



DN  
DAAR & NEWMAN  
*Lawyers*

*Doing Business*  
*in*  
Los Angeles

*Presented by the Los Angeles law firm of*

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A Professional Law Corporation

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DAAR & NEWMAN  
Doing Business in Los Angeles®

## Daar & Newman

- Daar & Newman is a long-established general practice law firm which acts as a gateway for international business, both inbound to and outbound from the United States
- Daar & Newman clients range from major listed companies on the New York Stock Exchange to small and mid-sized companies, individuals, entrepreneurs and government agencies
- Through the firm's membership and alliance with Consulegis (EEIG), an international network of leading law firms practicing in more than 40 countries worldwide, Daar & Newman can assist its clients virtually anywhere. The firm acts as a gateway for international business both inbound to and outbound from the United States, and has many established relationships in Mexico.

- Among the firm's practice areas are

General American and International Law

Corporate and Transactional Law

Dispute Resolution Litigation and Arbitration

Mergers and Acquisitions

Securities Law

Intellectual Property Law

Licensing

Insurance Law

Aviation Law

Transportation Law

- Daar & Newman's transactional attorneys work with clients on commercial business transactions and develop, design, organize and form businesses.
- They have extensive experience in corporate mergers and acquisitions, public offerings and leveraged buyouts
- As part of our international practice, our attorneys provide advice and consultation on international business transactions, including all aspects of international trade and investment.
- Daar & Newman has significant experience in advising companies on developing their business strategy to enter into the Los Angeles market

## Why Are We Here In Guadalajara?

- Daar & Newman stands ready to serve as your guide to the legal aspects of doing business in Los Angeles and the United States
- Daar & Newman has assembled comprehensive teams for you (Legal, Banking, Accounting, Insurance and Marketing)
- We are here to work with you on developing, designing, organizing and strategizing your business opportunities in Los Angeles

## What Can You Expect From Daar & Newman?

- The highest levels of professionalism and integrity
- Intellectual vigor and the foresight to best serve your interests in Los Angeles, California and the United States

## Why Should I Choose Daar & Newman?

- Many international businesses, including those from Mexico, trust Daar & Newman because we have the international resources to handle the legal aspects of your business enterprises, allowing you to focus on the business at hand
- Daar & Newman can coordinate its services in Los Angeles with those of the attorneys in Guadalajara and in conjunction with member firms in Consulegis, in 40 countries throughout the world

## Why You Want a U.S. Company To Do Business in California

- Having a separate company in California is preferable because it becomes either a wholly-owned subsidiary or sister company of the parent company in Mexico
- The employees of the California company may only be employees of that entity and not of the company in Mexico. The California company and not the company in Mexico will be responsible for the payment of payroll and other employee benefits and the withholding of taxes
- The California company will enter into contracts in the United States, which may limit liability only to the California company

## Why You Want a U.S. Company To Do Business in California

(continued)

The California company would pay all United States federal and California taxes on its income. The company in Mexico may receive a tax credit for the taxes paid in the United States and California

- American businesses prefer to do business with other American companies in part because if there is a dispute there are fewer issues regarding jurisdiction
- If there is litigation, your California company would be involved in the litigation, not its parent in Mexico
- The California company or affiliate can be merely a distribution company for the parent or affiliate company in Mexico

## Why You Want a U.S. Company To Do Business In California

(Continued)

- It is easier for a California company to obtain lines of credit from California banks
- It will be easier for a California company to lease or purchase real property than it would be for a Mexican company
- It will be easier for a California company to purchase or lease equipment such as trucks, vans, computers, software and other materials for the operation of the California business

## Recommended Structures for Opening a California Business

- California C Corporation
- California Limited Liability Company
- Delaware C Corporation

## What is a California C Corporation?

- A California C Corporation is considered by law to be a unique entity separate from those individuals or other companies that own it.
- As an individual entity, a corporation can be taxed, sued, and can enter into contractual agreements.
- Corporations are owned by shareholders of the corporation, which elect a board of directors to oversee the major business decisions and policies of the corporation.
- The board of directors appoint the officers of the corporation.

