

# Attorney helps cannabis clients steer way through a legal maze



By Brian Cox

As a nationally acknowledged leader in the emerging field of cannabis law, attorney Joshua Bauchner recognizes an irony at the heart of his reputation.

“I find it fascinating that I’m in the vanguard of an industry with a plant that’s been around for 5,000 years,” he says. “Everyone thinks this is so new and I have to remind them that the Nepalis have known about it for millennia.”

Though the plant’s properties may not be new knowledge, the law surrounding its production, sale, and use in the United States certainly is, and in the brief span of roughly eight years, Bauchner has established himself among the field’s legal pioneers.

He is chair of Mandelbaum Barrett PC’s Cannabis, Hemp & Psychedelics Practice Group and counsels investors, entrepreneurs, growers, distributors, and retailers on the growing body of legal, regulatory, and business issues surrounding the controlled substances. He is the immediate past co-chair of the New Jersey State Bar Association Cannabis Law Committee and currently serves that on committee and the New York State Bar Association Cannabis Law Committee. He also sits on the Legal and Amicus Curiae Committees for NORML (National Organization for the Reform of Marijuana Laws).

Bauchner was first introduced to cannabis law around eight years ago through an association with High Times, the iconic counterculture monthly magazine that has advocated for the legalization of cannabis since 1974. The magazine’s board was in search of counsel after the death of Michael Kennedy, a preeminent criminal defense attorney and civil rights advocate who served as the board’s chair for more than 40 years and fought many of the publication’s early legal battles. The board retained Bauchner during a time of transitional turmoil and dispute to help resolve a litany of issues.

One conflict involved the U.S. Attorney in Nevada, who threatened to shut down the 2017 High Times Cannabis Cup – a combination festival, competition, and trade show first held in 1988 that celebrates the “world of ganja” – because it would be in violation of federal law. In his extensive response to the threat,

Bauchner quoted Alexander Hamilton and the Federalist Papers, referenced the Supremacy Clause, and cited the Cole Memorandum as well as the Rohrabacher-Farr Amendment, which prohibits the Justice Department from spending funds to interfere with the implementation of state medical cannabis laws.

He received a one-word reply from the U.S. Attorney: “Okay.”

“I can quote the letter in its entirety to this day,” Bauchner says with a laugh.

Though plagued by strong winds and bad weather, the Cannabis Cup was held as planned.

In the coming year, High Times was sold and Bauchner’s work for the company ended, but he saw the wave of legalizing recreational marijuana forming in the western states and anticipated its rapid move east. He was determined to ride it.

In January 2018, Bauchner co-hosted the 1st Annual Cannabis Symposium on “What Businesses Need to Know to File a Competitive Application” at the New Jersey Performing Arts Center. He initially expected about 200 people to attend. It quickly became apparent, however, that attendance would far exceed the capacity of the smaller auditorium they had first booked, and the event was moved to the Victorian Theater. Bauchner even had a dressing room with a star and his name on the door. Approximately 1,200 people showed up.

He remembers walking out on stage and laughing as he wondered what he had gotten himself into.

The overwhelming response was beyond anything Bauchner could have imagined as a young litigator who grew up outside of New Haven, Conn., and has lived his entire life up and down the East Coast, never more than five miles from Interstate 95.

His father worked in corporate real estate and his mother was a homemaker. According to family lore, his parents encouraged him to become an attorney ever since he was in elementary school when a custodian – Mr. DePalma – told Bauchner’s mother that he talked so much he was going to be a lawyer. Mr. DePalma’s prediction stuck and proved accurate.

He says, “My parents would tell you my first word was

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'argument,' and my first sentence was 'You're wrong, I'm right.'"

In high school and college, he was active in technical theater such as lighting, set design, and sound. He found the theater to be a whole other world from his political science major and econ-legal studies minor.

A life-long Yankees fan, he enjoys telling of the time his maternal grandfather took him to a game in the late 1970s when Gillette held a promotion for its disposable razors and handed them out to thousands of Yankee fans.

"Everyone on the subway after the game was shaving and cutting themselves," he laughs. "It was a bloody mess."

After graduating from Wheaton College in 1995, Bauchner worked in the D.C. area for three years before enrolling at Brooklyn Law School, where he graduated magna cum laude in 2001.

"Every stage of life has been fun," he says of those years. "I've always been very fortunate to be surrounded by good people and friends."

In law school, he was editor-in-chief of the Journal of International Law and joined moot court. He received a fellowship with the Center for the Study of International Business Law. He was such a diligent student that when his younger brother got married, Bauchner wrote his best man's speech on the back of one of the pages of the torts outline he was using to study.

"Everything I set out to do I was able to do because of the support I received from the people around me," says Bauchner.

After law school, he accepted a federal clerkship in Miami with Judge Ursula Ungaro in the U.S. District Court for the Southern District of Florida.

"My judge is brilliant," says Bauchner. "I learned a tremendous amount about legal writing and argument and reasoning."

