Connecticut
- New York

Memberships

- American Bar Association
- Connecticut Bar Association

Honors

- Selected by peers for inclusion in *New England Super Lawyers*® under Business Litigation (2013-2016)
- Top Lawyer in Fairfield County in Civil Law Litigation by Mofly Media

To learn more about third-party ratings and rankings, and the selection processes used for inclusion, [click here](#).

Court and Other Admissions

- U.S. District Court for the District of Connecticut
- U.S. District Court for the Southern District of New York
- U.S. District Court for the Eastern District of New York
- U.S. Court of Appeals for the Second Circuit

Advertising, Promotions, and Marketing Law

Rob represents promotional marketing agencies and major brands, including food and beverage, retail, entertainment, personal care, and professional and consumer products in a variety of nationwide marketing activities from traditional promotions and offers to social media, in-app and other online programs.

Rob also has unique experience representing companies engaged in cause-related marketing, including commercial co-ventures, on which he counsels clients from concept through implementation of programs in this highly-regulated area. For numerous household name brands he provides program concept counseling, contract drafting and review, advertising review and state registration. Some of his representative campaigns in this niche area include:

- Starbucks Born This Way promotion
- Disney Nature films: *Born in China*, *Monkey Kingdom* and *Chimpanzee*
- Corona's Hoops for Hope
- Huggies No Baby UnHugged

Generally, Rob's counsel in this area of law includes:

- Advising from concept development through implementation in promotional activities like sweepstakes, contests, instant win games, mobile marketing, business-to-business, direct mail, sponsorships, user-generated content, endorsements, premiums, coupons, rebates and loyalty programs
- Reviewing marketing programs for compliance with federal and state laws and industry best practices, including gambling and lottery laws, FTC guidelines, COPPA, CAN-SPAM, TCPA, CARU, MMA, and unfair trade practices and consumer protection statutes
- Drafting agency contracts, publicity agreements, licensing agreements, validation documents, privacy policies, terms of use and other matters affecting intellectual property, marketing and promotions

Rob maintains an interesting and informative blog, [You Might Be a Winner](#),

covering newsworthy topics in advertising, promotions and marketing.

Blog Posts: You Might Be a Winner

Promotion laws often differ among the fifty states (and the federal government) and often can't keep up with the ever-changing landscape created by innovative marketers. Through this blog, we will provide insights into the latest developments in promotion marketing law and elicit discussion over questionable, interesting or innovative promotions.

October 1, 2021

"Let's Be Careful Out There:" When Looking At Sweepstakes To Boost Sales, Don't Make These Common Mistakes

With the current debt crisis looming and people tightening their belts, perhaps we'll see more brands doubling down on sweepstakes promotions to increase sales. Before your company jumps into the fray, let's consider some common themes that have some...

August 16, 2021

Cameo and Commercial Co-Ventures

(Educating "Celebrities" on Their Fundraising Efforts)

Everyone not under a rock recently learned that you can soon purchase – for a mere \$375 – a personalized video greeting from America's former mayor turned outcast Rudy Giuliani (perhaps even with copious hair dye streaming down his...

August 2, 2021

A Big Merci Beaucoup to Les Habitants

"Void in Quebec" Est Fini

Oh, Canada, you give us ice hockey, maple syrup, Tom Hortons, and one stubborn province that had a noted aversion to "publicity contests." But no more. Quebec has amended its laws concerning mandatory registration and fees for "publicity contests&rdquo...

June 29, 2021

Scoring A Touchdown With NIL Rights

"NIL" is short for "Name, Image, Likeness," but for college athletes it may now mean "no income limits." All three branches of government have essentially agreed that a college athlete could be paid for his/her NIL activities. However, what...

June 22, 2021

The Raffle: A Calvin to the Sweepstakes Hobbes

Every six-year-old boy, at some time in his short life, comes up with the idea of running a raffle as an ingenious way of earning some easy money. It is then left to his sardonic stuffed animal friend to...

June 8, 2021

Ad Says: “Terms and Conditions” Apply, Second Circuit Says: No They Don’t

On June 8, 2021, the Second Circuit handed down its opinion in the case *Soliman v. Subway Franchisee Advertising Fund Trust, Ltd.*, No. 20-946, holding that the vague, small type in Subway’s in-store ad referring to its “Terms...

June 1, 2021

Animal Killing Contests: Is That Legal?

I literally had no idea. None. Until I recently saw that a bill in Oregon failed to pass (for the third time!) which would have prohibited the killing of coyotes in contests for cash or prizes. With the prize...

May 24, 2021

Cashing in on Vaccinations: How Can They Do That?

I love it when there are new and innovative approaches to sweepstakes. That’s been the genesis and driving force behind sweepstakes promotions since they began. The term “sweepstakes” itself originated in the late 14 th century to describe someone...

May 20, 2021

Sweepstakes for Charity: Try Your Luck at Avoiding Regulators

Sometimes doing good isn’t easy. Say you’re a company that wants to run a sweepstakes by asking entrants for donations to charity. Sounds simple. Everyone will think you’re an A-1, socially conscious brand that isn’t even looking to make...

