

Investment Advisor and Asset Manager Litigation

Quinn Emanuel has a world-class practice representing investment advisors and asset managers such as PIMCO, Schwab, Vanguard, Prudential, BlackRock, Western Asset Management Co., and others in high-stakes litigation around the globe. This includes litigation arising from opt-out opportunities in class actions; financial manipulation cases; distressed investment scenarios, including insolvency and restructuring; allegations of improper fund management or inadequate disclosures; alleged securities laws violations; and other complex financial disputes.

Much of the work we do for asset managers requires a deep understanding of complex structured financial products, credit agreements, derivatives, risk allocation, and the capital markets. Given the breadth of our experience, there is no knowledge gap when we take on the large transactional firms in this area. In fact, there is no firm in the world that can top our unique combination of litigation skill and substantive knowledge of the financial industry.

We are one of the very few top-tier global firms that is free to litigate against the large prime brokers and money center banks, such as Citibank, JPMorgan Chase, UBS, Merrill Lynch, Royal Bank of Scotland, Deutsche Bank, Credit Suisse, Barclays, HSBC, Bank of America, and Goldman Sachs. We also regularly represent asset managers against the “Big Four” accounting firms.

Because of our financial acumen and credibility in the courtroom, we have been appointed lead counsel in virtually every major recent financial manipulation case—including those asserting manipulation in CDS markets, ISDAfix, gold pricing, Interest Rate Swaps, and sub-sovereign and agency bonds. Our track record provides opportunities for our clients to serve as lead plaintiffs if that is their preference. We also have a successful “opt out” practice for clients who prefer not to serve in a class leadership role. We know how to maximize recoveries for our clients.

Not all of our representations involve litigation. We have a track record of successfully resolving partnership, valuation, and redemption disputes between fund managers and individual partners.

We have a deep bench of white collar partners, over 25 of whom were former federal prosecutors, with extensive experience representing funds and fund managers in government investigations and prosecutions around the globe. We have no traditional regulatory practice and are not beholden to any regulator. Regulators know we will take cases to trial if it is in our client’s interests, and we believe that gives our clients a distinct advantage in negotiations.

Finally, no business firm in the United States tries as many cases as we do. As far as we know, no firm in the United States has achieved our success. In the wake of the mortgage crisis, we secured judgments and settlements in excess of \$20 billion for our clients, including more than \$3 billion for funds and fund managers. That said, a substantial amount of our work involves defense, and we have successfully defended numerous asset managers against claims seeking many billions of dollars.

RECENT REPRESENTATIONS

- We represented Brazilian private credit fund **Lumina Capital Management** as intervenor in expedited Delaware Court of Chancery proceedings, defeating a competing lender's request for a preliminary injunction that would have frozen \$75 million in funds held by Lumina's borrower, Hecate Energy. The Court denied the injunction, finding that Lumina's competing claim to the collateral undercut the movant's likelihood of success and that granting the requested relief would improperly reorder creditor priorities. The victory preserved Lumina's ability to be repaid on its over \$350 million in outstanding debt and protected its borrower from value-destructive insolvency proceedings.
- We made waves by bringing an antitrust action against over a dozen Wall Street banks on behalf of major institutional investors who had "opted-out" of a related class action, alleging the banks conspired for a decade to manipulate prices on a wide range of foreign exchange instruments. The plaintiff group consisted of **Allianz Global Investors GmbH** among other hedge funds, pension funds, and asset managers. After the court held Plaintiffs had properly alleged a much broader, and longer, conspiracy than was alleged in the related class action, the case was resolved successfully.
- We serve as co-lead counsel for **a class of asset managers** alleging that major banks colluded to manipulate the marketplace for interest rate swaps. This is a pioneering lawsuit because the conduct at issue was uncovered and developed by our firm acting as "private attorneys general." In selecting Quinn Emanuel as co-lead counsel over other plaintiffs' firms, Judge Paul Engelmayer of the Southern District of New York recognized that "the efforts undertaken by Quinn Emanuel [in crafting the complaint] exceeded the investigative work of the other applicants by an order of magnitude."
- We represent the **Missouri State Employees' Retirement System (MOSERS)** and have asserted claims on behalf of MOSERS and derivatively for other limited partners seeking hundreds of millions of dollars in damages for, among other claims, breach of fiduciary duty by Catalyst Capital Group, a Toronto-based private equity manager.
- We represented **Sculptor Capital Management**, a publicly-traded asset manager, in litigation filed by certain shareholders—including Sculptor's founder Daniel Och—seeking to enjoin a shareholder vote to approve a transaction to sell Sculptor to Rithm Capital Corp. The shareholders argued that the Special Committee of Sculptor's board that negotiated the transaction breached its fiduciary duties by rejecting a competing offer with a higher price. In the course of a 28-day expedited proceeding, we obtained a favorable settlement that allowed the Rithm transaction to close.
- We represent **Acis Capital Management, L.P.**, a collateralized loan obligation portfolio manager, and its principal Joshua N. Terry, in litigation against a former subordinated noteholder alleging mismanagement of the CLO. The Southern District of New York granted a motion to dismiss the noteholder's Investment Advisers Act claim against Acis and Mr. Terry, which the Second Circuit unanimously affirmed. Certain of the noteholder's other were litigated in a second action before the same court alongside claims brought by investors in the largest remaining subordinated noteholder of