## Advantages Of The California C Corporation

- A Mexican citizen or any foreign citizen can be a shareholder of a California C Corporation
- The shareholders have limited personal liability for business debts (there is a larger body of established case law for corporations than for limited liability companies)
- The shareholders have the corporate shield to protect them in the event of litigation
- Corporations can split profit among shareholders and the corporation, which may result in a lower overall tax rate

## Advantages Of The California C Corporation

(continued)

- There is no limit on the number of shareholders
- Individuals have less risk from government audits as a corporation than they would as a partnership or sole proprietorship
- Director and officer liability insurance would be available and recommended to help protect the principals of the corporation
- Initial documents required: Articles of Incorporation, Corporate Bylaws, Organizational Minutes, Shareholders Agreement

## What is a California Limited Liability Company?

- A limited liability company consists of one or more members which may be individuals, partnerships, limited partnerships, trusts, estates, associations, corporations, other limited liability companies or other business entities. The members of a limited liability company are afforded limited liability similar to shareholders of a corporation and have pass-through taxes comparable to a partnership
- In addition, a California LLC is more flexible and requires less on-going paperwork than a corporation

## Advantages of the California Limited Liability Company (LLC)

- Mexican citizens or any foreign citizen can be a member or manager of the LLC
- Members (owners) have limited liability for business debts in the event of litigation
- For tax purposes, the allocation of profit and loss of an LLC need not be proportional to ownership
- With an LLC, there is no double taxation threat since the LLC is not a separate taxable entity

## Advantages Of The California Limited Liability Company (LLC) (continued)

- The LLC has a more flexible structure and provides the limited liability features of a corporation and the tax efficiencies and operational flexibility of partnership (this format is more popular with sole proprietors who are looking to incorporate simply to protect personal assets or secure additional loans)
- Initial documents require: Articles of Organization and Operating Agreement

## Qualifications To Do Business

- Both the C Corporation and the LLC would have to qualify to do business in each State in which it does business and may have to pay franchise taxes in each of those States
- The franchise tax in California is 8.84% of net income, or a minimum of U.S. \$800

## The Delaware C Corporation As An Alternative Corporate Structure

- If the company is going to have more than a few shareholders or believes that it may seek to go public, the principals should consider forming a Delaware corporation rather than a California corporation. A very large percentage of publicly traded companies choose to incorporate in the State of Delaware because:
- Delaware general corporation law is the most advanced and flexible in the United States
- The Delaware Business Chancery Court has written the most important and modern corporate case law

# The Delaware C Corporation As An Alternative Corporate Structure

(Continued)

- The directors of the corporation have additional protection from disgruntled shareholders
- There is no state franchise tax in Delaware
- Initial documents required are Certification of Incorporation, Corporate Bylaws, Organizational Minutes and Shareholders Agreement

## California Labor Law Issues

- California employees are at-will employees unless they have an employment contract providing otherwise
- Employee benefits
- Labor unions
- Immigration issues for non-U.S. citizens or permanent resident aliens

# Intellectual Property Protection

- Trademarks
- Copyrights
- Patents

## Insurance Coverage

- Liability will largely be determined by the business operations of the company. The California company will require various types of insurance to protect itself from exposure, including but not limited to:
  - Comprehensive general liability
  - Premises liability
  - Workers compensation
  - Truck and automobile liability
  - Coverage for the property of others under its custody and control
  - Director and office liability insurance

## Important Business Relationships To Establish

- Attorneys who understand cross-border business and who have a relationship with attorneys in Mexico and in other countries in which you want to do business
- Banking with a strong business bank that can provide financial guidance and resources, such as City National Bank
- Insurance broker such as Willis that knows the insurance markets in California and Mexico and who can advise you on the nature and scope of the insurance coverage you will require and which can also advise on employer benefit issues
- A strong accounting firm that can advise you on cross-border tax issues

## Michael R. Newman



An experienced litigator, Michael has tried numerous cases in both the State and Federal Courts in California as well as cases in Delaware, Illinois, Kansas, Minnesota, New York, Pennsylvania, and Texas. In the field of international business litigation, his cases have required his participation in matters in Canada, England, France, Germany, Hong Kong, Russia and Sweden.

Michael is actively involved in handling international business and transactional matters. In 1998 he organized the German-American Strategic Partnership, which has members throughout Germany, and has held conferences in Frankfurt, Berlin and Erfurt. Michael has served as Vice Chairman of the German American Chamber of Commerce.

Daar & Newman is a member firm of Consulegis EEIG, a consortium of over 90 law firms with 150 offices and 1,800 lawyers in over 35 countries, which was founded in Germany in 1985. Michael is a member of the 10-person Advisory Board of Consulegis.

Michael has served as a consultant for several foreign government agencies, including the Berlin Economic Development Corporation; Berlin Senatzkanzli, Media Division; LEG Thüringen; Mitteldeutschemedienforderung; and the Hannover Economic Development Corporation.

In furtherance of international education, Michael serves as a member of the Advisory Board of the Center for the Study of Emerging Markets which is affiliated with the Graduate School of Business and Economics at California State University, Fullerton. Michael has served on the Finance and Physical Development Committee of the Board of Governors of the University of Haifa (Israel).

