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Lawsuit: Bagel company's 'Brooklynized' water is a fraud



By **Jon Burstein**, Sun Sentinel

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In South Florida bagel-noshing circles, the news set tastebuds aqiver: a [Palm Beach County](#) company announced it had cracked the secret of how to make locally baked bagels taste like those made with New York City's famously pure tap water.

But now, a lawsuit is alleging the main selling point behind The Original Brooklyn Water Bagel Co. restaurants is a sham.

A [Boca Raton](#) businessman has gone to court seeking more than \$2 million in damages from the bagel business, saying he never would have wanted to develop franchises if he hadn't been duped into believing there was a patented process to "Brooklynize" water.

"The water filtration system is not unique and does not render water equivalent to Brooklyn water," said Robert Zarco, an attorney representing Andrew Greenbaum, who bought franchise rights for the restaurant in Broward, Miami-Dade and Monroe counties. "You want Brooklyn water, go to Brooklyn. You want a Brooklyn bagel, go to Brooklyn."

The company has rejected Greenbaum's claims as "a swirling mass of conflicting allegations," arguing the case should be dismissed, court records show. The attorney for The Original Brooklyn Water Bagel Co. declined to discuss the lawsuit filed in Palm Beach Circuit Court, saying he doesn't litigate cases in the press.

"In our country, we are free to say anything we want in a [court] pleading and then we have to prove it — that's going to be their challenge," said Robert M. Mayer, the attorney for the bagel business and its owner, Steven Fassberg.

Since launching its flagship restaurant in [Delray Beach](#) in August 2009, The Original Brooklyn Water Bagel Co. has expanded to 14 other locations in three states. With the slogan "It's all about the water," the company touts on its website how a 14-step "proprietary water treatment" system allows it to replicate the water that flows from upstate New York reservoirs to Brooklyn faucets without having to be filtered.

Former CNN talk show host Larry King signed on to be a company spokesman and do franchise development in Southern California.

Within the last three years, though, The Original Brooklyn Water Bagel Co. has been involved in three lawsuits related to its water filtration system. Fassberg sued his father-in-law in 2010, accusing him of misappropriating trade secrets to form another company claiming it could recreate New York tap water.

Fassberg and his father-in-law reached a confidential settlement, but Fassberg's father-in-law had sold a water treatment system to Mamma Mia's Trattoria & Brick Oven Pizzeria in Lake Worth. The Original Brooklyn Water Bagel Co. demanded Mamma Mia's cease using the filtration system.

Mamma Mia's countered with a federal lawsuit, accusing the bagel company of illegally claiming it patented the filtering process. The Original Brooklyn Water Bagel Co. and Mamma Mia's ended up reaching confidential settlements in the dueling lawsuits.

At the time of the Mamma Mia's litigation, The Original Brooklyn Water Bagel Co.'s general counsel said the company had

trade secrets it used to process the water. The company also argued in federal court that the manufacturer of the water treatment system holds patents related to it.

The latest lawsuit alleges Greenbaum decided to do business with the bagel company after Fassberg persuaded him that it had a unique and patented water filtration system. Greenbaum bought franchise development rights as well as partnered to open an Original Brooklyn Water Bagel Co. outlet at BankAtlantic Center, Zarco said.

Greenbaum began questioning the water filtration system after the Sun Sentinel ran an October 2010 story about the company's dueling lawsuits with Mamma Mia's.

Zarco said he's now lining up experts on the composition of water to perform tests on the bagel company's water, and to compare it with what comes out of the tap back in Brooklyn.

"We are confident that the analysis will provide us with verification that the water sold does not accurately depict an identical chemical composition as water from Brooklyn," Zarco said.

Greenbaum's attorneys said they also want to depose King to see what he knows about the filtration system.

Among those named as defendants in the lawsuit is Scott Harris, the bagel company's former chief operating officer. Harris is suing Fassberg and the company, alleging he was terminated for bogus reasons, is owed commissions and was defamed by Fassberg. Fassberg filed a countersuit, alleging Harris defamed the company on a restaurant website and tricked him into signing a stock purchase agreement.

Harris' attorney, David L. Ferguson, said that while the two men are locked in litigation against each other, Harris stands by The Original Brooklyn Water Bagel Co.'s water treatment system.

"My client believes in the technology and believes the allegations of [the Greenbaum] lawsuit are absolutely false," Ferguson said.

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