

Lender Liability and Other Banking and Financial Institution Litigation

We are well-known for litigating **against** major investment and commercial banks on behalf of financial institutions, insurers, and hedge funds. Notably, we have represented several financial institutions in cases concerning the mortgage business and mortgage-backed securities. We have recovered billions of dollars on behalf of our clients across a variety of cases against the major Wall Street banks and other banking institutions.

We have also acted **on behalf** of banking clients in dozens of matters involving borrower fraud, wrongful foreclosure, challenges to escrow procedures, insurance, real estate, securities, antitrust, and contracts. And we have defended banks and financial institutions in class action lawsuits alleging, for instance, that proxy materials were false and misleading, or that institutions overcharged customers.

Quinn Emanuel has a pre-eminent banking and finance litigation practice, with more than 150 partners worldwide. We have tried virtually every type of banking dispute, including actions arising out of lender liability, suits by loan participants, and matters involving letters of credit and other commercial paper, commercial and residential foreclosure, fraud, competition, and benchmark manipulation.

Our effectiveness on defense and offense, among other things, has again helped us rank **first** among law firms that major companies want to face least as opposing counsel (BTI Consulting Group, 2024). Our reputation is an advantage in the courtroom and at settlement because a credible trial threat can hasten a favorable outcome.

RECENT REPRESENTATIONS

- We represented **TPG Angelo Gordon, Apollo Global Management, Gamut Capital Management and other lenders** in a six-year bankruptcy dispute against Serta Simmons Bedding and hundreds of lenders who executed a novel 2020 liability management exercise (“LME”) that left our clients unpaid and behind more than \$1 billion of superpriority debt. We obtained a landmark trial verdict from the U.S. Bankruptcy Court for the Southern District of Texas holding that the transaction breached Serta’s first lien credit agreement and awarding the excluded lenders \$261 million in damages plus prejudgment interest — for a total in excess of \$400 million, subject to adjustments for settlements and the specific parties involved — by far the most significant verdict holding lenders liable to other lenders for “lender-on-lender violence.”
- 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 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 served as co-lead counsel to **Steamfitters Local 449 Pension Plan** on behalf of a certified class of former Class V common stockholders of Dell Technologies, Inc. against the board of directors of Dell Technologies (including Michael Dell), Silver Lake, and Goldman Sachs to challenge a 2018 transaction that redeemed all shares of Class V common stock for Dell Technologies Class C common stock and cash. We alleged that the transaction's unfair terms resulted from a deeply flawed process, including stockholder coercion and conflicts of interest, and ultimately obtained a \$1 billion cash settlement on behalf of the class—the largest settlement of its kind in Delaware history by more than \$700 million. The Court of Chancery approved the settlement in April 2023.
- On behalf of **Ambac**, we settled an action seeking to require Bank of America to repurchase securities backed by mortgage loans issued by Countrywide (which Bank of America now owns). We alleged that more than 80% of the loans failed to meet the standards required by Ambac's insurance contracts. After five weeks of trial in New York State's Commercial Division, we obtained a **\$1.84 billion** settlement that caused Ambac's stock price to rise nearly 25%.
- We are co-lead class counsel in a consumer antitrust action seeking remuneration for supra-competitive surcharges at bank-owned ATMs throughout the country against Visa and Mastercard. In late 2021, Quinn Emanuel and co-counsel obtained class certification for a class of consumers that used major bank ATMs during the class period joining a class of ATM operators. The D.C. Circuit granted Visa and Mastercard the right to seek an interlocutory appeal, which we briefed and argued. On July 25, 2023, a panel of the D.C. Circuit upheld the class certification decision in full, paving the way for us to continue seeking over \$1 billion in single damages for a class period from October 2007 through the present. Following another round of briefs by Quinn Emanuel, on September 27, 2023, the full D.C. Circuit sitting en banc denied Defendants' request for rehearing of the panel's class certification decision. Quinn Emanuel previously settled with three bank defendants for a combined \$66 million, and the court finally approved the settlement earlier this year.
- Quinn Emanuel represents several public pension funds (among other entities) as co-lead counsel on behalf of the class who entered into stock loan

