

Government & Regulatory Litigation Practice

The government can be the most formidable litigation adversary of all, often playing by different rules, yet our firm has a proven track record of not only fighting back but actually beating the government in court. We take special pride in being a leader in government and regulatory litigation in the United States. No lawyers bring more firepower, expertise, or courtroom skills than we do to litigating against the government. We have consistently won cases involving federal or state government, both in court and in front of administrative agencies. Whether litigating under complex statutory or regulatory schemes, convincing government regulators to back down, or challenging the government when it intrudes upon fundamental rights, our attorneys have achieved unparalleled success.

Our success is largely attributable to the fact that so many of our attorneys come from the government's elite. And our experience spans the ever-growing array of spaces in which the government regulates, including antitrust, civil rights, communications, energy, environment, finance, government contracts, health care, immigration, intellectual property, international trade, national security, transportation, and white collar. We also draw upon our firm's other practice groups—include our preeminent trial, appellate, and white-collar practitioners—and leverage their creativity, reputation, and experience in order to gain every possible edge in government litigation.

We have litigated every dimension of cases that pose basic questions about governmental authority and enforcement. We have successfully challenged adverse government actions and laws, won landmark precedents on appeals, defended clients against enforcements actions, litigated alongside the government to defend decisions benefitting our clients, and even represented the government itself against private entities. Because government litigators recognize how formidable Quinn Emanuel is in court, we bring valuable credibility that benefits our clients whenever they face the government. Indeed, it is telling that various government entities have specially retained our firm to represent them in especially novel and challenging lawsuits.

RECENT REPRESENTATIONS

CIVIL RIGHTS

- We obtained victory from the U.S. Court of Appeals for the Second Circuit in an appeal involving the Individuals with Disabilities in Education Act ("IDEA"), a federal law that guarantees students with disabilities a "free appropriate public education." Judge Carney (joined by Judges Jacobs and Kearse) issued a 50-page decision vacating the district court's judgment that had declined to require the NYC Department of Education to pay the tuition for a private program in which our client had placed her severely autistic daughter, believing the public school could not offer a safe and appropriate learning environment. The court agreed with our position that "[t]he IDEA promises a free appropriate education to disabled children without regard to their families' financial status."

CONSTITUTIONAL

- On behalf of the **Americans for Prosperity Foundation**, we won a seminal First Amendment victory in the U.S. Supreme Court which protects the rights of all nonprofits and their donors. The Court adopted our arguments as to why and how the First Amendment prohibits governments from making sweeping, unjustified demands that charities disclose the identities of their individual donors. According to the Court's decision, it is facially unconstitutional for the Attorney General of California to demand that charities report the names and addresses of their major donors. Chief Justice Roberts' opinion for the Court is the most significant decision vindicating First Amendment associational freedom in almost 60 years. The decision is the capstone for over six years of litigation by the firm on behalf of the Foundation. After obtaining a preliminary injunction and then a permanent injunction following a bench trial, we fought for this outcome during years of appeals in the Ninth Circuit, before ultimately prevailing in the Supreme Court.
- Beginning in 2020, COVID-19 devastated the cruise industry, resulting in the entire industry being sidelined for over a year. But just as the U.S. cruise industry was preparing to return to safe sailing, the Florida legislature passed, and the Florida governor signed, a law prohibiting all businesses in Florida from requiring documentation certifying COVID-19 vaccination for customers to gain access to or service from a business.

That prohibition was problematic for cruise lines like Norwegian Cruise Line Holdings (NCLH), whose passengers are in close quarters for days on end while cruising from port to port. Given NCLH's commitment to safety and best practices, it decided to follow medical and scientific consensus by insisting upon proof of vaccinations. So twelve days after the law became effective, NCLH and affiliated entities filed a lawsuit against the Florida Surgeon General in the United States District Court for the Southern District of Florida seeking to enjoin enforcement of the statute.

In August 2021, Quinn Emanuel obtained from the U.S. District Court for the Southern District of Florida a pathbreaking preliminary injunction on behalf of NCLH, enabling its cruise ships to sail as planned with proof that all passengers are fully vaccinated. The district court agreed with the firm's arguments that Florida's prohibition offends both the First Amendment and the Dormant Commerce Clause. As Quinn Emanuel argued and the court agreed, Florida's prohibition "restricts the free flow of information by rendering the exchange [of COVID-19 vaccine documentation] permissible in some circumstances but impermissible in others," and "singles out and disfavors only one type of speech," thereby violating the First Amendment.