outstanding ACIS CLOs. The court dismissed both sets of claims. The case remains ongoing with respect to Acis Capital Management and Mr. Terry's affirmative claims.

- We represent **CWCapital Cobalt Vr Ltd.**, an issuer of collateralized debt obligations, in litigation against its collateral manager and investment adviser for various types of self-dealing with affiliates involving over \$500 million. The New York Supreme Court, Appellate Division, First Department reversed an order of the New York Supreme Court, Commercial Division that had dismissed certain of Cobalt's claims as time barred, and permitted those claims to proceed under the continuing-obligations doctrine. The parties have cross-moved for summary judgment.
- We represent **Arash Ferdowsi**, former chief technology officer at Dropbox, in a FINRA arbitration claiming breach of fiduciary duty, securities fraud and negligent supervision against JPMorgan Private Wealth Advisors and JPMorgan Securities.
- We represented **PIMCO, Western Asset Management Co.**, and dozens of clients whose assets they managed in pursuing federal securities claims arising from the multi-year kickback and bribery at the Brazilian state-owned oil company **Petróleo Brasileiro S.A.**, known as **Petrobras**. After less than a year of litigation, we obtained very favorable confidential settlements for each of the managed funds and separate account clients as part of \$353 million paid by the company.
- We represented **RAM Capital, LLC**, an investment and management company controlled by pharmaceutical executive Raymond Mirra, in an action brought by Hawk Mountain, LLC and Michelle Mitchell, as Trustee of the Intercession Trust, seeking \$5.3 million plus interest allegedly due and owing under a promissory note.
- In another string of victories for **Raymond Mirra**, we successfully defended against ten causes of action, with damages in excess of \$225 million, brought by his former business partner Gigi Jordan. The Delaware District Court granted our motion to dismiss nine of the causes of action, including fraud, fraudulent inducement, breach of fiduciary duty, unjust enrichment, and conversion. This preceded yet another victory for Mr. Mirra against Ms. Jordan wherein we secured the complete dismissal of an allegedly due promissory note claim, which the Third Circuit affirmed.
- We represented **PIMCO** and **Anchorage Capital Group LLC** in an action seeking discovery under 28 U.S.C. § 1782 from Banco Santander and certain of its affiliates in aid of proceedings pending in Spain and the Court of Justice of the European Union Court. We obtained an appellate decision in the Second Circuit resolving an unsettled question of law and ruling that there is no categorical bar to discovery under Section 1782 of materials located outside of the United States.
- We cemented our prior victories on behalf of Indonesian bank **PT Bank Mutiara**, now known as PT Bank JTrust Indonesia, after we obtained a court order that held a crooked Mauritian hedge fund and its owner in contempt, imposed fines in excess of \$400 million, and transferred the ownership of the hedge fund to our client. After the order was affirmed, the hedge fund's former management commenced a new action in Delaware to oust the newly appointed board of directors and retake control of the entities. We swiftly obtained an injunction stopping that case, which was again affirmed on appeal.
- A federal judge has given final approval to settlements with the final defendants in our **ISDAfix case**, bringing the total recoveries in the case to over \$500 million, which was brought on behalf of investors such as insurance companies, pension funds, hedge funds, and other sophisticated actors. The Court said that this was the "the