August 8, 2020

This Week’s Show: Cause Marketing and Employee Engagement

On Saturday, August 8, attorney Tawny Alvarez interviewed Rob Laplaca, Partner in Verrill’s Litigation & Trial group and Chair of the Promotions group, for a segment of HR Power Hour’s radio show. For this episode, Rob and Tawny discuss...

April 14, 2020

Tips for Running Popular Sweepstakes during a National Emergency

“Service to others is the rent you pay for your room here on Earth.” Muhammad Ali
We are seeing a nation pitching in to flatten the curve and countless unsung heroes on the front lines trying to help those...

April 8, 2020

Commercial Co-Ventures: What You Need to Know During a Pandemic

This piece will review important issues when running a commercial co-venture (CCV) during a time of a global pandemic. Filing Requirements: The six registration states (AL, HI, IL, MA, MS, and SC) have not amended their filing rules or...

April 6, 2020

Help! My Sweepstakes is Caught in a Pandemic

Forfeit prizes, cancellation, deadlines, termination, Stores closed, goods sold, how do we get through? Test kits, verification, new prizes, isolation, Entry dates, end dates, what can we do? TV ads, full disclosure, vaccines, when’s it over? Face

masks, pick...

January 3, 2020

Happy New Year! Now You Have to Worry About Abbreviating "2020"

I came across an interesting article in USA Today about how it's really easy for miscreants to change the dates on documents abbreviating the New Year as "20." For instance, say your "free" offer "Ends 1/2/20." Some hacker may...

June 17, 2019

I Catch the Fish, You Cook the Fish, The Only Time We're Together is When We Eat the Fish: Banning Gender Stereotypes in Ads

Women in the kitchen and men in the wilderness. An ad concept as old as time. But has its time come? The U.S. has traditionally taken a hands-off approach to regulating "traditional" gender-stereotyping in ads. But this week, the...

December 13, 2018

The Year in Lawsuits

2018 brought us the type of lawsuits you would expect in the world of sweepstakes, contests and giveaways. From "The Annoyance Lawyer" to Bobbleheads to "You're Probably Never Going to Be A Winner." The most depressing thing is the...

November 8, 2018

New York AG Gives No Stars to Fake Online Reviews

On November 2, 2018, the New York Attorney General came crashing down on a number of moving services that paid for at least 60 fake positive online reviews posted under the heading "CHECK OUT OUR REVIEWS POSTED BY CUSTOMERS..."

November 5, 2018

What's the Straight Dope on Marijuana Promotions?

Prop 215 was enacted in California twenty-two years today on November 5, 1996. This law was the first of its kind in the U.S. to legalize medical marijuana use. Since then 30 states have approved medical marijuana use and...

August 24, 2018

Dilly! Dilly! Is Giving Away Free Beer so Silly?

Every beer drinking football fan in Cleveland knows by now that there will be magic beer fridges stationed throughout Cleveland that will miraculously open to produce bottles of free Bud Light if the football gods see fit to allow...

August 1, 2018

Recent Settlement Highlights Charity's Duties in Commercial Co-Ventures

Recently, an Agreed Final Judgment was entered in Tennessee state court following an action by the Tennessee Attorney General (in conjunction with the AGs of 16 other states) against a TN charity concerning issues raised over a commercial co-venture...

August 1, 2018

Mayor McCheese Catches the Hamburglar (A Look at the Instant Win Games Scams)

You're offered a \$1 million game piece for \$40,000 dollars. What do you do? As you might expect, this may be an offer you can't refuse. A recent and very comprehensive article in the Daily Beast , provides an...

July 16, 2018

Pandamonium Over a Promotion: What to do When Your Promotion is Too Popular

Over the years there have been a number of promotions that just exploded beyond a brand's expectations. In 2009, Oprah decided to treat the whole Internet to two pieces of KFC's new Kentucky Grilled Chicken by promoting a coupon...

June 21, 2018

IGTV – Instagram's New YouTube

Online videos are powerful marketing tools. We've all been there when you watch one video on your phone and suddenly realize you've wasted hours watching clips of a dog skateboarding, a step-by-step tutorial on making a unicorn cake, and...

June 21, 2018

Does That Avatar Really Like That Brand? The FTC Endorsement Guidelines in the New Age of Virtual Influencers

Meet Lil' Miquela. She has 1.2 million Instagram followers: She's modeled such famous brands as Diesel, Versace, Fendi and Chanel. In March, she appeared in a fashion spread in V Magazine as "The Face of New Age Logomania." Last...

June 19, 2018

Don't Tax My Bobblehead! Sales Tax on Promotional Items

Bobblehead: "A figurine with a disproportionately large head mounted on a spring so that it bobs up and down, often made as a caricature of a famous person."
Giveaway: "A thing that is given free, especially for promotional purposes."

June 12, 2018

Things That Make You Go Hmmm

Commercial Co-Ventures and Sweepstakes Promotions Remember that song in the '90s from the C+C Music Factory called "Things That Make You Go Hmmm...." I guess I did when I came across some recent promotions. Perhaps these practice tips will...

May 22, 2018

Take That Down: Recent Lawsuit on Negative Reviews

"Beer: The cause and solution to all of life's problems." Mr. Homer J. Simpson would love the recent case of a Massachusetts craft beer company that has been trying in federal court to get the employment website Glassdoor to...