Quinn Emanuel also persuaded the court that the statute's burdens on interstate commerce clearly exceed its local benefits under the Dormant Commerce Clause. Quinn Emanuel demonstrated that the law did not serve Florida's purported interests in medical privacy and preventing "discrimination" against the unvaccinated, as the law did not prohibit businesses from "requiring patrons to verify their vaccination status." Instead, it only prohibited businesses from requiring written documentation, while permitting them to demand vaccination status through other means, such as oral verification. On the other side of the ledger, Quinn Emanuel submitted voluminous evidence that the law heavily burdens interstate and foreign commerce. The court agreed, finding that if NCLH could not "require all passengers to present documentary proof of vaccination," then passengers would "instead be subjected to an array of diverse quarantining and testing requirements," thereby impeding NCLH's ability "to manage the business of vessels at foreign and interstate ports and lead to incalculable and unpredictable delays in travel."

The lawsuit has been widely reported in popular media and raises challenges to the Florida statute under various federal constitutional provisions, including the Supremacy Clause, the

First Amendment, the Commerce Clause, and the Due Process Clause. The team, led by Derek Shaffer, Olga Vieira, and John O'Sullivan, were featured in the AmLaw Litigation Daily as "[Litigators of the Week](#)" for their work on this suit.

- We represented the **American Society of Anesthesiologists**, the Editor-In-Chief of Anesthesiology (the official peer-reviewed journal of the ASA), and 11 contributing authors in a lawsuit filed by pharmaceutical company Pacira in which it alleged two articles and an editorial published in the February 2021 edition of Anesthesiology that reported findings about the cost and claimed clinical benefits of Pacira's prescription pain medication, EXPAREL (liposomal bupivacaine), as compared to regular bupivacaine and other non-opioids, constituted trade libel. In June 2021, Quinn Emanuel filed a motion to dismiss Pacira's complaint, arguing that this was not a justiciable dispute because, under the applicable First Amendment case law, science is constantly progressing and reflects judgments and opinions that are not properly the subject of a legal claim. The Court agreed and dismissed Pacira's complaint with prejudice.
- In July 2020, QE was retained by **John Hopkins ("JH")** to file a lawsuit against ICE, DHS and relevant officials in the Trump Administration, seeking emergency relief from new guidance that threatened to revoke F-1 visas from foreign students unless those students and their universities certified that they'd be attending classes in-person (rather than online). Because the new guidance threatened to pull the rug out from under JH and its entire population of foreign students just as they were preparing to start the fall semester, QE needed to prepare papers requesting a TRO and PI in DC district court within days of being retained. The ensuing submissions argued that the Trump Administration's guidance not only violated administrative law but also the US Constitution – denying both due process and also First Amendment rights for universities to chart and pursue their academic missions. On the eve of the scheduled hearing, and facing corresponding lawsuits from universities around the country, the Trump Administration relented by withdrawing its challenged guidance. As a result, the requested relief was mooted and lawsuit has since been voluntarily dismissed.
- We successfully represented **Entergy Corporation** in a bench trial in the U.S. District Court for the District Court of Vermont, which held that two Vermont statutes that otherwise would have shut down the company's Vermont Yankee Nuclear Power Station were preempted under the federal Atomic Energy Act. The court also ruled that the Dormant Commerce Clause prevents Vermont officials from conditioning the grant of a new state license for operation of the plant on Entergy's sale of power to Vermont utilities at below-market rates. We currently represent Entergy in appeals from this ruling and in administrative proceedings in Vermont seeking a new state license for operation of the plant.
- In *Granholm v. Heald*, our lawyers obtained a 5-4 victory in the U.S. Supreme Court on behalf of **California vintners and Michigan consumers** challenging state laws imposing discriminatory restrictions on interstate shipments of wine. The court held that the Twenty-First Amendment does not give states license to interfere with the national market in a way that violates the Dormant Commerce Clause.
- We represented **New York Governor David Paterson and Lieutenant Governor Richard Ravitch** in a victory The New York Times called "stunning," obtaining a 4-3 victory in the New York Court of Appeals holding that Mr. Paterson had the authority to appoint Mr. Ravitch Lieutenant Governor to fill a vacancy in that office created when Mr. Paterson assumed the Governorship.

CYBER SECURITY AND DATA PROTECTION

- We secured a complete en banc reversal for **Ancestry.com**, defeating an open-records demand that sought to force Pennsylvania's state archive to turn over Ancestry's proprietary

digitized records, indexes, and metadata. The ruling, decided on the broadest possible grounds, protects Ancestry's investments in Pennsylvania and establishes favorable precedent against similar Right to Know challenges in other states.

