

## Sports & Betting Group Of The Year: Orrick

By **Ivan Moreno**

*Law360 (February 16, 2022, 2:08 PM EST)* -- Orrick Herrington & Sutcliffe LLP spearheaded a multiyear effort to bring mobile sports betting to New York and worked with state lawmakers to open new gaming markets in Arizona, Maryland and Wyoming, earning the firm a spot among Law360's 2021 Sports & Betting Groups of the Year.

New York was an important state for Orrick's clients, who considered the Big Apple "a crown jewel for mobile sports betting," said Jeremy Kudon, partner and head of the firm's public policy group, which includes 14 attorneys. Orrick has about 1,000 lawyers in offices worldwide.

"We knew that there was going to be a large customer base that was very, very interested in engaging in this activity, so our clients asked us to push for this legislation," Kudon said.

The U.S. Supreme Court struck down a federal ban on state-authorized sports betting in 2018, and since then, more than two dozen states have legalized the activity. Orrick's attorneys have been in the middle of the action, representing FanDuel, DraftKings, MLB, NBA and the PGA.

When Orrick's team started discussing sports betting legislation with then-Gov. Andrew Cuomo four years ago, Kudon noted that Cuomo's office believed that it would violate New York's constitution, which states that any type of gambling had to happen at one of the state's four licensed casinos.

Kudon, a Law360 2021 Sports & Betting MVP, said Orrick hired several constitutional experts who concluded that online sports betting would not run afoul of the New York constitution because the bets people placed from their phones or computers would go through servers at the state's casinos.

"We spent three years meeting with the governor's office and other legislators in Albany to educate them about this and to argue the merits of this legal position," Kudon said.

In January 2021, Kudon said his team's argument's "finally broke through." Cuomo included mobile sports betting in the state's annual budget, which passed three months later.

It's evident why there was so much interest in the state: New Yorkers placed \$1.6 billion worth of bets in January, according to the state's gaming commission, setting a single-month record in the U.S.



"So it seems like it was worth the effort," Kudon said.

Another win for Orrick in 2021 came in Arizona, where the firm's attorneys helped craft legislation that permits Native American tribes and professional sports teams to allow bets on sporting events and fantasy games. Gov. Doug Ducey signed the bill in April, and the U.S. Department of the Interior approved the amended state-tribal compact in May.

"With gambling legislation, typically it all falls apart because the various parties just can't ever get on the same page, and Orrick has been able to bring everybody together," said Scott Ward, another partner in Orrick's public policy group.

Orrick attorneys called Arizona a success story because it can be a blueprint for other states with tribal-state gaming compacts.

"We're hoping that Arizona is a model that Minnesota, Wisconsin, Oklahoma, California and other states will follow," Ward said.

In Maryland, Orrick attorneys first had to count on voters to amend the state's constitution to allow sports betting. To help get the question on the ballot approved, Orrick attorneys said it was important to include language requiring that a portion of the gambling revenue go toward school funding.

After the ballot proposal passed, Maryland Gov. Larry Hogan signed legislation in May making sports betting legal.

Ward said a key to passing these bills was figuring out what lawmakers' priorities are. For some, it may be tax revenue, little government regulation or ensuring opportunities for minority-owned businesses to participate.

Wyoming is an example of where lawmakers wanted "constituents to do what they want to do with as little regulation as possible," Ward said. So when Wyoming passed its legislation in April, it joined Tennessee as the only states that enacted online only sports betting without any brick-and-mortar sportsbooks.

Kudon said Orrick was able to capitalize on the Supreme Court's 2018 landmark decision because his team had spent the three years prior to the ruling crisscrossing the country talking to lawmakers about the benefits of legalizing sports betting.

"Our group really does focus on passing legislation on a myriad issues, not just on gaming and sports, but because of our experience with DraftKings and FanDuel on daily fantasy sports and our experience in the legislatures with that, I think we were well-positioned when Supreme Court issued its decision," Kudon said.

--Editing by Steven Edelstone.