most complicated case” he ever faced, and that he could “not really imagine” how much more complicated “it would have been if [he] didn’t have counsel who had done as admirable a job in briefing it and arguing it as” we did.

- The firm won a major victory for two investment funds, **Zohar II 2005-1, Ltd.** and **Zohar III, Ltd.**, in a dispute with their former collateral manager, Lynn Tilton, over the legal and beneficial ownership of three subject companies and an election of new directors. The Delaware Court of Chancery issued an Opinion finding for the Zohar Funds on all counts. The Court confirmed the Zohar Funds’ appointees as the rightful directors of the subject companies and rejected Tilton’s claims as “not credible” and based upon “hindsight observations” the Court characterized as “revisionist.”
- We represented **Solus Alternative Asset Management LP** against GSO Capital Partners and Hovnanian Enterprises Inc., in a suit arising from GSO’s agreement with Hovnanian to trigger a credit event requiring Solus to pay millions of dollars in payments and yielding GSO millions in CDS payments. Solus alleged that this agreement violated Sections 10(b) and 14(e) of the Securities Exchange Act, and that GSO tortiously interfered with Solus’s prospective economic advantage. The case settled and required Hovnanian to cure the agreed-upon default to avoid the threatened credit event.
- We obtained complete dismissal with prejudice for **The Vanguard Group** of a shareholder class and derivative action that asserted RICO and other claims against Vanguard and some of its officers, trustees, and advisors, on the theory that Vanguard had improperly invested in illegal gambling companies. After plaintiffs appealed, the Second Circuit Court of Appeals affirmed the dismissal.
- We also represented several **Vanguard** funds and obtained a settlement shortly before trial in a securities action against Citigroup and its affiliates arising from the Enron fraud. Vanguard was pursuing claims under the Pennsylvania securities laws against Citigroup for its role in creating and selling Enron credit-linked notes issued by Yosemite Securities Trust I. We were able to settle the case successfully prior to trial, shortly after Vanguard hired us to replace its former counsel.
- We have represented **Trust Company of the West** for many years in a variety of important matters, including in one highly publicized jury trial in which one of its senior portfolio managers was accused of stealing trade secrets and recruiting employees to follow him to set up a competing new business in violation of the terms of his employment agreement. After an eight-week jury trial, we obtained a jury verdict finding in favor of TCW on its claim for theft of trade secrets and related claims.
- We served as co-lead counsel for **a class of major investors**, alleging that the major banks colluded to keep the marketplace for credit default swaps from evolving beyond the “over the counter” system they dominated. Large asset managers were among the largest class members, and recovered tens of millions of dollars from the \$1.87 billion settlement. The mediator, Judge Weinstein (Ret.), said in support of the settlement: “[I]n 30-plus years of mediating high-stakes disputes, this was one of the finest examples of efficient and effective lawyering by plaintiffs’ counsel that I have ever witnessed.”
- We defeated two class actions filed against **Schwab’s** Total Bond Fund in the Northern District of California. The actions were brought by a fund shareholder and an investment advisor who had purchased the fund for multiple clients, and included securities claims. We convinced the court that the plaintiffs had failed to allege

actionable representations, among other things, leading to involuntary or voluntary dismissal of all claims.