May 15, 2018

Daily Fantasy Sports is a Skill Game, We Have a Study to Prove It

As the esteemed Secretary of Defense under two presidents has said: Reports that say something hasn't happened are always interesting to me, because as we know, there are known knowns; there are things we know we know. We also...

May 14, 2018

Daily Fantasy Sports, A Supreme Decision

On May 14, 2018, the U.S. Supreme Court declared that the Professional and Amateur Sports Protection Act (PASPA) was unconstitutional – meaning it's up to the states to decide whether to allow its residents to bet on sports. This...

May 8, 2018

You May Be A Loser (Does the Recent Publishers Clearing House Class Action Lawsuit Portend Changes in Sweepstakes Law?)

On April 23, 2018, 13 disgruntled senior citizens, led by a retired and disabled veteran who for seven years purchased hundreds of items from Publishers Clearing House (PCH) believing this would increase his chance of winning the PCH Sweepstakes...

May 2, 2018

How Can They Do That? A Question Many Commercial Co-Venturers Love to Ask

Advertising lawyers when giving advice to clients on promotional programs and advertising disclosures are always asked by their clients, why must we do it that way when XYZ company isn't? The answer is usually somewhere between I don't know...

April 24, 2018

Poetry in Motion: High School Student/Immigrant Allowed to Participate in Contest Even When Excluded from Eligibility

On April 20, 2018, Judge John A. Woodcock, Jr. of the US District Court of Maine issued a well-reasoned 39 page decision granting an injunction against the National Endowment for the Arts (NEA) from prohibiting a high school student...

April 16, 2018

How Will The General Data Protection Regulation Affect Your Sweepstakes Across the Pond

As was made pretty clear last week from the 1,400 hours of Congressional testimony by Mark Zuckerberg, the USA may want to follow the lead of the EU and adopt laws similar to the General Data Protection Regulation (GDPR...

March 29, 2018

Opening Day Edition: Beer Advertising and Sports

Today (March 29) is baseball's opening day and beer and baseball are in the news. The New York Yankees appear to be in trouble for their new " Pinstripe Pilsner " which has an image of your favorite Yankee...

March 29, 2018

Win Tickets to Opening Day, But How Do I Get There?

Today (March 29 th) is baseball's opening day – the earliest opening day in history. If you're going to the Yankees' opener in Toronto, wear your ski caps it's going to be 9 degrees Celsius – which sounds cold...

February 23, 2018

New New York Federal Court Ruling Not in Bed with Ninth Circuit on Embedding Issue

Alert to Businesses Who Link or Embed Copyrighted Content on their Website or Social Media Embedding or "on-line linking" has been considered an accepted

method of posting others' copyrighted material. Get the content directly from the third-party server, skip...

February 23, 2018

Are We Saying Goodbye to the Beer Babe?

The #MeToo movement has produced constant headlines and has helped positively change corporate culture. Is it possible for its breadth to include beer ads? Sexist beer ads have traditionally been the norm. Give a scantily clad gal a beer...

February 12, 2018

What Do You Need to Know about Commercial Co-Ventures?

Join me this Friday, February 16, from 1:00 to 2:30pm to learn the specific legal issues that are arising within commercial co-venture campaigns. With many companies today engaged in cause marketing, including commercial co-ventures in which a portion of...

February 7, 2018

Order to Show Cause to Provide Feedback on This Blog

----- In re the Application of ROB LAPLACA, d/b/a www.YouMightBeaWinner.com: Petitioner

----- SUPERIOR COURT OF THE BLOGOSPHERE JUDICIAL DISTRICT OF LEGAL BLOGS ORDER TO SHOW CAUSE TO PROVIDE FEEDBACK ON THIS BLOG WHEREAS, this blog (the "Blog") started in...

January 30, 2018

The 2018 Most Interesting Super Contests for the Super Bowl

The noted football lover, Karl Lagerfeld, once said, "Clear thinking at the wrong moment can stifle creativity." (This coming from a man who has dressed in the same outfit for 50 years.) This year, the marketers have thrown away...

January 15, 2018

A Post Guaranteed to Give a Lesson on Money Back Guarantees (or Your Money Back)

Ever hear of the "Trial Mark"? In 1869, for his home brewed medicinal products J.R. Watkins created bottles that included an embossed "Trial Mark." Mr. Watkins sold his products door-to-door and offered the first Money Back Guarantee to consumers...

January 5, 2018

Is a Gangsta A Gangster?: Does the Judges' Discretion put Contestants in Jeopardy?

We're starting off the year packing heat. On New Year's Day, the Jeopardy judges exercised their discretion to bump off a contestant who thought he was in the pink. Answer (it's Jeopardy): "A song by Coolio from 'Dangerous...

January 2, 2018

FTC 2017: Consumer Protection Year in Review (aka. If you do it, we'll catch you)

The FTC put out its consumer protection year in review providing a

comprehensive list of significant consumer protection developments in 2017. Let us indulge you with a recap of a few illustrative actions affecting the promotion world. "Free" Samples...

