

## News & Insights

### **Dykema Successfully Represents Jacked Up, LLC on Appeal Against Sara Lee Corporation in U.S. Court of Appeals for the Fifth Circuit**

**April 27, 2017**

Small energy drink maker Jacked Up, LLC prevailed over international food conglomerate Sara Lee Corporation yesterday in a significant appellate victory in the United States Court of Appeals for the Fifth Circuit. Jacked Up was represented on appeal by a team of attorneys from Dykema, a leading national law firm. The Fifth Circuit's 29-page published opinion places Jacked Up in position to potentially recover the millions of dollars in damages it suffered as a result of Sara Lee's wrongful actions.

In September 2011, Jacked Up and Sara Lee signed an eight-year licensing agreement for Sara Lee to nationally distribute Jacked Up's proprietary energy shots and energy-infused iced teas. But just weeks into this multi-year contract, Sara Lee terminated the agreement, gravely damaging Jacked Up's business and forcing the small start-up company to file suit for breach of contract, fraud, fraudulent inducement and several other causes of action.

The United States District Court for the Northern District of Texas in Dallas granted summary judgment in favor of Sara Lee and dismissed all of Jacked Up's claims. However, Jacked Up appealed to the United States Court of Appeals for the Fifth Circuit in New Orleans. On April 25, 2017, a three-judge panel of the Fifth Circuit partially reversed the grant of summary judgment and thereby breathed new life into Jacked Up's key causes of actions against Sara Lee. The Fifth Circuit restored Jacked Up's claims for breach of contract, fraud and fraudulent inducement, and remanded back to the district court for trial on the merits against Sara Lee.

"We are very pleased with the Fifth Circuit's decision, and Jacked Up looks forward to aggressively prosecuting its claims against Sara Lee on remand in the trial court," said Christopher D. Kratovil, lead appellate counsel to Jacked Up and Office Managing Member of Dykema's Dallas office. "Jacked Up is a small company known for its innovative energy-infused beverages, and we are honored to contribute to its success by winning this appellate victory against a massive food products conglomerate."

The Dykema team representing Jacked Up in the Fifth Circuit was led by Chris Kratovil and Victor Johnson, with support from Kristina Williams and Matthew Sikes.

#### **Attorneys**

Victor C. Johnson

Christopher D. Kratovil

#### **Practice Areas**

Appellate

Litigation