

Weil Prevails in Five-Year Hamptons Pro Bono Battle

By **Nell Gluckman**

June 2, 2016

After a long legal fight, Weil, Gotshal & Manges has finally put to rest a dispute over whether a community of Orthodox Jews can erect a nearly invisible religious boundary that allows them to perform certain work tasks forbidden on the Sabbath.

The five-year legal battle between three municipalities in the Hamptons, a region of wealthy beachfront communities that populate Long Island's East End, came to an end Thursday evening when the village of Westhampton Beach, New York, agreed to settle with the Orthodox group, ensuring that their marked-off area, known as an eruv, would remain intact.

The Orthodox group, known as the East End Eruv Association, was represented on a pro bono basis by retired Weil partner Robert Sugarman and litigation partner Yehudah Buchweitz. The two modern Orthodox Jews agreed to spend hundreds of pro bono hours on the case.

"The real undercurrent here was, 'We don't want Orthodox Jews in our town or village,'" said Sugarman, explaining why he took on the case in 2011. He retired from Weil in 2008, but continued to work on this matter, enlisting the help of Buchweitz, a family friend and sixth-year associate at the firm when the case began.

Eruvs exist in communities around the world. They often consist of plastic tape or wire affixed at the top of telephone poles, marking an area allowing Orthodox



Front left to right seated: Weil's Buchweitz and Sugarman. Back left to right standing: associates Jessie Mishkin and Christopher Luise; counsel David Yolcut; and associates Nigar Shaikh and Lisa Sokolowski.

Jews to perform tasks such as pushing a stroller or wheelchair, which would otherwise be prohibited outside of the home on the Sabbath. Almost all of Manhattan's Upper East Side and Upper West Side fall inside an eruv.

The settlement caps a conflict between the pro-eruv group, many of whom are members of The Hampton Synagogue, and three Long Island municipalities: Westhampton Beach, Southampton and Quogue. Verizon Communications Inc. and the Long Island Power Authority (LIPA), which own the telephone poles that the eruv would be attached to, sided with the pro-eruv group.

The town of Southampton and the village of Quogue already settled with Weil's client, the East End Eruv Association, in 2015 and 2016, respectively. Under the terms of those agreements, the municipalities agreed not to challenge Verizon and LIPA's authority to enter into contracts with the group and not to adopt any ordinances that would prohibit the eruv. Weil's Orthodox clients have agreed not to seek damages or attorney fees, as well as assume the costs associated with installing and maintaining the eruv.

The settlements put to rest three federal suits and a proceeding in New York state court that delved into how to interpret Southampton's sign ordinance, as well as the issue of separation between church and state and whether prohibiting an eruv violates the First Amendment.

A decision by the U.S. Court of Appeals for the Second Circuit in a case filed against the East End Eruv Association, the village of Westhampton Beach and the two utilities companies by a group called Jewish People for the Betterment of Westhampton Beach, established that "there is no risk of 'excessive' government entanglement with religion" in this case.

"The Second Circuit, in a case in which I did not participate, issued a decision cutting the heart out of our defense," said Sokoloff Stern name partner Brian Sokoloff, who represented the village of Westhampton Beach. "If I decided the issue, I would decide it differently, but it became the law of the land in the states over which the Second Circuit has jurisdiction. Until some other court comes to a contrary conclusion, prompting the Supreme Court to take the case and decide the issue, I and my clients got the message."

The East End Eruv Association had already won the right to put up an eruv in Westhampton Beach 2014

following another federal court decision in the Eastern District of New York, but Thursday's settlement ensures that the eruv will stay in place and that the municipality will not be able to challenge the eruv in the future.

Weil's Sugarman, a former national chair of the Anti-Defamation League, has also represented a Garden State group that was initially denied a request to erect an eruv in Tenafly, New Jersey. The group sued the borough of Tenafly, and in 2002 secured a favorable ruling from the U.S. Court of Appeals for the Third Circuit.

Marvin Tenzer, a health care lawyer and name partner at New York boutique Tenzer and Lunin, lived in Tenafly at the time of that suit and now lives in Westhampton Beach. He was involved in efforts to create both eruvs and said the Weil team, which included five associates, said that before the eruv was in place, his daughter-in-law's father, who uses a wheelchair, and his grandchildren, who need to be pushed in strollers, were unable to attend synagogue on their holy day with the family.

"What they did for the community has been of utmost importance for those of us in Westhampton Beach," Tenzer said. "It's had a big impact on making it easier to attend services and for families, especially the younger families, to enjoy Sabbath together."

Buchweitz, who made partner at Weil in 2012, estimated that not including Sugarman's hours, which he stopped recording sometime after retiring, the firm has donated more than \$5 million to this unique pro bono effort.

"Not once did anyone at the firm ever bat an eye about the amount of time I was having people work on this," Buchweitz said.

The logo for the law firm Weil, featuring the word "Weil" in white, bold, sans-serif font centered within a solid green rectangular background.