December 28, 2017

2017: The Stories that Weren't, Taken from the Tales of the Twilight Zone

"It is a dimension as vast as space and as timeless as infinity. It is the middle ground between light and shadow, between science and superstition, and it lies between the pit of man's fears and the summit of..."

December 20, 2017

No Room at the Inn (For Bad Reviews)

It's story time here at youwmightbeawinner. Young Aaron from Portland, Maine writes, "Mr. Blogger, what do you have to say about the tale of the Innkeeper who had no room for guests writing bad reviews? " My child I'd..."

December 15, 2017

Sandy Hook Five Years Later: Skill v. Chance Enacting Legislation

In some ways enacting laws is like a contest – a game of skill between qualified legislators – or maybe it's really more like a game of chance – where winning depends upon luck. The disappointing facts since the..."

December 11, 2017

Daily Fantasy Sports Update: From Skill v. Chance to Legislative Dance

Sports have given us the Icky Shuffle, the Mark Gastineau sack dance and George "Twinkle Toes" Selkirk. Perhaps the greatest dance of all has been the state legislatures side-stepping the skill v. chance issue. I really thought we'd get..."

December 4, 2017

The U.S. Supreme Court Tackles Sports Gambling Law

Today (Monday December 4, 2017), the U.S. Supreme Court will hear oral argument in the case Christie v. National Collegiate Athletic Association involving sports-gambling. I bet many of you have heard about the case and know that it has..."

November 27, 2017

Here's a Form to Use to Create a Commercial Co-Venture Program

"Plus ça change, plus c'est la même chose." From the French for (roughly): there's a form for that. Answer these 17 simple questions to create your own commercial co-venture program: 1. What is your company's full name, street address..."

November 2, 2017

Time to Take Your Shot: Prize Indemnity Insurance Edition

We're getting into the swing of the basketball and hockey seasons and you know what that means? (Yes, the Knicks still haven't been mathematically eliminated.) But also, it's time for the Half-Court Shot Contests and Blue Line Shot Contests..."

October 23, 2017

The Bare Minimum (Big Suggestions For Little Promotions)

Client: Do we need Official Rules for our sweepstakes? Attorney: Yes. Client: But

we're only running a one-day sweepstakes giving away a one-way bus ticket to Cleveland. Attorney: Sorry. Client: But we're no Goliath. In the sweepstakes world size...

October 11, 2017

Commercial Co-venture Registration: Things You Should Know

When embarking on your first foray into commercial co-venture land, you may have learned that a commercial co-venturer has to register in six states. But how much do you know about what that entails? Here's a primer: ALABAMA (Ala...

October 6, 2017

What Prizes Can/Can't Be Given Away

Some things you may not be able to give as prizes: - Smokes (MA, MI, VA) - Gas (NJ, VA) - Beer (many states) - Milk (restricted in a number of states) - iPad (formerly) - Yankees tickets (because...

September 22, 2017

Why Are Ad Men Called Mad Men? Is It Because They Can Get Sued?

We all know that the first ad agency was created by William Taylor in 1786 perhaps to help sell the recently invented threshing machine to those farmers sick and tired of separating Recently, ad agencies have come under fire...

September 5, 2017

Age Doesn't Matter Except When it Does

Marx once remarked, "Age is not a particularly interesting subject. Anyone can get old. All you have to do is live long enough." Well, thanks Groucho, for that word of advice, but let's look anyway into the importance of...

August 24, 2017

Sweepstakes Rules: How Much Is Too Much?

William J. Shakespeare recognized over more than 400 years ago in As You Like It that, "Excess may do you harm." This may still hold true today for sweepstakes and contest Official Rules. The internet has allowed Official Rules...

August 18, 2017

You Can't Do That (Strange But True Illegal Contests)

We all know that promotions involving such things as dairy, gasoline, and cigarettes are illegal in some states, but if you dig a little deeper, you'll learn that a red flag should go off if, for instance, a sponsor...

July 31, 2017

Vacation Sweepstakes Edition (The More You Give, The Less You May Get)

It's summer vacation time and what better way to spend it than basking in the sun after winning that all-expense-paid prize trip. Or is it? Sponsors want to create buzz for their sweepstakes. And vacation prizes over the summer...

July 21, 2017

Where's the Beef? Selling Internet Time Could Get You Time (The Sweepstakes Legitimate Product Requirement)

In 1984, Clara Peller, when opening a bun and finding only a tiny burger, first asked the famous line, "Where's the beef?" This question is still relevant today in

sweepstakes world. Even if you have an AMOE, when you...

July 6, 2017

Commercial Co-Ventures: What a Charity Needs to Know

Yay! Big brand wants to team up and donate part of the purchase price of its sales to your charity. Do you just have to sit back and watch the money come pouring in? Procedurally, no; substantively, (mostly) yes...

July 5, 2017

Liability For Inherently Dangerous Contests (How Many Nathan's Famous Are Too Many)

It's fun to watch Joey Chestnut race to scarf down 72 hot dogs in 10 minutes on the 4th of July, isn't it? At least the thousands of fans who packed the Coney Island boardwalk and over 1...

June 22, 2017

How About Some Updates?

