

Food & Beverage MVP: Latham & Watkins' James E. Brandt

By **Lisa Ryan**

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Latham & Watkins LLP managing partner James E. Brandt successfully took down the so-called soda ban imposed by former New York City Mayor Bloomberg and the city's health board, which sought to limit the portion sizes of the sugary drinks, earning him a spot among Law360's 2014 Food and Beverage MVPs.



James Brandt

Brandt led a team of attorneys including the firm's Washington, D.C., partners Rick Bress and William Rawson, into battle against the policy that would block New York City restaurants, theaters, food carts and sports venues from selling sugary drinks in portion sizes over 16 ounces. Representing the American Beverage Association, the attorneys convinced a New York appellate court in June to strike the final blow that formally blocked the ban.

"From a legal point of view, what was most rewarding was requiring the mayor and the Board of Health to operate in a way that is consistent with our constitutional system. We thought that they had seriously overreached, and the courts agreed," Brandt said.

The New York native doesn't typically find his work falling into the arena of food and beverage law. He became a lawyer after watching both his father and grandfather practice law, or the "family business" as he jokingly referred to it, and made a name for himself by focusing his practice on complex financial, securities, bankruptcy and insolvency litigation, as well as transactional matters.

But given his experience litigating cases in front of the New York Supreme Court, working on this suit was a natural fit.

Latham had previously represented the ABA in different cases, so the organization once again approached the firm to spearhead its push against the soda ban.

The Washington, D.C., office was first enlisted in the suit, but when it became clear that the entry point into the court system for the litigation would have to be a New York court, Brandt was brought in to lead the charge.

The ABA, like many New Yorkers, felt that the city's government was infringing on its citizens' civil liberties by regulating the soda portions, according to Brandt, who called the move a "slippery slope." The organization was also concerned that Bloomberg and the Board of Health overstepped the state Legislature by implementing the soda ban.

"Something akin to the soda ban should have been considered, if at all, by the Legislature. The mayor, with the Board of Health, tried to end-run the Legislature. Maintaining that separation of powers is an important legal goal," Brandt said.

According to the attorney, one of the main challenges in initiating the suit in New York was the deference typically given to governmental actors, such as the Board of Health. However, the state's high court sided with the ABA and opted to knock down the ban in March 2013 only hours before it was set to take effect.

Brandt took the lead during the New York Supreme Court hearing, with Rick Bress taking the reins during the subsequent Court of Appeals hearings. But after months of work, the team at Latham finally saw the ban officially outlawed this past June, with the state's highest court ruling that the health board exceeded its authority when it imposed the sugary drink portion limits.

The attorney said he owes the success of the case to the collaborative atmosphere at Latham, which encourages its lawyers to work together to achieve the optimal results.

"The way Latham is built is what really prepared us for handling this matter. We brought a great team to bear," he said.

Brandt, who has worked at the firm since 1985, moved back to securities litigation after the case's completion. In September, Brandt and his team secured a \$220 million award for Travis Coal Restructured Holdings LLC in an International Chamber of Commerce arbitration brought against Essar Global Fund Limited to purchase the equity interests in Trinity Parent Corp.

He represented the company during arbitration, as well as a subsequent proceeding in the Southern District of New York seeking to enforce the arbitral award. The firm also was able to get the award enforced in England and the Cayman Islands.

The attorney once again attributed the success of the suit to his top-notch team at Latham.

"If you can't bring the right team together, you end up short changed in some area," he said.

--Additional reporting by Pete Brush, Eric Hornbeck and David McAfee. Editing by John Quinn.