

MVP: Latham's Jean Pawlow

By **Dylan Moroses**

Law360 (September 20, 2022, 2:02 PM EDT) -- Latham & Watkins LLP's Jean Pawlow has represented Netflix as tax counsel in its string of successes in class actions across federal and state courts against claims that it was liable for state-based franchise fees, earning her a spot among Law360 2022 Tax MVPs.

HER BIGGEST ACCOMPLISHMENT FROM THE PAST YEAR:

Pawlow told Law360 that the firm's team representing Netflix includes attorneys from different areas of law, including commercial and telecommunications law specialists.

Netflix has secured dismissals across various state and federal courts related to the issue. In September 2021, federal judges tossed suits brought by Ashdown, Arkansas, and New Boston, Texas, that sought to collect franchise fees from Netflix and Hulu.

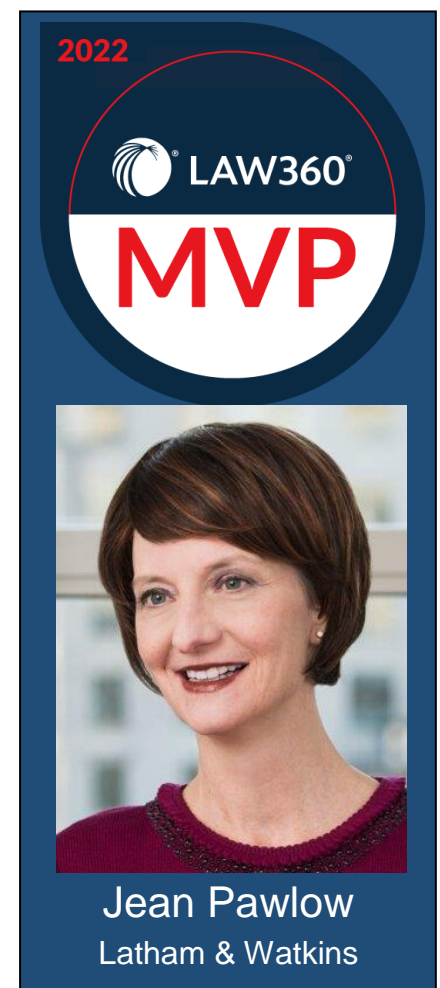
Also from that September, a Los Angeles Superior Court ruled the streaming companies don't have to pay video service provider fees under California law to the city of Lancaster, which brought a proposed class action. A Nevada federal judge that same month tossed a proposed class action brought by the city of Reno over the failure of Netflix and Hulu to pay franchise fees.

Cases on the issue are still active in Ohio and Missouri, according to court records.

Franchise fees have generally been applied to cable television companies that operate physical infrastructure in public rights-of-way. Municipalities have banded together in putative class actions trying to charge Netflix franchise fees under state law, but the company has argued that those fees have never been applied to online streaming content providers.

Pawlow described the attempt to apply the fees to Netflix as "an attempt to essentially tax Netflix." The attempt to apply the fees to Netflix, a digital streaming platform, is an example of what she identified as a greater worldwide issue surrounding the taxation of digital products.

"The taxation of digital products is a big issue, not just here, but really kind of globally as industries move from selling ... books, in bookstores, to delivering goods over the internet and now digital goods over the internet," Pawlow said.



HER BIGGEST CHALLENGE FROM THE PAST YEAR:

Pawlow said that managing all the aspects of the Netflix disputes and their implications across several areas of law and across class actions in different state and federal courts presented many challenges.

"Each statute is a little bit different," she said "Trying to develop cohesive theories and to be able to win in such an early stage on the motion to dismiss [is challenging], because it's sometimes difficult to get a case dismissed right out of the get-go."

HER PROUDEST MOMENT FROM THE PAST YEAR:

In addition to her work with Netflix, Pawlow said she's been representing a client in another dispute that involved a "big complicated trial" this year. She said her client requested to remain anonymous.

Pawlow had the chance to work with two younger attorneys who had never received witness testimony in a trial setting before, and she gave them the opportunity to do so during the case as a way to further their careers in a fashion that she benefited from earlier in her career.

"Even the government lawyers made a point to compliment them. ... I remember when someone gave me a chance early in my career, to step up in court and do it for the first time," Pawlow said. "I was really happy to be able to pay that forward and see the next generation of people do a really good job."

WHY SHE'S A TAX ATTORNEY:

The puzzle-solving aspects of tax law are what drew Pawlow to her work and keep her motivated daily, she said.

"I love solving all kinds of puzzles, and the tax code is complex ... trying to figure it out and how it all fits together is intriguing, and I'm always learning something new," she said.

The ever-changing nature of tax laws both in the U.S. and across the world presents new questions that Pawlow said clients ask her regularly, making up another aspect of her practice that keeps her driven.

"Clients call me because they've got a really tough problem, a cutting-edge issue that's really challenging," she said.

HER ADVICE FOR THOSE INTERESTED IN BECOMING TAX ATTORNEYS:

Pawlow said tax law presents a broad swath of practice areas to make a career out of, whether it be tax planning, tax controversies or even developing tax policy.

Oftentimes, tax attorneys are "at the center of complex commercial transactions, or disputes with the government involving hundreds of millions, if not billions of dollars," she said, adding that the work can span local, state, federal and even international jurisdictions.

"It evolves over time, but it really touches everybody to some extent," Pawlow said.

— *As told to Dylan Moroses.*

Law360's MVPs of the Year are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals, and complex global matters. A team of Law360 editors selected the 2022 MVP winners after reviewing more than 900 submissions.