You may or may not have heard of some recent developments in the promotion world. If you haven't, great, let me be the first to tell you. If you have, my update is better. Endorsements/Influencers Back in the 1940s...

June 7, 2017

Some Common Sweepstakes and Contests Questions Answered

Our teachers have told us that there's no such thing as a bad question. In that light, I've come up with 11 common (simple) questions about running a sweepstakes or contest. And to prove that there are no bad...

April 28, 2017

Should Your Company Engage in Cause Marketing? Here's What Consumers Think

Cause marketing is good marketing according to a recent study. The marketing research firm Toluna conducted a survey of 1,000 U.S. adults and here's what they had to say: Almost half felt that "it's a great way to..."

April 27, 2017

With A Nod to May Day, Let's Look at Beauty "Contests"

Beauty pageants have been around since the Middle Ages when during the English May Day celebrations a May Queen was crowned. But unlike our current pageant winners who go on to work toward advanced degrees and to advanced popular...

April 13, 2017

The Three Dirty Words A Company Involved in Cause Marketing Doesn't Want to Hear

George Carlin had seven dirty words. Spongebob Squarepants had 13 bad words (7 regular/6 sailor). And New York State has 6,942 dirty words that can't be used on vanity plates. But commercial co-venturers should be aware of three dirty...

April 10, 2017

Tapping Into a New Method of Cause Marketing

What do you do when your esteemed institution of higher learning has an alma

mater which, in the words of one professor, could be interpreted as being "complicit with racism"? You do the right thing and engage the community...

March 31, 2017

Guidance From Commercial Co-Venture Caselaw: A Unicorn of a Topic

There are not many court decisions concerning commercial co-ventures. In fact, there are perhaps five. This is far less than the number of decisions involving unicorns (seriously). Nevertheless, these few court decisions provide some guidance on how a court...

March 17, 2017

Hey That's Me Drinking That Beer! UGC Rights at Issue in Beer/Photo Lawsuit

Kayla Kraft (no known relation to the cheese people) found herself on a Natural Light coaster with a fake handlebar mustache drinking a beer under the heading "Every Natty Has a Story." She apparently didn't like that story and...

March 13, 2017

Let's Review Some Tricky Commercial Co-Venture Issues

From a quick Google search I see articles citing "at least 22" states have commercial co-venture laws; "over 30 states have laws governing commercial co-ventures"; "currently 27 states define 'commercial co-venturer' in their solicitation laws"; "about 20 states" have...

March 7, 2017

One Whale of a Story \$2MM Fishing Contest Prize in Dispute After Failed Polygraph Test

Fishermen(persons?) say that the strongest currents yield the biggest catch. Or at least I think they say that; I really don't fish. But there's a storm a brewing in Maryland federal court over a disputed \$2.8 million first prize...

February 24, 2017

"You Are [NOT] a Winner" Consent Order Entered Against Printer/Mailer of Deceptive Prize Notifications

On February 9, 2017, a consent order was entered in favor of the FTC against the general manager of a company engaged to procure printing and mailing of deceptive prize notifications. The individual got laminated for \$800,000 (subject to...

January 24, 2017

Should Influencers Influence Cause Marketing?

To use or not to use a popular marketing tool? That is the question. Shakespeare, himself, opted for a popular marketing tool when he cast the famous tragedian, Richard Burbage, for the part of Hamlet. This was probably a...

January 9, 2017

Will The Consumer Review Fairness Act of 2016 Affect Contests and Sweepstakes? (Hint: Yes)

On December 14, 2016, the Consumer Review Fairness Act of 2016 was passed to try to put an end to companies taking down nasty reviews about their products.

Congress's way of telling companies: if you ask for it, you're...

December 29, 2016

2016: The Year in Review

In case you missed it, here are some notable items from 2016 concerning sweepstakes, contests, and related promotional matters: Influencers, Native Advertising, and Endorsements 2016 kicked off with reaction to the FTC's new Native Advertising Rules which seek more...

December 15, 2016

Throw Back Thursday Edition: Vintage Sweepstakes and Contest Ads, How Far We've Come

First, a short history lesson. The term "sweepstakes" dates back to the 15 th century in reference to a common game where everyone placed a "stake" and the winner "swept" up all of the stakes when he won. And...

December 8, 2016

A Trap for the Unwary: DMCA Safe Harbor Registration Alert

Under the Digital Millennium Copyright Act (DMCA) to take advantage of the safe harbor from copyright infringement liability, an online service provider (OSP) has to register and designate an agent with the US Copyright Office to receive "takedown notices"...

November 17, 2016

Giving Tuesday: An Opportunity to Market for a Cause

I'll admit that I've been part of the people lining up in the wee hours of the morning waiting for the doors to open on Black Friday. I even (temporarily) lost my young son once even though I specifically...

October 26, 2016

Condemnation, Litigation, Regulation, Legislation, Congratulation – Are NFL Ratings Down because of The Daily Fantasy Sports Crackdown?

Sports Illustrated recently had an article listing their experts' take on why NFL TV ratings are down an overall 11% from last year . Number 7 on their top 10 list was the Daily Fantasy Sports (DFS) bans. Should...