transactions with six major banks that serve as prime brokers of stock loans. Stock lending is essential to support robust and efficient trading in the stock markets; among other things, it permits holders of significant positions to monetize their shares, and enables short selling. Stock lending had been dominated by a handful of prime brokers, including affiliates of **Bank of America** and **Goldman Sachs**, who conspired to prevent the emergence of platforms that would make stock lending and borrowing more efficient and transparent—and therefore less expensive—in order to maintain their monopoly and outsized profits. Plaintiffs allege that the six defendants conspired to overcharge investors and wrongfully control the \$1.7 trillion **stock loan market**, obstructing competition that would benefit both stock lenders and borrowers. Judge Katherine Polk Failla denied the defendants’ motions to dismiss in their entirety. Briefing on our motion to certify the class relied on extensive expert work, and led to a full-day hearing by the court. All of the bank defendants except for Bank of America settled for \$581 million cash and several important market and structural reforms of the kind rarely seen in private settlements (as opposed to settlements with the DOJ or SEC). The rest of the case remains ongoing.

- We represent a large group of investors who have filed claims in Switzerland’s Federal Administrative Court challenging Switzerland’s Financial Market Supervisory Authority’s order for Credit Suisse to write-down approximately 16 billion CHF of AT1 bonds as part of its merger with UBS. These ongoing claims, which form part of a wider set of actions targeted at obtaining redress for the bondholder group, are being managed across Quinn Emanuel’s offices in London, Zurich, and New York.
- On behalf of a class of investors, including lead plaintiffs **Los Angeles County Employees Retirement Association** and **Salix Capital US, Inc.**, we and co-lead counsel brought suit against various banks for conspiring to prevent the emergence and success of exchanges or other market mechanisms that would have brought efficiency and transparency to the market for **credit default swaps (“CDS”)**. The buyer of a CDS pays the seller a periodic fee, in exchange for the seller’s agreement to pay the buyer if a reference instrument or entity—such as a debt security or its issuer—defaults. CDS can be used to bet against such instruments or to hedge long positions. The main institutional CDS sellers benefited greatly from the opaqueness of the CDS market, which allowed CDS sellers to charge exorbitant prices and make substantial profits. The class asserted antitrust claims and, after several years of litigation, obtained a total recovery of approximately **\$1.8 billion**.
- We defeated claimant **Russian Banks’** application to amend their particulars of claim to estop our client from contesting findings of a prior arbitral award on grounds of
(i) issue estoppel and (ii) abuse of process.
- We represent the **Federal Deposit Insurance Corporation (“FDIC”)** in a claim before the English Court filed against a number of high-profile English and European banks, as well as the British Bankers Association, for losses suffered by 19 failed U.S. banks and thrifts as a result of alleged collusion in relation to the setting of USD LIBOR between 2007-2011. The LIBOR rate is central to trillions of dollars of loans and financial derivatives entered into worldwide, and the rate is alleged to have been artificially suppressed as a result of alleged collusion between USD LIBOR panel banks—including defendant banks Barclays, RBS, Lloyds, UBS, Deutsche, and Rabobank—that have all paid billions of dollars in financial penalties to regulators around the world in relation to LIBOR

manipulation. This is the first stand-alone competition claim in relation to USD LIBOR manipulation in the English Courts. In addition to its competition claim, the FDIC has filed a fraud claim that is governed by U.S. law, and the alleged collusion is the subject of parallel U.S. proceedings that remain ongoing. The English trial is currently listed for a 19-week period commencing in February 2026.