- For a **government client**, we have advised on implementing a suite of data privacy and information security regulations across a truly diverse facility base. For the same client, we are assessing what new procedures/protections should be put into place to avoid future data breaches.
- We represented **Anne Wojcicki** and **TTAM Research Institute** during the 23andMe bankruptcy involving a complex bankruptcy auction where we obtained a groundbreaking reversal of a closed auction and overcame numerous sale objections (including objections from nearly all of the 50 states), allowing Ms. Wojcicki to reacquire her company through an innovative legal strategy.

ENERGY

- We represented **Entergy Mississippi and affiliates** in defending a suit by the Mississippi Attorney General alleging that these Defendants intentionally purchased electricity from their own allegedly expensive power plants rather than from allegedly cheaper third-party sources, allegedly harming Entergy Mississippi's customers by forcing them to pay higher electricity rates. We assembled a factual defense that Entergy Mississippi and its affiliates needed to use their power plants to provide flexible electricity to match fluctuating demand for electricity, and that the third-party plants did not offer or provide the requisite flexibility. But we won summary judgment on the legal ground that this case is effectively a challenge to decisions made under standards set forth in the Entergy System Agreement, which is a federal tariff approved by the Federal Energy Regulatory Commission, and the violation of which is within the exclusive jurisdiction of that agency rather than any federal or state court.
- We represented **Entergy** in seeking Vermont regulatory approval of a first-of-its-kind transaction in which an already-shutdown nuclear plant would be sold by a utility operator to a decommissioning schedule. The regulatory proceeding involved numerous rounds of written testimony, discovery, depositions, a settlement with certain parties (including the key Vermont agencies), and finally an evidentiary hearing before the Vermont Public Utility Commission. The Commission issued its decision granting approval on December 6, 2018.
- In the U.S. Court of Appeals for the D.C. Circuit, we successfully opposed an emergency petition seeking shutdown of the Indian Point 2 nuclear power plant, which is owned and operated by our client **Entergy**. The petition was filed by Friends of the Earth and two other organizations and alleged that Indian Point 2 should be shut down pending further study of degraded bolts that had been detected in the reactor vessel and replaced. The petition was filed notwithstanding that the federal regulator, the Nuclear Regulatory Commission, had found Indian Point 2 could be operated safely. The D.C. Circuit set an expedited briefing schedule over the course of a week, and then denied the petition.
- On behalf of **intervenor PG&E**, we upheld the Nuclear Regulatory Commission's decision to permit PG&E to move spent nuclear fuel into dry cask storage at its Diablo Canyon nuclear power plant near San Luis Obispo, California. A petition for review was filed in the Ninth Circuit by local activists who argued that the Commission had violated the Atomic Energy Act (AEA) and the National Environmental Policy Act (NEPA) by denying it access to classified information about limiting the effects of a terrorist attack and issuing an inadequate environmental assessment. In a unanimous opinion, the Ninth Circuit held that neither NEPA nor the AEA required the Commission to hold a closed hearing affording access to classified information and that the Commission's environmental assessment was sufficient.

- We obtained a significant victory in the Ninth Circuit for **Shell Offshore Inc. and Shell Gulf of Mexico Inc.** in a decision denying petitions for review challenging the Bureau of Ocean Energy Management's approval of Shell Offshore Inc.'s Revised Camden Bay Exploration Plan under the Outer Continental Shelf Lands Act and holding that the agency was entitled to significant deference when interpreting the Act, interpreting its own regulations, and making certain technical and scientific assessments. (This was our second win for Shell on such a petition; we obtained a similar win as to an earlier exploration plan in 2010. The court also issued an unpublished memorandum opinion denying petitions for review of the agency's approval of Shell Gulf of Mexico Inc.'s Revised Chukchi Sea Exploration Plan.)
- We represented **Enron** in-house counsel in congressional hearings and regulatory investigations conducted by the SEC, the CFTC, and various state and federal law enforcement authorities over the alleged manipulation of the electricity markets and power shortages in California.