October 12, 2016

Big Blue Fans Win Big Red Steaks: Promotions That Go Better (?) Than Expected

On Saturday (October 8), the University of Michigan eleven beat Rutgers by the lopsided score of 78-0. I don't know if the Wolverines were fed red meat before the game, but the fans in Ann Arbor are sure lining...

October 6, 2016

Is It Really "The Best [Insert Product] You Ever Bought?" Amazon Limits Incentivized Reviews

When shopping online, we all want to know what lawnmower/backscratcher/egg timer is the best. Once we've found an array of options, many of us go right to the online reviews to see how others liked the product. Caveat emptor...

September 23, 2016

U.S.A! U.S.A.! - House Votes to Eliminate the "Victory Tax" on Olympic Prizes

Olympic prize awards are generally taxed like other prizes. Some lawmakers have seen this practice of taxing our Olympians as a "victory tax." On Thursday (Sept. 22, 2016), the House of Representatives overwhelmingly passed a bill exempting U.S. medal...

September 23, 2016

There's No Such Thing as a "Free" Sample: FTC Provides Guidance on Advertising "Free" Samples Combined with Recurring Charges

On Tuesday (September 20, 2016), the FTC and NutraClick entered into a consent order concerning NutraClick's online offer for "free" samples of supplements and beauty products. The FTC alleged that NutraClick failed to clearly disclose to people who...

September 13, 2016

Court Says Too Bad to Bad Online Reviews

Yesterday, the Ninth Circuit Court of Appeal dismissed a lawsuit against Yelp! by a disgruntled business that received a one-star rating from a customer, upholding the protection provided to online providers under the Communications Decency Act (CDA). Douglas Kimzey...

September 7, 2016

Playing for Keeps: Daily Fantasy Football 2016

When the last online fantasy football game was played, the attorneys general of New York, Nevada and Illinois were throwing penalty flags, state legislators were huddling to set the next play, and the daily fantasy sports leagues were taking...

August 23, 2016

Please Don't Endorse Our Product Anymore: The Morals Clause Edition

Unless you've Rip Van Winkled for the past month, lost your television/iPhone/iPad, or simply given up on international competitive athletics to instead focus on the Cubs' chase for an elusive World Series Crown, you know that US Olympic Swimmer...

August 19, 2016

Pinterest Revises Promotion Guidelines

Recently and without fanfare, Pinterest revised its Promotion Guidelines in a few significant ways. The old Guidelines said you cannot "run a sweepstakes where each Pin, board, like, or follow represents an entry;" you cannot require people "to Pin...

August 15, 2016

In Honor of the Olympics We Give You the International Sweepstakes Edition

In a twist that would make Alanis Morissette sing, "Isn't It Ironic", last week the New York Times reported that a survivor of an Emirates airline crash landing in Dubai learned days later that he had won \$1,000,000 in...

August 15, 2016

Do You Really Like Me? Native Advertising Enforcement is On the Rise

On July 11, 2016, the FTC announced that it had settled charges against Warner Bros. that it paid online influencers to post positive game play videos for its new a video game Middle Earth: Shadow of Mordor (Ed. note...

July 12, 2016

Why is That in the Official Rules? What to Know When You Copy and Paste

According to Wikipedia, the term "copy-and-paste" refers to the popular, simple method of reproducing text from a source to a destination. We all do it. You may even do it to draft your Official Rules for a sweepstakes or...

June 30, 2016

Competitive Video Gambling: The Secret Hobby Going on in Your Basement

Competitive video gaming is a somewhat recent attraction for (mostly) young adult boys and (mostly) men who think they are young adult boys. I've even seen my young adult son watch YouTube videos of other people playing video games...

June 24, 2016

Enter to Win a Scholarship: Paying for College Through Games of Chance

For many young adults, college classes will be starting soon. For many anxious parents, college costs will be accumulating soon. Thank goodness you can try to bankroll tuition by entering the many available sweepstakes awarding "scholarship" money. For a...

June 22, 2016

I Wanna Help: Cause Marketing for Tragedies

A good brand's reaction to any human tragedy is to try to find a way to help. Most recently, we have seen an outpouring of support for the Orlando victims, and we can recall the many millions of dollars...

May 13, 2016

You Might Not Be a Winner

I came across an article in the Dallas Morning News the other day titled " Campus carry group may offer 'cash prizes' to UT students who call out anti-gun professors. " Whoa! The regional director of the group Students...

April 20, 2016

The Cow Chip Raffle OR How to Turn Poop Into Loot: An Analysis of a Raffle Law

Imagine a football field roped off and sectioned into 500 marked squares. Imagine further a cow roaming free on this football field trying to find the perfect spot to leave a cow pie (that's farmer for poop). Imagine even...

April 13, 2016

Is It "Au Naturelle" or "Oh, Not Natural?": FTC Comes Down on 100% Natural Claims

You can buy almost any product that is "all natural" -- skin cream, soap, shampoo, cleaners, grass seed, bug repellent, pet spray, even hair loss treatment. These products go by monikers such as "Pure Naked", "Lush", "ONO", "Nature's Miracle"...

