

# New York Litigation To Watch In 2013

By **Pete Brush**

Law360, New York (January 01, 2013, 4:51 PM ET) -- As 2013 kicks off, Attorney General Eric Schneiderman will continue to aggressively target big business under New York's unique anti-fraud and false claims laws, experts say, with his cases against [JPMorgan Chase Bank NA](#) and [Sprint Nextel Corp.](#) just two of the bigger cases expected to play out.

But lawsuits over a planned expansion of natural gas drilling called high-volume hydraulic fracturing and New York City Mayor Michael Bloomberg's controversial, first-in-the-nation sugary drink portion limits also will get close scrutiny in the upcoming year.

Here are a few of the cases New York attorneys will be tracking in 2013.

## [Starbucks Employee Gratuity Litigation](#)

Questions over whether chain-store and other workers are eligible to receive money from pooled tip jars could be clarified this year by the Empire State's high court after the Second Circuit in October asked the New York Court of Appeals to specify which types of workers are “agents” of an employer, which under state labor law are not allowed to share in pooled tips.

The Second Circuit also asked the state court to explain whether an employer is legally able to bar otherwise eligible employees from tips.

The high court's involvement comes after U.S. District Judge Laura Taylor Swain tossed a tips suit brought by baristas in December 2009, and then threw out a complaint brought by assistant managers seven months later.

In October the Second Circuit said the controlling New York state law in both suits was murky and required input from the state's own judiciary.

A decision is expected by mid-year, said Fitapelli & Schaffer LLP partner Brian Schaffer, who predicted the ruling would impact tip-and-wage cases beyond the twin disputes between Starbucks Corp. and its workers.

"My cases against the New York Yankees deal with those issues as well," said Schaffer, who brought suit on behalf of tipped Yankee stadium servers against the storied baseball franchise in September.

Barista plaintiffs are represented by [Lichten & Liss-Riordan PC](#). The coffee giant's assistant managers are represented by [Outten & Golden LLP](#). Starbucks is represented by [Akin Gump Strauss Hauer & Feld LLP](#).

The cases are In re: Starbucks Employee Gratuity Litigation and Winans v. Starbucks Corp., case numbers 10-4912 and 11-3199, in the U.S. Court of Appeals for the Second Circuit.

--Editing by Richard McVay.