ENVIRONMENTAL

- We represented **OBOT**, a real estate developer. OBOT entered into a Development Agreement with the City of Oakland. The Agreement permitted OBOT to build a marine terminal to handle bulk commodities for export by cargo ship. This type of agreement shields a developer from later-enacted regulations. The city passed legislation proscribing coal from being handled at the terminal. After a trial, the federal district court ruled that the city breached the Development Agreement because this later enacted legislation was not justified by a health and safety exception in the Development Agreement. The court enjoined enforcement of the legislation against OBOT.
- In a case *The New York Times* called "the most ambitious environmental lawsuit ever," we helped secure a complete dismissal with prejudice. The headline-making complaint by Louisiana named our clients **Koch Industries, Inc. and Koch Exploration Company, LLC**, and nearly a hundred other oil and gas companies, and claimed that oil and gas activities destroyed Louisiana's coastline. The Louisiana Board alleged that, as a result, it faced increasing storm surge risk and flood protection costs and sought damages from the defendants to pay for the restoration of the coastline, an effort it claimed would cost approximately \$50 billion. The case received extensive national and local press coverage as it touched on national issues like the Keystone Pipeline debate and the federal government's role in encouraging oil and gas exploration, and hot button local issues such as wetland loss and hurricane protection.
- We represented the **Alliance of Automobile Manufacturers** in one of the highest-stakes appellate and environmental litigation matters in years. At issue was whether nationwide greenhouse gas emission standards for automobiles, on which our client had already relied in constructing their 2012 model year fleet, would survive a challenge from a host of states and other industry groups in the U.S. Court of Appeals for the D.C. Circuit Court. Quinn Emanuel helped the Alliance navigate a gigantic administrative record and ensured that no matter the outcome, the Alliance's interests would be protected, and the nation's car manufacturers would continue to operate without interruption.
- We successfully represented **Mitsui Chemicals Agro Inc.** in California state court in defeating a lawsuit brought by Pesticide Action Network North America and other organizations that sought to overturn a ruling by the California Department of Pesticide Regulation that had approved new uses in California of a neonicotinoid pesticide manufactured by Mitsui.

FINANCE

- On behalf of the **Federal Deposit Insurance Corporation (FDIC)**, Quinn Emanuel obtained a

complete dismissal of an approximately \$500 million case in a final, appealable order before the U.S. District Court for the District of Columbia, defending the FDIC's comprehensive receivership authority in connection with the resolution of Silicon Valley Bank.

- We represented **San Diego County Credit Union** in successfully defending its right to terminate a multi-billion-dollar merger agreement, defeating a preliminary injunction motion that sought to force the deal to close. After conducting complete document discovery and depositions in three weeks, our team secured a complete court victory that fully vindicated our client and its termination of the merger agreement.
- We represented **Murtuza Kazmi** and **Traders Global Group (d/b/a My Forex Funds)** in a high-profile case in which the CFTC alleged fraud in connection with simulated forex trading. After persuading the Court to substantially pare down a draconian ex parte restraining order the CFTC procured at the outset of the case, we obtained case-terminating Rule 11 sanctions against the CFTC and a substantial attorneys' fee award after we brought to the Court's attention that the CFTC had misrepresented key facts to the Court.
- We successfully defended **Richard Heart** against an SEC enforcement action alleging that his cryptocurrency projects were unregistered securities and that he defrauded token holders. We obtained a complete dismissal of the SEC's lawsuit in the Eastern District of New York, effectively vindicating our client's innovative blockchain ventures.
- We represent the **Federal Deposit Insurance Corporation ("FDIC")** in seeking to recover from Bank of America, N.A, unpaid deposit insurance assessments. The case is pending in the U.S. District Court for the District of Columbia. The FDIC relies on assessments from FDIC-insured institutions, like Bank of America, to fund the Deposit Insurance Fund. The Deposit Insurance Fund is fundamental to the FDIC's mission to maintain stability and public confidence in the nation's banking system. Since the FDIC was established in 1933, thousands of insured institutions have failed, but no depositor has lost a cent of FDIC-insured funds.
- Acting for the **FDIC**, a U.S. government agency, as claimant in a standalone competition law damages claim in the High Court against Lloyds, RBS, Barclays, UBS, Deutsche Bank and the BBA for losses suffered by 39 failed U.S. banks in relation to the setting of USD LIBOR between 2007 and 2011. We successfully defeated a limitation strike out application by UBS in a judgment delivered in July 2020 which was a new precedent setting judgment on the application of the limitation rules to competition law claims.
- On March 27, 2018, we defeated Bank of America's motion to dismiss. The case is currently in the midst of discovery.
- We represent **Ukraine** in respect of a claim by Law Debenture as trustee under \$3bn Eurobonds purportedly issued by Ukraine in December 2013 and taken up as to 100% by the Russian Federation, in which Law Debenture seeks repayment of principal, interest and costs, a sum well in excess of \$3bn. At first instance, the High Court granted Law Debenture summary judgment. We have succeeded in overturning that decision on appeal. The case will now go to the Supreme Court.
- We represented the **National Resources Defense Council** and the **Public Utility Law Project** in filing an amicus brief in an action where a group of landlords challenged the New York City Water Board's ability to set rates for water usage. The plaintiffs advanced a theory, adopted by a lower court, that would potentially hamstring the Water Board's authority to set rates in ways that would reduce the burden on low-income households, incentivize water conservation, and prevent stormwater runoff (an emerging and important environmental issue in urban areas nationwide). The New York Court of Appeals adopted the argument

advanced by Quinn Emanuel and the amici (and neither of the parties), ruling that the Water Board had acted within its authority, and preserving the Water Board's authority to promote environmental issues going forward.