April 1, 2016

Sweepers - Trying to Clean Up with Sweepstakes Prizes

By rough estimate there are over 20,000 people out there who devote their livelihood to extreme "sweepstakeing." These dedicated denizens of the promotion world scour the Internet and newsletters in search of fame and fortune. They go by monikers...

March 16, 2016

Where'd You Get That Dress? FTC Dresses Down Lord & Taylor Native Advertising

This week the FTC settled charges against Lord & Taylor from alleged deceptive native advertising during its March 2015 Design Lab social media campaign. <http://1.usa.gov/22h3sJ7> A big takeaway from this settlement is the FTC's position that a company not...

March 15, 2016

Cause Marketing Lessons from the Wounded Warrior Project Scandal

Your company just made a major announcement that it is partnering with a charity that you now find is involved in a scandal. What can you do? The recent ousting of The Wounded Warriors Project CEO and COO amid...

February 11, 2016

What's a Prize? Illinois Federal Court Holds In-App Purchases for a Chance to Win Enhanced Game Play Is Not Illegal Gambling

Recently, the US District Court for the Northern District of Illinois dismissed a putative class action lawsuit claiming that the online game Castle Clash involved illegal gambling because players could make in-app purchases to win "Heroes", "gems", "shards" and...

February 10, 2016

Did Peyton Manning Go One Pitch Too Far? (Native Advertising at the Super Bowl)

We all know Peyton Manning – he's a professional pitcher: for Papa Johns, DirecTV, Buick, and Gatorade, among others. He's also a professional quarterback. But did his post-Super Bowl pitches for Budweiser and Papa John's go too far. As...

February 3, 2016

Do I Need the Horse's Permission to Take its Picture for a Contest?

The Guardian reported on February 2 that the owner of a horse who was in a winning contestant's selfie claims that she should share in the contest prize because the winner did not get her permission to take her...

February 3, 2016

You Lost the Race, But You May Have Hit the Lottery: NY Road Runners' Illegal Lottery Lawsuit

What is it with New York these days; it's a boon for promotion lawyers. First, the Attorney General says daily fantasy sports are illegal gambling and now disgruntled marathoners are claiming that the organizers of the NYC Marathon run...

January 26, 2016

Get Yer Bets in on Iowa: Legal Political Prediction Gambling

Did you know that you can legally trade futures contracts on whether Trump tanks in Iowa or Sanders soars in New Hampshire? Two not-for-profit "stock" markets allow online trading – with real money – on a political prediction market...

January 14, 2016

Government to Citizens: Powerball Good/Daily Fantasy Sports Bad

What's good for the goose isn't always good for the gander. 44 states are selling legal lottery tickets to hopeful citizens with the 1 in 292.2 million chance of becoming a billionaire. (For those keeping score, you can't play...

January 6, 2016

I Said Your Product was Great, Now Gimme a Prize: The FTC Enforces Its Endorsement Guidelines

Yesterday, the FTC settled a deceptive advertising lawsuit against the creators and marketers of the Lumosity "brain training" program . For those of you not smart enough to know, the "brain training" program claimed to not only boost your...

January 4, 2016

"All Profits to Charity" – How Much is That? A Brief Commercial Co-venture Lesson

You've heard this sales pitch before. Its cousins are "A percentage of proceeds to charity" and "A portion of the proceeds to charity". Do you really know how much will be donated? The short answer is no. I've read...

December 31, 2015

Show Me the Money - When Taxes Can Turn Your Dream Home Into a Nightmare

It's that time of year again, the 20th annual HGTV Dream Home 2016 Sweepstakes began December 29th. As the sponsor of this promotion has recognized, winning a mansion could put you in the dog house when you are socked...

December 31, 2015

I'm About to Deliver on 1/1/16 - Where Can I Get the Best Prizes?

On December 22, in my blog on the Miss Universe debacle , I related the story of the mother of baby Yuki Lin who was awarded \$25,000 for giving birth at the stroke of midnight on New Year's Day...

December 30, 2015

Cause Marketing by the Numbers - What's In It for Me?

There is a common belief that corporations must do everything with an eye to producing profits for shareholders. But that is not so. In fact, in its opinion in the Hobby Lobby case, the U.S. Supreme Court stated: "Modern...

December 24, 2015

FTC Addresses Nativ(ity) Advertising Just in Time For Xmas

On Tuesday, the FTC issued an Enforcement Policy Statement on Deceptively Formatted Advertisements -- a/k/a "native advertising", along with guidelines for businesses . Simply put, native advertising is generally advertising that takes the

form and style of the platform...

December 24, 2015

Another One Bites the Dust - Daily Fantasy Sports Update

On Wednesday, the Illinois Attorney General declared daily fantasy sports illegal under Illinois gambling law. The AG Lisa Madigan gave her opinion in response to a request from two legislators who are pushing to legalize this activity.

Interestingly, the...

December 22, 2015

And the Winner Is...

It's now viral. Even if you had no interest in watching women get judged based upon how they look in swimwear (athletically speaking, of course), you know that on Sunday Steve Harvey announced Miss Colombia (the country, not Columbia...

December 22, 2015

You Are a Winner - Sweepstakes Scams Are Still Popular

Recently, an affluent and intelligent businessman received a letter on Publishers Clearinghouse letterhead complete with the PCH logo and signed by its CFO informing him – by name – that he was selected as the second place winner in...