- Quinn Emanuel also represents **FDIC** in its suit against Bank of America, N.A. (“BANA”) to recover over \$1 billion in underpaid deposit insurance assessments that it alleged BANA intentionally evaded. On April 10, 2023, the Magistrate Judge ruled on the parties’ cross-motions for summary judgment almost entirely in favor of FDIC. The Report and Recommendation found BANA liable for approximately \$600 million of unpaid deposit insurance assessments that have been at the center of litigation between the agency and bank since 2017. The Magistrate Judge agreed with FDIC’s interpretation of a final rule issued in 2011 pursuant to the Dodd-Frank Act requiring, inter alia, the nine largest depository institutions to report counterparty exposures at the “consolidated entity level” to assess riskiness to the Deposit Insurance Fund. The Magistrate Judge also rejected various challenges BANA raised under the Administrative Procedure Act to the 2011 final rule. The parties’ objections to the Magistrate Judge’s decision are currently pending before the district court.
- Quinn Emanuel filed another large-scale financial antitrust class action in the Southern District of New York, alleging a wide-ranging anticompetitive and fraudulent scheme on one of the largest foreign exchange platforms, Currenex. Our firm built the claims from scratch after an extensive pre-complaint investigation, and our case eventually attracted **XTX Markets Limited**, one of the world’s largest FX traders, to join us as a named Plaintiff. Our operative complaint alleges that, in operating its FX trading platform, Currenex conspired to give superpriority privileges to certain market makers, including State Street (Currenex’s parent company), Goldman Sachs, HC Technologies, and John Doe defendants. These privileges ensured that the market makers’ orders were matched ahead of others’ regardless of when the orders were submitted, resulting in increased spreads, reduced competition, and potentially billions of dollars of damages to other users of the Currenex exchange. Our complaint has been the subject of significant attention among practitioners in the FX market. On May 19, 2023, the Court largely denied defendants’ motion to dismiss the case—leaving intact plaintiffs’ core claims, including those related to fraud, antitrust, and RICO.
- We obtained unanimous affirmance in the Second Circuit of dismissal of a potential \$2.5 billion claim against **AIG** in a major False Claims Act. A whistleblower alleged that AIG defrauded the Federal Reserve Bank of New York to the tune of hundreds of millions of dollars during the financial crisis—specifically that two subsidiaries that AIG sold to the Federal Reserve in exchange for \$25 billion in debt reduction had, for decades, conducted an unlicensed insurance business in New York, and that AIG was complicit in the illegal activity, concealed it from regulators, and misled the Federal Reserve.
- We obtained final approval for over \$500 million in settlements with banking defendants accused of manipulating the “**ISDAfix**” global benchmark rate, which is used in the global interest rate swaps and derivatives market. Our clients included insurance companies, pension funds, hedge funds, and other sophisticated actors. The court said that this was “the most complicated case” it ever faced, and that it could “not really imagine” how much more complicated “it

would have been if [it] didn't have counsel who had done as admirable a job in briefing it and arguing it as" Quinn Emanuel did.