Bauchner remains a "big believer" in how important appearances are to a court, a lesson he absorbed as a clerk.

"It's not just showing up in a nice suit and tie," he says. "When you submit good briefs and those briefs not only make strong arguments and apply the law to the facts, but they are also properly formatted and properly punctuated, it makes a difference. I'm proud that I consistently hear judges say they found our papers impressive."

A week after the clerkship ended in 2003, Bauchner married and returned to New York to start a family and join his first law firm, Kasowitz Benson Torres & Friedman LLP, one of the leading litigation firms in the country that was a boutique shop at the time.

"I was surrounded by the best and the brightest," says Bauchner, who routinely billed 2,400 hours a year and became a senior associate. "It was an amazing undertaking that required a massive amount of organization. It taught me how to lead, how to work with people – often all night long, and how to be a good writer."

As the firm grew to more than 500 attorneys, however, the culture changed and the nature of the work evolved into tremendous amounts of document review, which Bauchner didn't find appealing.

"Everyone gets caught up in discovery," he says. "The document-industrial-complex has everyone looking for that needle in a haystack. I get it, but it is a huge distraction to the actual practice of law."

After eight years, Bauchner was ready for a change. He took a brief 4-month stint with New York City as deputy legal director for the Department of Consumer Affairs, but he chafed under the bureaucracy and the culture of "meetings to discuss meetings." He wanted back in the courtroom and found a position with Ansell Grimm & Aaron, PC, a smaller firm headquartered in Ocean Township, N.J., with a northern office in Woodland Park.

"They were the loveliest, kindest, most generous people," recalls Bauchner, who seized the opportunity to run the Woodland Park office his way, with a concentration on being aggressive, making strong, creative arguments, and advancing clients' agenda. Sometimes, however, he felt like a bull in a China shop as he pushed for more marketing and greater expansion into New York and met some resistance.



**Josh Bauchner, chair of Mandelbaum Barrett PC's Cannabis, Hemp & Psychedelics Practice Group, co-hosted the 1st Annual Cannabis Symposium on "What Businesses Need to Know to File a Competitive Application" in 2018 at the New Jersey Performing Arts Center. The hugely popular event accelerated the development of Bauchner's cannabis law practice.**

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The size and resources of the firm became a real challenge after the cannabis symposia in 2018, when suddenly Bauchner's phone was ringing off the hook with calls from all over the country and his practice exploded.

"I just had no one to do the work and it was really frustrating," he says. "We needed corporate transactional attorneys and the firm didn't have any."

In short order, it became clear to Bauchner that his practice needed a bigger platform.

Mandelbaum Barret PC proved to be the perfect fit.

"Mandelbaum has an incredibly robust and sophisticated corporate transactional department," says Bauchner, who joined the firm in October 2023. "Everyone is highly competent and extraordinarily nice. The marketing support is through the roof."

The firm's full-service practice allows Bauchner to bring a greater range of resources to bear on behalf of his large institutional clients, including banking, corporate transaction support, litigation support, land use, health care regulatory, and litigation support.



Attorney Josh Bauchner with his children, Lexi and Leo.

With Bauchner's arrival, the firm renamed its Cannabis Practice as the Cannabis, Hemp & Psychedelics Practice Group to reflect the growing, multifaceted, and complex area of law that includes cannabis and psychedelics.

Bauchner recently filed a pro-bono amicus curiae brief in the 9th Circuit Court on behalf of NORML in support of administering psilocybin to a terminally ill patient. The brief cautions the federal government against allowing history to repeat itself.

"The argument was it took 50 years to decriminalize cannabis to get medicine to people," explains Bauchner. "The government shouldn't wait 50 years to do the same with psilocybin."

In 2022, Bauchner received the New Jersey Law Journal's "Innovator of the Year Award" for his legal work and advocacy in the controlled substances space.

"There's something different about cannabis," he says. "I've been litigating for over two decades, I've made a dozen friends. I've been doing cannabis work six, seven years, I've got dozens of friends. It is an incredibly collegial community."

In addition to fostering his flourishing practice, Bauchner is also a partner in three restaurants in Central Harlem, where he has lived for decades and was co-president of the Frederick Douglass Boulevard Alliance. He is part owner with some friends of an Italian restaurant called Lido; an Asian Fusion cocktail bar called Bixi; and a sports gastropub known as The Fox.

"It's like 'Cheers,'" says Bauchner. "I walk in and I know everyone."

Bauchner says the future of cannabis law promises seismic impacts culturally and medicinally. He expects to see total normalization of cannabis in the future once it is legalized at the federal level. He anticipates that the current dispensary model will become obsolete. Once the federal prohibition is done away with, he believes the pharmaceutical industry will expand research and that existing drugs for depression, post-traumatic stress disorder, and anxiety will be replaced with psilocybin and cannabis treatments.

"I'm a big believer that Mother Nature gave us everything we need. I think cannabis and psilocybin are exhibits A and B for that," he says. "It's all brand new. There is no precedent. Everything we're doing has never been done before. It's exciting to be in the vanguard of this."