Hotels, Hospitality & Food Service

Barclay Damon attorneys work closely with hotels, hospitality, and food service industry companies, bringing years of industry experience that draw on a number of practice areas delivered by an integrated team. The service team ensures compliance with ever-changing governmental regulations; supports revenue growth through mergers, acquisitions, consolidations, and private-equity and other investments; helps strengthen and protect brands, including trademarks; assists in evaluating and designing strategies to mitigate business risks; and ensures compliance with fast-changing employment rules and regulations, including counseling on employee benefit and health care plans.

We offer multidisciplinary teams that have a depth of knowledge on legal issues specific to the hotels, hospitality, and food service industry, and, when necessary, our attorneys provide representation before applicable agencies and regulatory boards and in federal, state, and local trial and appellate courts.

Barclay Damon provides industry-experienced counsel on issues that include:

- Acquisitions, including joint ventures; purchases and sales; acquisition of real estate, including like-kind exchanges; and naming and sponsorship rights
- Financing, including both conventional and private financing; the use and optimization of tax credits; and grants and other government incentives
- Real estate, including leases, municipal compliance and approvals, and landlord-tenant dispute resolution
- Licensing and franchising, including brand protection, contracts and franchise agreements, dispute resolution, intellectual property optimization, media law, trademark rights and infringement, and trade-secret protection
- Liquor-license laws and regulations, including acquisition and transfer of licenses, advertising and promotional compliance, distribution, and production
- Labor and employment, including handling discrimination claims, EEO, fair-hiring practices, and union issues; employee-handbook development and review; ERISA issues; executive and employee contracts; human-resources management tools; OSHA issues; wage-and-hour issues; and covenants not to compete and confidentiality agreements
- Construction, including contract negotiations; environmental impact studies; joint bids; new builds, renovations, and tear-downs; relocation and expansion; required product improvement programs; and litigation, including mediation and arbitration
- Technology, including breach mitigation and litigation, cybersecurity, and mobile-transaction liability
- Personal injury and products-liability defense, including onsite safety issues, product development and regulatory compliance, and use and labeling matters

Clients in these industries include:

- Food service: Agribusiness and farms; alcoholic-beverage manufacturers, including breweries, distilleries, and vineyards; bars; company-owned, company-operated, and franchise restaurants; convenience stores; food and beverage distributors; grocery stores; importers and exporters; liquor stores; and packaged-food producers and co-packers
- Hospitality: Concert promoters; country clubs; entertainment venues; event planners; golf courses; recreational, travel, and tourism sites; resorts; sports arenas; theme parks; timeshare and fractional-ownership property management firms; and tour organizers
- Lodging: Bed-and-breakfasts; hostels; local and national hotels, inns, and motels; and online private-accommodation aggregators
- Not-for-profit corporations: Colleges and universities and their associated entities and industry trade associations

Representative Experience

- Represented a NYC ice cream shop owner in the formation of a corporate entity and subsequent commercial lease negotiation.
- Represented a company in its financing and acquisition of a major pasta company.
- Obtained a no probable cause determination for an employer in a disability and predisposing genetic characteristic discrimination and retaliation case.
- Represented an international manufacturer of frozen Italian food products regarding its day-to-day corporate and contract requirements.
- Served as outside general counsel to sellers in a $15 million sale of 25 hamburger fast food restaurant franchises and related business assets to an Oklahoma purchaser.
- Counseled a licensee in New York State Liquor Authority enforcement action alleging violation of COVID-19 restrictions imposed by an executive order.
- Represented a barbeque restaurant in a lawsuit filed by a former employee alleging sex and sexual orientation discrimination, sexual harassment, and retaliation. After the conclusion of discovery, the restaurant moved for summary judgment, and the court granted summary judgment in full.
- Successfully defended a major hotel against an employment discrimination claim.
- Obtained summary judgment and dismissal of inmate's Eighth Amendment claims against health care providers based on failure to exhaust administrative remedies under the Prison Litigation Reform Act and failure to otherwise establish any undue delay or subjective deliberate indifference.
- Defended franchisee of an economy motel chain in ADA website accessibility lawsuit.
- Represented a barbeque restaurant when a verified complaint was filed with the New York State Division of Human Rights (NYSDHR) and the United States Equal Employment Opportunity Commission (EEOC) claiming unlawful discriminatory practices relating to employment because of gender identity expression, race and color, sex, sexual orientation, and domestic violence victim status. After investigation, the NYSDHR concluded there was no probable cause that the discrimination occurred and dismissed the matter. The EEOC adopted the findings of the NYSDHR and dismissed the federal claims. The complainant was not employed by the barbeque restaurant, but rather was employed by a food ordering and delivery company and was arguing that he should be considered an employee of the barbecue restaurant.
- Represented the defendant, a barbecue restaurant chain, in an action commenced in the Superior Court of New Jersey, Essex County, in which a former male employee alleged discrimination based on sex, sexual orientation, gender expression, and intentional infliction of emotional distress. After the conclusion of discovery, the defendant moved for summary judgment. The Superior Court of New Jersey granted the defendant's motion and dismissed all claims.
- Represents a small lawn care company in a breach of contract suit brought against a commercial property management company seeking to collect payment for extensive work on several properties throughout Western New York. The Supreme Court of Erie County denied the defendant's motion to dismiss, holding that the contract was so offensive to the public policy of New York that the court retained jurisdiction despite Arizona being designated in the contract as the controlling law and forum.
- Litigated EEOC claims of discrimination resulting in the case being dismissed.
- Litigated EEOC claims of discrimination resulting in the case being withdrawn.