



## ABOUT LEVINE & BAKER LLP

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San Francisco attorneys [Alisa J. Baker](#) and [Richard E. Levine](#) bring a powerful combination of transactional and litigation skills to their work on behalf of clients with respect to the full range of employment and executive compensation matters, as well as general commercial matters. Whether working separately or as a team, the partners provide the kind of substantive expertise and practical effectiveness that arises only from decades of sophisticated legal practice.

**Levine & Baker LLP** offers counsel both to individuals and to companies (private and public). Representative matters include:

- **Negotiation/preparation of executive employment, confidentiality, separation and settlement agreements** (including equity compensation and change in control arrangements), as well as founders' and key shareholders' agreements;
- **Representation in trial and alternative dispute resolution proceedings** including wrongful termination, discrimination and harassment cases, compensation (including equity compensation) disputes, unfair competition and trade secret cases between employers and former employees, partnership disputes and battles for corporate control;
- **Representation of senior executives, company founders and stockholders** on their rights in merger & acquisition ("M&A") transactions and venture capital financings, including "golden parachute," deferred compensation and equity structuring matters.
- **Equity compensation** plan/agreement design and drafting; counsel on employee rights with respect to implementation and interpretation; and
- **Expert consulting** in the area of executive compensation and equity compensation.



## **Executive Compensation Transactions and Equity Compensation**

We have extensive experience working with companies and individuals on the full range of executive compensation matters, including equity compensation. Our creative, individualized approach is based on over twenty-five years of experience with the complex tax, securities, employment and corporate law issues that come into play when solving executive compensation problems. Examples of matters we handle include:

- Negotiation and preparation of both public and private company executive employment and separation packages, including implementation of structures that provide creative solutions to Section 280G golden parachute issues, Section 409A deferred compensation issues, founders' issues and related post-termination concerns.
- Negotiation and preparation of "change of control," noncompete, employee confidentiality and consulting agreements.
- Representation of company founders with respect to their employment agreements and equity participation at all stages of the entity life cycle, including start-up, follow-on round, pre-IPO and M&A-related activity.
- Representation of senior lawyers, including corporate chief legal officers, general counsel and law firm partners, for employment and compensation matters, including guidance with respect to the specific professional issues raised in this context.
- Design and implementation of individual equity compensation arrangements, including restricted stock and option agreements, alternative (non-securities based) awards, and stock purchase programs, equity plan design (including stock option, restricted stock and employee stock purchase plans) and implementation, along with counseling on ongoing employee plan issues.



## **Employment Litigation and Dispute Resolution**

We have more than 30 years experience in resolving disputes in the business/commercial context, including some twenty years of focus on disputes arising from, or in connection with employment relationships. While our preference is always to resolve disputes favorably to our clients' interests as quickly and cost-effectively as possible (often through mediation or unmediated negotiation), a willingness and ability to try a case is generally a necessary element of a successful negotiation.

Partner Richard E. Levine has extensive trial experience (both jury and court trials) in the state courts of all Bay Area counties and various other counties in the state, including Los Angeles and San Diego. Mr. Levine has tried cases in the United States District Courts in San Francisco, Oakland, Los Angeles and San Diego. He has also conducted numerous arbitration proceedings before the Judicial Arbitration and Mediation Service (JAMS), the American Arbitration Association (AAA) and the National Association of Securities Dealers (NASD). Examples the sort of disputes we handle include:

- Statutory employment discrimination.
- Sexual, racial and religious harassment in employment.
- Employment compensation disputes, including disputes regarding stock option plans, "restricted" stock plans, and commissions.
- Retaliation and "whistle-blower" claims.
- Claims of unfair competition, breach of loyalty/fiduciary duty, trade secret and confidential information misappropriation between employers and former employees (and/or their new employers).
- Battles for control in corporate, LLC and partnership contexts.
- Right to privacy claims.
- Disputed rights arising from mergers and acquisitions, including rights under "change of control" provisions.



## Mergers & Acquisitions

We have special expertise in counseling senior executives, company founders and employee-stockholders on their rights in merger & acquisition ("M&A") transactions and venture capital financings. This type of representation requires deep subject matter knowledge in the law of executive compensation (including tax, employment, corporate, securities and equity comp rules) as well as decades of experience --on both sides of the table-- in negotiating within the complex deal structures common to Silicon Valley. Because of our sophisticated practice in this area, we are frequently called upon by other lawyers to represent key individuals, as well as executive management groups, during M&A activity.

Examples of recent representation in publicly announced M&A/financing transactions include:

- Representation of executive group for merger-related retention, employment and equity issues, including in the following: \$158M acquisition of Stratify, Inc. by Iron Mountain Incorporated (NYSE:IRM); \$140M acquisition of Terayon Communications by Motorola, Inc. (NYSE: MOT); \$135M acquisition of Reactivity by Cisco Systems, Inc. (NASDAQ:CSCO); \$150M acquisition of Comergent by AT&T (NYSE:T); \$335M acquisition of Northern Empire Bancshares by Sterling Financial Corp (NASDAQ:SLFI); \$430M acquisition of Intellisync Corporation (Nasdaq: SYNC) by Nokia (NYSE: NOK); \$120M acquisition of a minority interest in 2Wire, Inc. by Alcatel Partners (NYSE:ALA)
- Representation of individual senior executives with respect to "golden parachute" and retention issues arising from acquisition transactions, including: \$620M acquisition of VG Holding Company by Electronic Arts (Nasdaq: ERTS); merger of Amphire Solutions, Inc. into iTradeNetwork, Inc. (ITN); acquisition of TellMe Networks, Inc. by Microsoft (Nasdaq:MSFT); \$375M acquisition of Wily Technology by Computer Associates (NYSE: CA); \$615M acquisition of Genencor International, Inc. (Nasdaq: GCOR) by Danisco A/S
- Representation of executive-shareholders for retention and equity issues in connection with private equity investment by GTCR Golder Rauner LLC (\$8B under management) in IQNavigator; representation of senior executive with respect to employment/governance package structured in connection with formation of Olympus Microsystems America, Inc., a joint venture between Olympus Corporation (OTC:OCPNY) and Movaz Networks, Inc.; representation of executive-shareholder in \$100M+ sale of equity stake in Leadclick Media, Inc. to First Advantage Corporation (Nasdaq: FADV) and The First American Corporation (NYSE: FAF)



## Expert Services and Litigation Consulting

We provide expert witness services and litigation consulting with respect to executive compensation matters, particularly as such matters relate to equity compensation. Partner Alisa J. Baker is a nationally recognized expert on equity compensation who is a frequent writer and speaker on issues related to her practice. She is the author of two books on equity compensation, [The Law of Equity Compensation](#) (2006) and [The Stock Options Book](#) (10th Ed. 2009). Ms. Baker's articles are featured regularly on the award-winning on-line site MyStockOptions.com and she has been quoted in, and sourced by, such news outlets as the *San Jose Mercury News*, the *San Francisco Chronicle*, *The Recorder*, and *Bloomberg News*. In 2009, Ms. Baker was elected by her professional peers to be a Fellow of the American College of Employee Benefits Counsel, a recognition of her distinguished legal career in, and substantive contributions to, employee benefits law and practice.

Ms. Baker has provided expert services in numerous actions related to equity plan construction and interpretation, both individual and class-based.