

Rising Star: Paul Weiss' Brette Tannenbaum

By Jade Martinez-Pogue

Law360 (August 7, 2023, 9:32 AM EDT) -- Brette Tannenbaum of Paul Weiss Rifkind Wharton & Garrison LLP has advised several high-profile sports clients in reputation-threatening litigation, including representing the NFL in a proposed class action alleging racial discrimination in hiring practices, earning her a spot among the sports and betting law practitioners under age 40 honored by Law360 Rising Stars.

Her most interesting case:

In the most interesting case that she has worked on recently, Tannenbaum was co-lead counsel to the NFL and six of its teams in the proposed class action brought by former Miami Dolphins head coach Brian Flores, former Arizona Cardinals head coach Steve Wilks, and Ray Horton, former defensive coordinator for the Tennessee Titans. In March the judge ruled that Flores can continue his suit in federal court and that Wilks and Horton must move to arbitration.

The league saw the decision as a win, saying at the time that it "correctly holds that the vast majority of claims" in the case were properly arbitrable.

"Although the plaintiffs' factual allegations have gotten a lot of attention, the case had a number of legal issues it faced as well," Tannenbaum said. "The recent ruling compelling a portion of the claims to arbitration was pretty significant."

Her proudest moment:

A few months ago, Tannenbaum had the opportunity to first-chair an evidentiary hearing on behalf of James McGowan, who has been on death row in Alabama since 1996 after being convicted of two counts of capital murder. The jury in the case sentenced McGowan to life in prison, but the judge overrode the sentence and imposed the death penalty instead, Tannenbaum said.

Tannenbaum first worked on the case when she was a paralegal at Paul Weiss before attending law school and found herself preparing to work on the case again 15 years later. The evidentiary hearing that she first-chaired

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Brette Tannenbaum
Paul Weiss

Age: 38

Home base: New York

Position: Partner, Deputy Chair of
Antitrust Practice Group

Law school: Columbia Law School

First job after law school: Clerked
for U.S. District Judge Naomi Reice
Buchwald of the Southern District of
New York

was held to determine whether McGowan has an intellectual disability, such that his death sentence violates the Eighth and Fourteenth amendments, Tannenbaum said.

"I was really proud to present to the court for the first time evidence of his intellectual disability that rendered his death sentence unconstitutional. James was with us every day in the courtroom, so having him there was pretty special," she said. "What made me particularly proud was helping the associates on the team examine their first witness in court."

What motivates her:

For Tannenbaum, one of her biggest motivators is her clients. She loves learning about her clients' different businesses and objectives, and then working with them to successfully represent them.

"I describe myself as very competitive but fiercely loyal, so I think that fighting hard for my clients is pretty motivating for me," she said.

She also finds it motivating to mentor and guide newer associates at Paul Weiss, making sure that they get the opportunities that helped pave the way for her career at the firm. Tannenbaum said that she was lucky enough to have mentors who not only promoted her to clients but also prepared her for those opportunities.

"These mentors advocated for me to take my first depositions, for example, and also reviewed my deposition outlines and transcripts to identify areas where I could improve," she said. "One senior partner actually marked up the transcript of the second deposition I ever took, when I was a third-year associate, and then met with me to review. There was a lot of red on those pages, and it was a daunting conversation, but I never forgot it."

Why she is a sports attorney:

Tannenbaum has always loved sports. Growing up in a big family of sports fans in New York, Tannenbaum has been a committed New York Knicks and New York Giants fan, she said.

"Paul Weiss has a long history of advising sports leagues and teams on their most sensitive matters, and I was fortunate enough to be introduced to those clients — such as the MLB and NFL — early in my career," she said. "I've just been bitten by the bug."

Tannenbaum also noted that she enjoys how her work in sports litigation intersects with other areas of her practice, most notably antitrust litigation.

Her predictions for the future of sports litigation:

The fundamental models of professional and collegiate sports have been under attack by antitrust regulators and in litigation recently, Tannenbaum said, adding that she doesn't think that will be going away anytime soon.

"I think we will continue to see that type of litigation going forward, but I don't think sports leagues or associations will tolerate the constant threat of antitrust liability," she said.

Tannenbaum said that she thinks the industry is headed toward more nationally regulated sports to preserve competition among leagues and schools, and she is interested to see how that plays out.

--As told to Jade Martinez-Pogue.

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2023 Rising Stars winners after reviewing more than 1,350 submissions. Attorneys had to be under 40 as of May 1, 2023, to be eligible for this year's award. This interview has been edited and condensed.

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