



MARKS & KLEIN, LLP

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By Edie Sachs

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Fortunately for the law firm of Marks & Klein, LLP, all these attributes are abundantly present in the two New York Law School alumni who are its principals, Gerald A. “Jerry” Marks ’69 and Justin M. Klein ’03.

Marks & Klein, based in Red Bank, New Jersey, is a small firm with a big footprint in the specialized practice area of franchise matters. “We have litigated against and have clients within most of the major franchise systems out there,” says Klein, proceeding to list some of them: Quizno’s, Snap-on Tools, McDonald’s, Subway, 7-Eleven, Cold Stone Creamery, Friendly’s, Pizza Hut, Weichert Realtors, Dunkin’ Donuts, and various gas station franchises. The firm, which now consists of eight lawyers, has amassed hundreds of millions of dollars in judgments and class-action settlements. It maintains a second, part-time office on Wall Street in Manhattan and just expanded into the Midwest with a third office in Chicago.

Despite their 30-year age difference, Marks and Klein have a harmonious partnership that has greatly benefited the business. They share core characteristics including an ironclad work ethic, drive and determination to succeed, emphasis on a team environment, and a real enjoyment of their work. “With that as the baseline, everything else falls into place,” says Klein. “Jerry is extremely liberal in his decision making, such as in what types of cases we should take. I’m much more conservative and cautious. We complement each other very well; we fill in each other’s gaps.”

A Debt of Gratitude Gerald A. “Jerry” Marks ’69

Jerry Marks is the senior partner of Marks & Klein, LLP. It would be hard to find a more cheerful, more satisfied attorney, or a bigger booster for New York Law School.

He has carved out a niche for himself as a specialist in franchise-related matters, starting with a single case about 20 years ago where he represented a franchisee of Snap-on Tools with a grievance against the franchisor.

“It turned out to be symptomatic of larger problems within that particular franchise,” says Marks. Soon other Snap-on Tools franchisees were coming to him, first from New Jersey, then from New York. Before long, franchisees from all across the country were asking him to represent them.

“Today I represent more dealers for Snap-on Tools and its competitors, such as Mac and Matco, than any other attorney in the United States,” he says. Over the years, Marks & Klein has sued Snap-on Tools on behalf of failed franchise owners more than 1,000 times, according to *NJBIZ* magazine. In 2006, the firm completed a three-

and-a-half-year class-action suit against the franchise that culminated in a \$125 million settlement.

Marks currently teaches an undergraduate course in franchising at Monmouth University in Long Branch, New Jersey. It’s not his first teaching stint; in the early 1970s, he was an adjunct professor at New York Law School, teaching legal research and writing while clerking in the Appellate Division, Second Department.



The clerkship inspired him to practice law; however, he found himself relegated mostly to transactional work in real estate, zoning, and planning. It was a bit of a letdown: “The only time I’d spend in a courtroom would be on zoning matters. Only when I started franchising work was I finally able to enjoy litigation. I had no one to teach me—essentially it was on-the-job training. But it was very, very satisfying.”

According to Marks, the ability to fall back on his own resources is a skill that he attributes directly to New York Law School. “The School turns out warriors,” he says. “I feel that my education equipped me to compete with other lawyers from schools that don’t really dwell on a lot of practical

aspects. NYLS taught me how to acquire things for myself instead of waiting for someone to give them to me.”

Marks, who describes himself as “partially dyslexic,” feels a debt of gratitude to the Law School for giving him the opportunity to study law. “I always scored poorly on IQ tests and college boards,” he says. “I just wasn’t equipped to take the LSAT, and I scored below the threshold for admittance to law school.”

After being rejected by New York Law School, he summoned up the courage to request a meeting with then-Dean Daniel Gutman. “I told him, ‘I’m not stupid, but I just can’t take these tests.’ He said, ‘I know you’re not stupid. If you take the test again and get the minimum qualifying score, we’ll admit you.’” Marks did take the LSAT again, got the required score, and threw himself into his studies. In the second half of his first year, he ranked near the top of his class and was invited to join the *Law Review*.

Marks says he has pleasant memories of all his professors. He has particular praise for Professors Milton Silverman and the legendary Joseph Koffler, who taught Introduction to Torts. He also tells an amusing story about Professor Franklin Setaro, who required students to take his exams with a fountain pen. “He had his standards, shall we say, and just did not like ballpoint pens,” recalls Marks. “For years afterwards, I used a fountain pen because of him.”

**Franchising’s “Legal Eagle”
Justin M. Klein ‘03**

The story of how Justin Klein originally came to work with Jerry Marks is somewhat hard to pin down. “It seems to have taken on a life of its own,” Klein chuckles. Did they meet at an alumni event at New York Law School? Or did Klein respond to a job posting via the Career Services Office? Each seems to recall the story slightly differently. But the bottom line is that the two made an alumni connection, and both Marks and Klein are very happy with the end result.

Marks refers to Klein as a “remarkable individual” and recalls that when he first saw Klein’s résumé, he thought, “That’s someone I want to meet.” For his part, Klein welcomed the opportunity to escape the New York City law firm where he had been working and join Marks’s practice, where he could enjoy greater freedom and follow his entrepreneurial instincts.

“I wasn’t particularly thrilled with life as a first-year associate,” says Klein. “I was doing very basic stuff—document review,

the occasional court appearance; nothing exciting. I started asking myself, did I make a big mistake? Should I quit and write a book about my law school experiences? Start my own business? I had all these crazy ideas.”

Then he met Marks, who was essentially working solo and needed help with a large case. They talked for several months, and Klein came to realize that working with Marks would be “a real viable option.” So when Marks made him an offer, he took a big pay cut and moved to New Jersey.

He did so with the full support of his wife, who was pregnant at the time. “We had lived a block away from the World Trade Center when 9/11 happened, while I was in law school,” he says. “We were unable to return to our apartment for several months. We never thought we’d leave the city, but an experience like that changes your mentality. So when my wife got pregnant, things like a house and a driveway and a backyard suddenly became very important.

“Joining Jerry required some sacrifices, but my wife was super supportive of my ability to recognize the opportunity there and turn it into a winning proposition.” Today, the Kleins and their three children live about 20 minutes away from Marks and Klein’s Red Bank offices.

For the last five years, Klein has been recognized by *Franchise Times*, a leading industry publication, as a “legal eagle,” one of the top franchise lawyers in the country. “Jerry and I have accrued over \$330 million in settlements relating to various franchise matters,” Klein says. “I was the lead counsel in a class action against Quizno’s Corporation, which we settled for \$206 million, and in another one against Snap-on Tools, which we settled for \$125 million.”



Klein lectures frequently on franchise matters for various groups including the New Jersey Economic Development Authority’s Entrepreneurial Training Institute. “I’ve spoken to all types of groups, from high school students to senior citizens and to CEOs and CFOs,” he says.

Klein entered law school thinking that he was going to become Jerry Maguire: “[I figured] ‘Hey, I’ll be a sports agent, get front-row seats to Knicks games, hang out with athletes, nurture my passion as a sports fan through law somehow.’ But I learned in my civil procedure class, my constitutional law class, my criminal law class, that it doesn’t work like that—you can’t just walk in and declare what you’re going to be. Once I assimilated that, I was open to whatever law school was going to bring to me.” **a**