Michael's expertise in the fields of international business law and litigation and insurance law has led to numerous speaking engagements for regional, national and international organizations, including the Los Angeles County Bar Association; Consulegis EEIG, conferences in Paris, Madrid, Dublin and Berlin; California State University–Fullerton, Center for the Study of Emerging Markets; National Health Care Anti-Fraud Association, the American Insurance Association Conference on Fraud in the Insurance Industry, the Insurance Fraud Institute, the Eastern Claims Conference and as the keynote speaker of the Eastern Life Claims Conference.

Michael has authored several published articles, including: "A Plan for Oversight by Loss-Prevention Counsel as a Means for Reduction of Attorney Malpractice Claims — The Eleven Commandments of Avoiding Attorney Malpractice," and "Avoidance of Bad Faith — A Measure of Fairness." He has also co-authored articles on "Punitive Damage Avoidance in the Business of Insurance" and "Suicide and Life Insurance: When Doctor Meets Lawyer."

Michael's biography is published in Marquis Publications *Who's Who in the World, Who's Who in America, Who's Who in American Law, Who's Who in American Business & Finance, and Who's Who in the West.*

Michael's life-long passion for mathematics and science led to awards (U. S. Navy Science Award in Mathematics, New York University Bronze Medal in Physics), study at the NASA Institute in Space Physics at Columbia University/Goddard Space Flight Center, and enhances his contributions to cases involving professional liability, products liability and environmental impact. He has an undergraduate degree in astrophysics.

Recognizing the long-term effects for the country's health care system and the insurance industry, Michael organized a Conference on AIDS: Its Impact on Life and Health Insurance, held in New York. An interest in athletics and in serving the community at large has involved Michael as a member of the Board of Directors for the Athletics Congress of the United States, and member of the Southern California Committee, Governmental Liaison Advisory Commission, and the Organizing Committee for the 1984 Summer Olympic Games. Michael has also received the Distinguished Service Award from The Athletics Congress of the United States.

Michael is an avid sailor, skier and tennis player—and when he finds time, can be found practicing on the piano.

## Jeffery J. Daar



Jeffery Daar has practiced law since 1982 and is the managing attorney of Daar & Newman. Jeffery takes a holistic approach to clients' legal and business issues. His diverse expertise includes strategic planning, complex state and federal litigation, innovative dispute resolution, and international transactions and disputes. Jeffery assists clients in finding real solutions to problems by implementing both short-term and long-term strategies. Jeffery's practice focuses on both litigation and transactional projects.

Jeffery is the Chairperson of the Consulegis Intellectual Property, Entertainment Law and Information Technology Specialist Group, coordinating lawyer specialists in these areas in more than 30 countries since 2002.

Jeffery has close working relationships with lawyers throughout Europe, Latin America and Asia . This permits him to assemble international legal teams for innovative global solutions to business transactions and disputes. Jeffery is also a member of the Executive Committee of the International Law Section of the Los Angeles County Bar Association and is a member of the International Trade & Investment Committee of the Los Angeles Area Chamber of Commerce.

Jeffery's extensive litigation background gives him added insight to structuring transactions for clients along with his entrepreneurial approach to problem solving and dispute resolution. Jeffery is known for his extensive background in a number of practice areas, including but not limited to class actions, internationally oriented litigation and transactions, insurance including insurance insolvency, products liability, consumer litigation, unfair competition and injunctions, appellate work, private post-secondary schools and colleges, and intellectual property. Jeffery's experience includes representing municipalities in the Executive Life Insurance Company insolvency, trying a major securities class action before the Delaware Chancery Court, and practicing before the California Supreme Court and other appellate courts.

Jeffery is the Chairperson of the City of Los Angeles Rent Adjustment Commission, which is responsible for adopting policies, rules and regulations pertaining to the City's Rent Stabilization Ordinance and is the Appeals Board for the City of Los Angeles Housing Department. Jeffery has served as a City Commissioner since 2003.

Jeffery served as the Chair of the Democratic Party of the San Fernando Valley from 2001 to 2007. Jeffery is also a longtime member of the Executive Board of the California Democratic Party and an elected member of the Los Angeles County Democratic Central Committee. Jeffery has held various leadership positions in other nonprofit organizations.

His publications include "Obtaining Strategic Injunctions Against Infringers Of U.S. Patents," the chapter "Licensing and Regulation of Insurance Adjusters" in the Matthew-Bender treatise, *California Insurance Law*, an international article on the Year 2000 (Y2K) computer problem, and an article "Overview of AIDS and the Insurance Industry" published in the Insurance Advocate.



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