- We likewise defeated a derivative action filed against **Schwab's YieldPlus Fund**, alleging breach of fiduciary duty against the Fund officers and trustees and the Fund's Manager when the Fund manager changed its investment objectives to increase purchases of mortgage-backed securities. Although the Fund ultimately lost \$900 million in value, we successfully defended the claims on the ground that a special committee had reasonably determined the derivative action was not in the best interest of shareholders—who had already received \$235 million in a class action defended by another law firm.
- We represented numerous managed pension funds, sovereign wealth funds, and other sophisticated clients—including **California State Teachers' Retirement System (CalSTRS)**, **Norges** (Norway's sovereign wealth fund), **Vanguard Funds**, **BlackRock Funds**, **State Street Corporation**, and others—in a collection of securities suits filed by our firm in Germany against Volkswagen related to the scandal arising out of Volkswagen's manipulation of the emissions systems in its vehicles.
- We were Court-appointed co-lead counsel for a class of investors including asset managers related to alleged manipulation of the benchmark price for gold known as the "**London Gold Fix**." This massive class action pending in the Southern District of New York is brought against a group of banks for their involvement in manipulating the gold market. Defendant Deutsche Bank has already settled; the remaining defendants include The Bank of Nova Scotia, Barclays Bank plc, HSBC Bank plc, Société Générale SA, and UBS.
- We represented a **consortium of investment funds, a major international bank, and shipping companies** from over a dozen countries in the U.S., Europe, Latin America, and the Middle East in the largest financial fraud case in Latin American history involving Oceanografía, S.A. de C.V. and Citigroup, Inc.—including \$1 billion in losses. We conducted a wide ranging two-year investigation in over a dozen countries to develop the facts and evidence to represent the consortium before the SEC as victims of the fraud and as plaintiffs in the civil action.
- We successfully represented **Axis Capital Management**, one of the largest Mexican asset management firms, and its owners in connection with a billion-dollar dispute with its U.S. and Singaporean partners in a Mexican oil services company, Oro Negro S.A.P.I. de C.V.. This dispute involved companies and potential litigation in at least three different jurisdictions, raising novel claims and theories and complex legal issues involving the intersection of U.S., Singaporean, and Mexican law. The matter settled prior to litigation.
- We represented **Kallpa Securities S.A.B.**, one of the largest Peruvian asset management and financial advisory services firms, and one of Kallpa's partners in SEC and DOJ insider trading investigations in connection with the largest insider trading case in Peruvian history. Neither the SEC nor the DOJ pursued Kallpa and Kallpa's partner reached a settlement with the SEC.
- We represented **MHR Fund Management** and its affiliated funds relating to Carl Icahn's 2010 hostile bid for Lions Gate Entertainment Corp. MHR is a longstanding significant investor in Lions Gate, and its founder is a member of Lions Gate's board. Following a four day trial, the Supreme Court of British Columbia rejected Icahn's bid to rescind the transactions or sterilize MHR's votes. Two months later, the New York

Supreme Court denied Icahn's request for a preliminary injunction. Following these rulings, Icahn did not close his then-outstanding tender offer, and his slate of directors was defeated.

- We represented **PIMCO** in connection with threatened claims by investors in the Municipal Opportunities Fund, a fund that sought to take advantage of the spreads between municipal bonds and treasury bonds and that lost nearly 80% of its value during the financial crisis; after extensive discussions with plaintiffs' counsel, we were able to resolve all claims on favorable terms without any litigation claim filed by any investor against PIMCO.
- One of our partners represented the **New York State Common Retirement Fund** (NYSCR) and a class of similarly situated investors in the securities lawsuit arising out of the massive fraud at WorldCom. The case went to trial and resulted in a recovery for investors of more than \$6.1 billion.
- We represented **BlackRock** in a California state court proceeding in which Impac was attempting to revise several pooling and servicing agreements to reallocate trust distributions to BlackRock's disadvantage. We prevailed in a bench trial and avoided any revision of the governing agreements.
- Our partners have successfully represented multiple asset managers in **FINRA arbitrations** against claims that they improperly managed investment accounts. We have won multiple defense victories, including victories assessing fees and costs against claimants.

"The firm is top draw. They seek to provide a full service to clients and their international service is second to none."

Client Testimonials, *Chambers and Partners*