December 22, 2015

The Super (oops) "Big Game" Sweepstakes Are Starting – Watch What You Say

"Game Time Gold", "Ultimate Football Experience", The "Big Game" Sweepstakes, the "Special Teams" Sweepstakes, and the "Big Game Giveaway" are just a few of the sweepstakes offered this football season to win a trip to Super Bowl 50, as...

December 18, 2015

Upcoming Webinar: "What All Lawyers Must Know About Fantasy Sports Gambling"

On January 20, from 1:00 - 2:30 PM, Rob Laplaca will present a Lorman webinar titled "What All Lawyers Must Know About Fantasy Sports Gambling." The program will answer the questions on everyone's minds concerning fantasy sports leagues and...

December 18, 2015

Cause Marketing Can be a Force for Change

Today (Dec. 18) is the official release date for the long-awaited next installment in the Star Wars saga – The Force Awakens. Disney and the Star Wars group have already been engaged in an over one-year long cause...

October 16, 2015

Maybe it is Gambling - Fantasy Sports Leagues Under Fire

This week we wrote that fantasy sports leagues were (arguably) legal because they are games of skill under the Unlawful Internet Gambling Enforcement Act (UIGEA). Yesterday, however, the Nevada Gaming Control Board concluded – after several months of investigation...

October 13, 2015

Isn't Fantasy Football Illegal Gambling?

Everyone is familiar with the phrase "No Purchase Necessary." That's because promotions based on chance – sweepstakes, giveaways, or any promotion where a winner is randomly selected – cannot require a purchase (i.e., consideration) for the chance to win...

March 20, 2015

Madness or Badness: Is Your Office NCAA Pool Illegal?

It doesn't matter whether you know a basketball from a hockey puck or a three-point play from a five course meal, every March, office workers across the country dutifully fill out their NCAA basketball tournament pool brackets, kick in...

March 2, 2015

10 Things You May Not Have Known About Promotion Marketing

Practically every type of promotional activity is regulated in some way: Sweepstakes and contests User generated content on websites and social media; Coupons, gift cards and money-back guarantees; Charitable solicitations; Celebrity endorsements or other testimonials; Marketing to children; and...

January 7, 2015

What You Need to Know About Commercial Co-Ventures

Commercial co-ventures are a form of cause-related marketing that have proliferated in recent years. Commercial co-ventures between a company and a charity not only help charitable causes, but also tend to increase a company's bottom line. Indeed, market studies...

January 7, 2015

What You Need to Know About Sweepstakes and Contests

Sweepstakes A sweepstakes is a chance promotion where the winners are selected randomly, such as random drawings, giveaways, and instant win games. There must be no purchase necessary to enter a sweepstakes. Entries with a purchase are permitted, but...

Blog Posts: Lawyers on Tap

The attorneys of Verrill are here to help your business navigate the complex world of beverage law. This blog keeps you informed of the latest news and legal updates in the beverage industry so you and your company can focus on doing what it does best, making great products.

August 24, 2018

Dilly! Dilly! Is Giving Away Free Beer so Silly?

Every beer drinking football fan in Cleveland knows by now that there will be magic beer fridges stationed throughout Cleveland that will miraculously open to produce bottles of free Bud Light if the football gods see fit to allow...

July 31, 2018

Cause Marketing For Craft Brewers (You Can Do Good, But Don't Let Your Promotion Go Bad)

"Buy our beer and we'll donate \$1 to charity." The ultimate "doing well by doing good." Many large beer brands see the marketing advantage of asking consumers to buy their product in return for the brand's donation to charity...

May 22, 2018

Take That Down: Recent Lawsuit on Negative Reviews

"Beer: The cause and solution to all of life's problems." Mr. Homer J. Simpson would love the recent case of a Massachusetts craft beer company that has been trying in federal court to get the employment website Glassdoor to...

March 29, 2018

Opening Day Edition: Beer Advertising and Sports

Today (March 29) is baseball's opening day and beer and baseball are in the news. The New York Yankees appear to be in trouble for their new "Pinstripe Pilsner" which has an image of your favorite Yankee...

February 21, 2018

Are We Saying Goodbye to the Beer Babe?

The #MeToo movement has produced constant headlines and has helped positively change corporate culture. Is it possible for its breadth to include beer ads? Sexist beer ads have traditionally been the norm. Give a scantily clad gal a beer...

March 21, 2017

Hey That's Me Drinking That Beer! UGC Rights at Issue in Beer/Photo Lawsuit

Kayla Kraft (no known relation to the cheese people) found herself on a Natural Light coaster with a fake handlebar mustache drinking a beer under the heading "Every Natty Has a Story." She apparently didn't like that story and...

Publications & Podcasts

May 3, 2018

No Purchase or Personal Data Collection Necessary: GDPR's Impact

April 10, 2018

IP Litigator: Copyright Litigation

February 28, 2018

How to Properly Use Online Influencers to Market Your Craft Beer

December 11, 2017

Verrill Voices: What You Need to Know About Commercial Co-Ventures

February 1, 2017

How the New Consumer Review Fairness Act Affects Consumer Promotions