

Banking MVP: Mayer Brown's Matthew Ingber

By Erica Teichert

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Mayer Brown LLP partner Matthew Ingber spent much of the past year helping establish a template for courts to approve settlements in private residential mortgage-backed securities litigation by working on the largest settlement of that kind, earning him a spot on Law360's list of banking MVPs.



Ingber was part of a team of attorneys who represented Bank of New York Mellon Corp. as the trustee for 530 of Bank of America Corp.'s Countrywide Financial affiliates' private-label mortgage-backed securities trusts, which are made up of 1.6 million loans with an original principal balance of \$424 billion. Although 22 institutional investors had pushed Bank of America to buy back the securities, Ingber and other attorneys got New York Supreme Court Judge Barbara R. Kapnick to sign off on the deal in January by using an obscure state law procedure, known as an Article 77 proceeding.

Under that advisory statute, trustees can seek a state court's guidance on various matters including settlement approval, as BNY Mellon used in the case at hand.

"There is definitely precedent for using the Article 77 proceeding for seeking approval of a settlement," Ingber told Law360.

In addition to the \$8.5 billion cash payment, the settlement also resolved robo-signing and other home loan servicing issues in the securities.

However, some parts of the settlement are on appeal, and a decision has not been issued from the appeals court yet.

Ingber and other attorneys have since used Article 77 proceedings to seek judicial approval of other RMBS-related settlements, including a proposed \$4.5 billion settlement with JPMorgan Chase in which



Matthew Ingber

Ingber again represents BNY Mellon — one of a number of trustees involved in the deal.

Under that agreement, JPMorgan would pay \$4.5 billion in cash to settle all representation and warranty and servicing claims asserted by 330 RMBS trusts, implement certain servicing changes to mortgage loans in the trusts, and continue a tolling and forbearance agreement while the trustees evaluate the settlement, the bank has said.

Ingber said he attributes his success in part to the team he's worked with both at Mayer Brown and from other firms on various cases.

“What's great about the team here is you're taking two practice areas and you're in effect combining them for these cases. You have the very deep expertise of the securitization practice. These are lawyers who put similar deals together. They understand the nuances of the contracts and the transactions. You combine that substantive expertise with our banking litigation experience and I think that can be a formula for some success.”

In addition to his work on major RMBS settlements, he has also defended BNY Mellon from litigation by pension funds that invested in the securities and alleged that the RMBS trustee had a duty to aggressively pursue claims against the mortgage issuers for breaches of representations and warranties.

According to the investors, the trustees had public knowledge of the issuers' breaches of representations and warranties because the information was in public domain. However, BNY Mellon successfully proved that the duty didn't exist. That case is now on appeal to the Second Circuit.

“If the duty is not spelled out in the contracts, the duty does not exist,” Ingber said. “We think the contracts are clear on their face.”

Ingber got his first taste of banking law early in his legal career at Mayer Brown, and it sparked an interest that led him to cultivate a specialty in the area over time as he enjoyed the challenge associated with understanding the complex financial products associated with his clients.

“I've been really fortunate,” he said. “We have a great variety of cases at my firm and I've worked with a number of terrific lawyers over the years with an interesting docket of cases. As an associate, I was given great opportunities to work on cases for financial institutions, and as a partner, I've been able to help grow our practice.”

“When you feel like you're on the right side representing folks who have always tried to do the right thing, you can't help but develop a real passion for representing them,” Ingber said.

--Additional reporting by Stewart Bishop and Evan Weinberger. Editing by Patricia K. Cole.