- In a truly historic partnership between a regulator and a private firm, we represent the **Federal Housing Finance Agency**, as Conservator for Fannie Mae and Freddie Mac, in connection with its investigation and litigation of residential mortgage-backed securities. We filed fourteen complaints, asserting billions in damages, against most major investment banks. Each complaint asserts federal and state "strict liability" statutory claims arising out of misrepresentations about the securities, and certain complaints assert common law fraud claims. As widely reported, this is one of the most significant court actions taken by any federal regulator since the advent of the mortgage crisis, and the single largest set of actions ever filed by a governmental entity. In 2012, the Honorable Denise L. Cote denied a motion to dismiss the claims in what was designated the "lead case" brought by FHFA, and in 2013 entered a series of rulings to streamline the cases for trial, including orders as to statistical sampling, loan file collection and reunderwriting, the scope of the so-called "actual knowledge" defense, the lack of any loss causation defense to FHFA's Blue Sky claims, and other significant issues. In 2013 we also obtained a unanimous affirmance by the Second Circuit of Judge Cote's decision as to the timeliness of FHFA's claims and its standing to sue, as well as a unanimous rejection of defendants' joint mandamus petition seeking to overturn a number of Judge Cote's key discovery rulings. With the cases moving toward fixed trial dates in 2014 and 2015, we have now settled twelve of the actions filed by Quinn Emanuel against Bank of America, Merrill Lynch, Countrywide, Credit Suisse, Deutsche Bank, J.P. Morgan, UBS, Citigroup, First Horizon, Barclays, Goldman Sachs, and HSBC. To date, we have recovered approximately \$20 billion for FHFA.
- We obtained a unanimous win in the Second Circuit for the **Federal Housing Finance Agency (FHFA)**, defeating statute-of-limitations objections by 18 banks that FHFA sued for fraudulent RMBS offerings. The result was a ruling of nationwide import that the statute of limitations in the Housing and Economic Recovery Act of 2008 supersedes the statute of repose in the Securities Act of 1933.
- We obtained an unprecedented preliminary injunction and forced the U.S. Department of Treasury and the Financial Crimes Enforcement Network to seek a voluntary remand to redo a rule they had issued against our client, **FBME Bank Ltd**, under Section 311 of the USA PATRIOT Act. Had the rule taken effect, it would have devastated FBME by cutting the bank off from U.S. dollars and the U.S. financial system.
- We obtained a dismissal of all charges brought by the SEC against our client **Chartwell Asset Management** in an insider trading case. Chartwell, a Geneva-based asset management firm, was accused of trading ahead of a merger announcement for a U.S.-listed chemical company and was required by the court to post more than \$12 million to cover any potential penalty. After months of discovery and just before Quinn Emanuel was set to file a motion for summary judgment, the SEC agreed to dismiss the case in its entirety and return the money to Chartwell.
- We were substituted in as counsel for **Charles Schwab & Co.** in January 2010 in a high profile SEC investigation. We successfully negotiated a settlement with the SEC that was much more favorable than had been attained by prior counsel. In addition, we negotiated away various inflammatory allegations from the prior agreed upon SEC order, and persuaded the SEC to drop a books and records count against the company.
- We served as counsel to the **Chairman and CEO of Intermix**, the parent company of MySpace.com, in a five-month audit committee investigation, and in subsequent SEC and shareholder litigation. The SEC matter was resolved with recommendation of no enforcement action from SEC Staff.

- We represented **eUniverse** in a multi-year SEC investigation and secured “no action” letter from the SEC Enforcement staff in revenue recognition and accounting restatement case.

