

New York Supreme Court Rejects Challenge to Foam Ban Championed by Firm Pro Bono Client NRDC

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New York City recently prevailed in a long and hard-fought effort, championed in large part by firm client the Natural Resources Defense Council (“NRDC”), to ban foam food and beverage containers, like coffee cups and clamshells, from sale or use in New York City. Foam’s unique qualities – light, brittle and long-lasting — make it a particularly pernicious form of litter in and outside the waste stream. Foam breaks into tiny pieces and blows out of garbage cans and into the City’s streets, sidewalks, parks, storm drains and waterways, where it remains for hundreds of years. When collected curbside with paper glass and plastic, it contaminates valuable recycling materials. In *Restaurant Action Alliance v. NYC*, the New York State Supreme Court, New York County, denied a petition by plastic industry representatives to overturn a determination by the NYC Commissioner of Sanitation finding that polystyrene foam food and beverage containers could not be recycled in accordance with environmental and economic standards set by local law. Justice Chan found the Commissioner’s conclusion that food-service foam is hard to collect and recycle well-supported by the evidence in the record, including a report by Sexton Consulting group submitted by NRDC. The ruling clears the way for implementation of a ban. Carter Ledyard provided pro bono representation to NRDC to defend the ban against a multiyear attack by the foam industry, including filing an amicus brief in the litigation.