- We served as co-lead class counsel on behalf of investors who were harmed when several banks conspired to manipulate the market for **gold** and **gold-related investments** traded on COMEX and other exchanges. Defendants included the panel banks that made up the "London Gold Fixing," a daily process that was supposed to involve a competitive auction among the panel banks, but instead served as a platform for price-fixing. In August 2022, the Southern District of New York issued final approval of our proposed settlements, bringing the total case recoveries to \$152 million.
- We achieved complete victory for **GSO Credit Partners** and **Canyon Partners** in the Financial List of the English High Court. The dispute arose out of an agreement by our clients to acquire (by way of back-to-back trades) a position held by HCC International Insurance Company Plc under a surety bonds facility. Barclays Bank was the intermediary for the purpose of the back-to-back trades, which were entered into under standard Loan Market Association ("LMA") documentation. The court upheld our construction of the LMA terms in the first judgment arising from the recently created Financial List.
- We represented numerous major asset managers, hedge funds, pension funds, and other institutional investors—over 1,300 entities in total—pursuing claims that multiple banks colluded to "bang the close" and "take out the filth" in a wide-ranging conspiracy to manipulate foreign exchange ("FX") prices, benchmarks, and bid-ask spreads. Our clients, including **Allianz Global Investors**, **BlackRock**, **Brean Howard**, **CalSTRS**, and **PIMCO**, opted out of a related class action, and our investigation allowed them to file their own complaint, with more than 90 pages of original allegations, showing how the banks should be liable for a conspiracy much broader than alleged in the class action. The court largely denied the banks' motions to dismiss the operative complaint for lack of personal jurisdiction, and held that plaintiffs had properly alleged a much broader, and longer, conspiracy than was alleged in the related class action. The case successfully concluded in 2023.
- We achieved complete appellate victory for our Spanish construction firm clients **Cointer Concesiones** and **Grupo Azvi** in their claims for gross negligence against Scotiabank Capital Markets and The Bank of Nova Scotia relating to a botched financial model that cost our clients tens of millions of dollars. Given the high standard for proving gross negligence, the court dismissed the claim on the pleadings in 2013; we appealed and had the claim reinstated in 2015. Following the completion of fact and expert discovery, the defendants moved for, and the court granted, summary judgment in 2018. We settled the action on favorable terms.
- We are acting as interim co-lead class counsel in an antitrust action against certain banks who acted as re-marketing agents for **variable rate demand obligations ("VRDOs")**. These securities are typically issued by municipalities or such public entities as universities and hospitals, and carry interest rates that are reset periodically, allowing their issuers to borrow funds for the long-term at short-term rates. Beginning in late 2015, authorities began investigating the re-marketing agent banks who, rather than competing to provide the lowest possible rates to issuers, colluded to keep rates high to the banks' significant benefit. In 2023, just a few months after the issues had been fully briefed, the court granted our request to certify the class.

- We represented **Bayerische Hypo-und Vereinsbank AG** (“HVB”) in a lawsuit against an investment vehicle that was wrongfully refusing to redeem shares held by HVB, bringing claims for breach of contract that sought approximately \$422 million in damages. Together with the filing of the complaint, we obtained an immediate ex parte attachment of all assets owned by defendants in the State of New York (and an order sealing the file). The following day, more than \$380 million of defendants’ New York assets were attached. With this leverage, we settled for just over \$400 million.
- We obtained directed summary judgment on appeal for Brazilian infrastructure company **CCR Rodoanel** in a swap dispute against French and Portuguese banks.

ADDITIONAL REPRESENTATIONS

- We obtained dismissal on behalf of **Saudi interests** of proceedings in the English High Court in which Citigroup sought declarations of non-liability against our clients under the 2002 ISDA Master Agreement and Equity Derivates Definitions. The proceedings were, in substance, an attempt to pre-empt U.S. arbitration proceedings worth approximately \$350 million brought in New York under the rules of the U.S. Financial Industry Regulatory Authority.
- Distressed debt vulture fund Weston International Capital Ltd made our client, **Bank Mutiara**, a primary target for more than two years in actions filed all over the world. After Weston obtained multiple judgments in Mauritius and the Southern District of New York, Bank Mutiara retained us. Within three weeks, we convinced Judge Crotty of the Southern District to vacate a previous judgment, and to order Weston to return more than \$3.6 million it had obtained from Bank Mutiara’s accounts. When Weston refused, we obtained a stay of all Weston actions against Bank Mutiara filed in New York, and convinced the court to hold every Weston entity *and* its principal in contempt, to order Weston to pay Quinn Emanuel’s fees, and to issue fines ultimately totaling more than \$400 million. When Weston still refused to return the funds, we obtained transfer of ownership of every Weston entity to Bank Mutiara, an apparently unprecedented order that was upheld in the Second Circuit, effectively ending Weston’s harassment.
- We represented **Solus Alternative Asset Management LP** against GSO Capital Partners and Hovnanian Enterprises, Inc. in a suit arising from GSO’s agreement to lend money to Hovnanian in exchange for Hovnanian agreeing to default on a portion of its debt. Solus alleged violations of Sections 10(b) and 14(e) of the Securities Exchange Act, and that GSO had tortiously interfered with Solus’ prospective economic advantage. As part of the May 2018 settlement, Hovnanian cured the agreed-upon default, thereby avoiding the threatened credit event.
- We represented **Assured Guaranty** and **Assured Guaranty Municipal Corp.** in the Supreme Court of New South Wales in proceedings commenced by Reliance Rail Group against Dexia Credit Local and FMS Wertmanagement. Assured are the majority senior bondholders in Reliance Rail, and supported Reliance Rail’s general position that it could effect a \$1.9 billion refinancing without bondholders’ consent under the relevant finance documents. Dexia/FMS, as co-bondholders, opposed this position. After an expedited two-day hearing, the court delivered a judgment that the refinancing could proceed without bondholders’ consent.