GOVERNMENT CONTRACTS

- The firm achieved an important victory for municipalities struggling with civil litigation caused by the misconduct of their officials. In a recent decision, the U.S. Court of Appeals for the Second Circuit ruled that the **Town of Oyster Bay**, located in the greater New York metropolitan area, could not be liable on a contract that had been agreed to by former corrupt Town officials without the approval of the Town’s governing body, the Town Board. PHL Variable Insurance Company had alleged that the Town breached an agreement to guarantee a multi-million-dollar loan PHL had made to a former Town concessionaire. PHL also had alleged that it was defrauded by the Town into making the loan. We obtained a dismissal with prejudice of all of PHL’s claims in district court, successfully arguing that the guarantee was unenforceable because it was never authorized by the Town Board. We then obtained a unanimous, published decision by the Second Circuit affirming the dismissal. The decision is a victory not only for the Town but also for other municipalities seeking to enforce their own procedures in order to protect their citizens from public corruption.
- We represented **Leon Pasternak**, the Deputy Chairman of Australian radio company Southern Cross, in a regulatory investigation of Mr. Pasternak’s purchase of Southern Cross shares, which the regulator alleged constituted insider trading. After almost 4 years of investigations, we obtained confirmation that the regulator would not take enforcement action.
- We assisted a **community service non-profit foundation** to obtain a \$1,100,000 jury verdict (including \$1,000,000 in punitive damages) for two tenants against a real estate investment and management firm, and the owner of over 50 buildings in East Los Angeles for violation of the Fair Housing Act (causing disparate impact on protected class of citizens). The defendants intended, and tried, to evict all the Hispanic-immigrant tenants in one building to convert the units into student housing at nearly twice the rent, and turn a quick profit at the expense of exposing existing low income immigrant tenants to go homeless.
- We obtained complete dismissal of all claims in a qui tam/False Claims Act case on behalf of **Northrop Grumman**. The plaintiff/relator in that case sought over \$1 billion arising out of alleged wrongful billings in connection with \$4.5 billion satellite project for the U.S. government. After a complete internal investigation and subsequent presentation to the government, we persuaded the Dept. of Justice to decline to intervene and the realtor to voluntarily dismiss.
- We represented **Dayton T. Brown** in two separate protests, one at the Government Accountability Office and the other at the U.S. Court of Federal Claims, successfully defending bid protests against award of testing facilities contracts to the company.
- We represented **The Parsons Corporation** in a cost allowability dispute before the Armed Services Board of Contract Appeals. A successful resolution was achieved after we undertook extensive depositions of the government’s contracting officials.
- We represented a **major government contractor** with respect to alleged mischarging issues that were the subject of a grand jury investigation and resolved the matter administratively through contract modification.
- We represented an **international engineering firm** in a dispute with the federal government over the manner in which environmental clean-up services were accounted for and charged.

The engineering firm was accused of overbilling millions of dollars. The government agreed to settle the dispute without the engineering firm having to pay any allegedly over billed amount to the government.

- We represented **Litton Systems** in a qui tam case, joined by the government, alleging misallocation of overhead costs for data processing services. Obtained a favorable settlement.
- We represented **a number of satellite manufacturers** in disputes with the federal government relating to acquisition and performance disputes, including prosecuting and defending disputes before the Armed Services Board of Contract Appeals and the U.S. Claims Court, and obtained favorable outcomes.

HEALTHCARE

- Quinn Emanuel filed two first-of-their-kind class actions against the United States based on the government's failure to pay health insurance companies pursuant to the Affordable Care Act's risk corridors and cost-sharing reduction programs. The firm was named class counsel for **three separate classes with different claims**. Unlike a typical class action, only opt-in classes are permitted in the Court of Federal Claims. Despite the efforts of other firms to steer health insurance companies away from the class action, hundreds opted-in, representing \$2.2 billion, \$1.75 billion, and \$1.587 billion in claims, respectively.

The firm achieved a major victory for the 2017-2018 cost-sharing reductions class when the Court of Federal Claims granted the class's motion for summary judgment, finding the Government was required to pay cost-sharing reductions amounts that totaled more than \$1.587 billion. Damages for 2018 and 2019 class years were reversed and case remanded to lower court to determine damages in those years. The firm also prevailed for the risk corridors classes when it defeated the Government's motion to dismiss. In subsequent appeals of parallel cases that utilized the case theories we pioneered, the Supreme Court ruled 8-1 in favor of the plaintiffs, resulting in our clients receiving nearly \$4 billion in final judgments. We then moved for attorneys' fees, seeking 5% of the judgment, an amount the Court of Federal Claims awarded us in full in September 2021 despite objections from several major class members, including Kaiser and UnitedHealth. The Court did so, despite arguments that such an award represented 18x the hourly fees we put into the case.

- We were counsel to a **former executive of a major healthcare company** in an internal investigation regarding allegations of campaign finance law violations. We reached a conciliation agreement with the FEC in which the client was not referred to DOJ for criminal prosecution, did not pay a single penny in civil fines, and was simply cited for a non-willful and non-knowing violation of the law.
- We obtained a unanimous decision from the U.S. Court of Appeals for the Second Circuit, affirming partial judgment in a False Claims Act case against **Pfizer**. In this qui tam action, a former employee alleged that Pfizer promoted Lipitor, its top-selling cholesterol-lowering medicine, "off-label," claiming that Pfizer sales representatives and marketing materials promoted Lipitor for use by certain patients whose cholesterol levels were not low enough to warrant treatment based on national cholesterol guidelines. The Second Circuit affirmed the district court's decision to dismiss these claims, rejecting the relator's entire theory of "off-label" marketing. It concluded that cholesterol guidelines summarized in the label merely "provide[d] advice and (unsurprisingly) guidance, 'not mandatory limitation.'" The Court also questioned whether the conduct alleged – off-label marketing by sales representative or through promotional materials – could even constitute a false claim to the government.
- One of our partners represented **the former Chairman and CEO of a publicly traded pharmaceutical company** in securities litigation and governmental investigations arising

from public disclosures about scientific disputes with the Food and Drug Administration over a New Drug Application. These matters included scientific and expert issues relating to the efficacy of the drug, as well as sensitive media relations issues.

- One of our partners represented a **publicly traded company** in an FDA investigation into alleged false statements in connection with a new drug application submitted to the FDA.
- We represented the **largest health plan in California** in a 40-day trial arising out of an enforcement proceeding brought by the Department of Managed Health Care; the court rejected virtually the entirety of the Department's case.
- We represented a **major health insurance provider** in connection with a civil law enforcement action brought by the Los Angeles City Attorney's Office alleging violations of California's Unfair Competition Law.

IMMIGRATION

- We obtained a vacatur of the deportation order for a **mentally disabled pro bono client**. The immigration judge had ordered deportation, even though the client has severe mental impairments, a history of abuse in his home country, and strong ties to the United States. We successfully convinced the Board of Immigration Appeals to vacate the immigration judge's decision based on her failure to take into account his mental impairments. The Board held that there was evidence of incompetency that the immigration judge ignored, and consequently our client deserved a new hearing.
- Acting as Court-appointed pro bono appellate counsel, we obtained a landmark decision from the Second Circuit holding that (1) various sections of the Immigration and Nationality Act that treat unwed U.S. citizen mothers and fathers differently in terms of their ability to confer derivative citizenship on their children born outside of the United States is unconstitutional under the Equal Protection Clause of the Fifth Amendment, and (2) the appropriate remedy is to extend to unwed citizen fathers the more favorable treatment the statute affords to unwed citizen mothers. In so holding, the Second Circuit split with the Ninth Circuit on this issue of national importance—an issue that also split the Supreme Court 4-4 (with Justice Kagan recused) when it was presented on appeal from the Ninth Circuit—and dramatically altered the statutory scheme at issue. The decision has broad implications not only as a matter of constitutional and statutory law, but also for numerous individuals (here in the United States and abroad) who are now deemed to be American citizens as of their birth. As a result of the decision, the Court declared that **Mr. Morales**—who has been in federal detention subject to a deportation order for over two years pending the outcome of his appeal—derived American citizenship at birth from his father, and therefore he cannot be deported. Mr. Morales was released from federal detention the day after the Second Circuit issued its decision. He is now an American citizen as a matter of law.

INSURANCE AND REINSURANCE

- We negotiated a favorable settlement in **AIG's** lawsuit against the Superintendent of the New York Department of Financial Services in response to DFS's assertion that certain AIG subsidiaries had engaged in illegal and undisclosed insurance activities in New York. QE asserted that DFS's stated interpretation and enforcement of the insurance laws was unconstitutional. Following motion to dismiss briefing, QE obtained a favorable settlement for AIG, which was much less than the amount paid by MetLife for related allegations that spanned a much shorter time period.
- We obtained a complete dismissal, with prejudice, of a major False Claims Act case against **AIG** that alleged AIG defrauded the Federal Reserve Bank of New York by hundreds of millions of dollars during the financial crisis. The case, brought by a former AIG human

resources executive-turned-whistleblower, alleged that two insurance subsidiaries that AIG sold to the Federal Reserve in exchange for \$25 billion in debt reduction had, for decades, engaged in unlicensed insurance business in New York. The plaintiff alleged that AIG was complicit in the illegal insurance activity, concealed it from regulators, and deliberately misled the Fed during the negotiations in order to consummate the transaction. This case posed a potential \$2.5 billion liability for AIG under the False Claims Act's treble damages provision. We previously convinced the Justice Department to decline to intervene in the suit, and after a three-hour long oral argument on our motion to dismiss, we have now obtained a complete dismissal, with prejudice, in an opinion that adopted nearly every one of our arguments and found that any attempt by the plaintiff to supplement his complaint would be futile.