- We obtained, with co-counsel, a settlement of more than **\$6 billion** for the Estate of **Washington Mutual, Inc.** in litigation against JPMorgan Chase, which involved disputes over billions of dollars in structured trust preferred securities.
- We obtained an award of nearly \$80 million for **Rosen Capital Partners** against Merrill Lynch arising from Merrill Lynch's improper margin calls and prohibitions on trading in the midst of the subprime financial crisis. *The Wall Street Journal* described the award as one of the largest investor arbitration awards ever issued by a FINRA arbitration panel. The award was collected in full.
- We represented **South Tryon** in a lawsuit seeking to force the collateral manager of a Triaxx Asset Management collateralized debt obligation ("CDO") to sell over \$500 million in defaulted residential mortgage-backed securities ("RMBS"). South Tryon moved for summary judgment at the outset of the case, arguing that the relevant contract unambiguously required the sale. The district court ruled in our favor on that motion and ordered the Collateral Manager to liquidate the defaulted collateral. The Second Circuit affirmed the decision in its entirety.
- We represented plaintiff **Lansuppe Feeder, LLC** in a case involving Lansuppe's effort to direct the trustee for a CDO to liquidate the CDO's collateral and distribute the proceeds. Junior noteholders objected on the grounds that liquidation would violate the Investment Company Act. We obtained a favorable decision on summary judgment directing the trustee to proceed with the liquidation and distribute the liquidation proceeds to investors, including our client.
- We represented **UMB Bank, N.A.**, as trustee on behalf of certain noteholders, against Airplanes Limited and Airplanes U.S. Trust that involved a dispute over the improper reserving by Airplanes of \$190 million that otherwise would have gone to noteholders. We obtained judgment on the pleadings that the \$190 million reserve was improper and in violation of the indenture.
- We represented **Union Bank of California** in numerous class actions and individual lawsuits in state, federal, and bankruptcy courts arising out of the perpetration of a \$600 million Ponzi scheme by one of its clients and depositors.
- We represented **Hildene Capital Management, LLC** and eight other plaintiffs in a lawsuit that challenged the proposed sale of BankAtlantic, a federal savings bank, to BB&T Corporation. Following a three-day trial, we obtained a permanent injunction on behalf of plaintiffs based on potential adverse effects of the sale.
- We represented **AIG Financial Products** against ICP Asset Management LLC and other parties alleging defendants fraudulently shifted losses on over \$1 billion in RMBS securities to AIG-FP via sales to certain CDOs on which AIG-FP held the credit risk. After winning the right to amend our complaint, we settled on favorable terms.
- We represented home builder **TOUSA** in connection with a \$675 million claim brought by Deutsche Bank based on the default of an off-balance-sheet structured financing used to fund the largest acquisition of home sites in Florida history. We achieved a successful resolution of this matter.

"Quinn Emanuel are simply the best litigators in the London market, no debate."

Client Testimonials, *Legal 500*