INTERNATIONAL TRADE

- Acting on behalf of **U.S. Steel Corporation**, we successfully proved to the U.S. Department of Commerce that Brazilian steel producers were selling cold-rolled flat steel products in the United States in violation of U.S. antidumping laws, and we persuaded the Department to take remedial actions based on those violations.
- We successfully represented **Wedgewood Pharmacy** before the ITC, where KV Pharmaceutical had filed a complaint alleging that Wedgewood Pharmacy and others were unlawfully importing and selling compounded Hydroxyprogesterone Caproate in the United States, allegedly in violation of KV's exclusive rights to market this product for certain indicated uses under FDA's orphan drug program. We successfully argued that KV had failed to state a cognizable claim under Section 337 and, in particular, that the FDA, rather than the ITC, has jurisdiction to enforce the Food, Drug and Cosmetic Act.

SATELLITE & AEROSPACE

- We achieved the complete abandonment of an investigation by the Justice Department into claims potentially valued at more than half billion dollars against **a major U.S. aerospace and defense contractor**. We were engaged midway through a seven-year investigation after the U.S. government had contended that the contractor was negligent and had committed violations of the False Claims Act amounting to potentially more than \$600 million in damages. After multiple presentations by our attorneys arguing that the government's case was not supportable under the False Claims Act, government contract regulations or negligence law, the government decided to drop the investigation without taking any action.

OTHER REPRESENTATIONS AGAINST GOVERNMENT ENTITIES

- We represented **Charlie Kim, co-CEO of Next Jump**, in a high-profile federal bribery and conspiracy prosecution brought by the Department of Justice and the U.S. Attorney's Office for the District of Columbia. The government alleged that our client and his co-defendant had induced a four-star Navy Admiral and former Vice Chief of Naval Operations to award a Navy contract to their tech company in exchange for an offer of post-retirement employment — a charge that potentially carried a serious custodial sentence. After a mistrial in the first trial, we secured a unanimous not guilty verdict on all counts in the retrial, vindicating our client after nearly two years of litigation. The defence turned on our clients' state of mind, demonstrating that he had acted in good faith reliance on the Admiral's own ethics assurances and never believed there to be any quid pro quo. The win followed critical pre-trial victories, including severance from the Admiral's trial (in which the Admiral was subsequently convicted on all counts and sentenced to six years' imprisonment).
- We represented the **American Kennel Club ("AKC")**, a nonprofit corporation dedicated to advancing canine health and standardizing the breeding of purebred dogs, in defending

against an Article 78 petition filed by PETA seeking to compel the AKC to investigate and adjudicate complaints against its own breed standards. The Court dismissed PETA's petition in full, finding that the AKC is not an organization subject to CPLR Article 78, delivering a decisive win for the AKC and establishing precedent that shields private nonprofit organizations from similar attempts to misuse the Article 78 process in future.

- We successfully defended **HomeAdvisor** and IAC in a long-running putative class-action litigation in which plaintiffs sought over \$4 billion in class-wide damages. The case involved allegations that HomeAdvisor misrepresented the quality of leads sold to service providers. After taking over for prior counsel several years into a nearly decade-long litigation, we achieved total victory by obtaining summary judgment on equitable claims and repeatedly defeating attempts to certify damages classes. On top of that, we secured a favorable settlement with the Federal Trade Commission, following an investigation improperly fomented by plaintiffs' counsel's violations of court orders, for which we ultimately obtained an order granting significant sanctions for its clients.
- We represented a **Swiss entrepreneur** against US authorities in connection with sanctions issued against him. We obtained the first ever delisting in this context.
- In 2010, the United States Attorney General formally issued an opinion holding that the Wire Act only covered sports betting and no other form of wired or internet gaming. On January 14, 2019, out of the blue, and as a result of intense lobbying by the radical Republican Sheldon Adelson, the USAG issued a "reconsidered" opinion and reversed its 2010 opinion, now claiming all internet-based gaming is illegal. We have been hired to nullify this reconsidered opinion, either by litigation or other legal means.
- The firm obtained a published decision from a unanimous panel of the DC Circuit, reversing a district court that had refused, on statute-of-limitations grounds, to enter a default judgment against Iran for its role in sponsoring Al Qaeda's attack that killed the family member of our clients – alongside scores of others – working at the US Embassy in Kenya in 1998. This decision should clear the way for our clients now to recover fair compensation (from a fund Congress has established for this purpose) for Iran's demonstrated state sponsorship of the terrorist attack that claimed the life of their loved one.

"Quinn Emanuel continues its track record of excellence in handling the largest and most complex matters."

Client Testimonial, *Chambers and Partners*