

Banking MVP: Mayer Brown's Matthew Ingber

By *John Kennedy*

Law360, New York (December 6, 2016, 10:26 PM EST) -- Following the financial crisis, Mayer Brown LLP partner Matthew Ingber helped devise a way to settle large numbers of claims brought by investors over alleged misrepresentations regarding residential mortgage-backed securities, a blueprint that recently led to a significant settlement and helped land him among Law360's 2016 Banking MVPs.

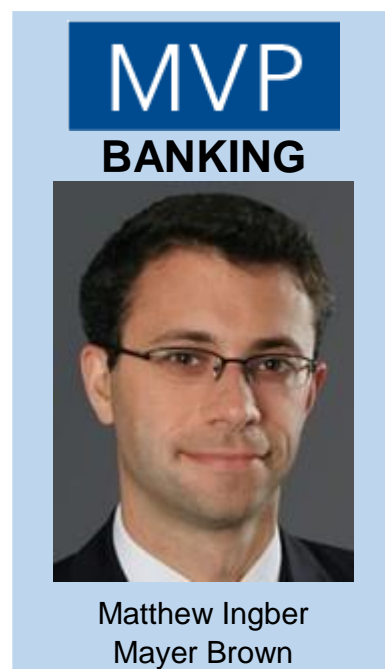
The strategy — invoking proceedings under Article 77 of New York's Civil Practice Law and Rules to aid in the approval of a settlement — led to a \$4.5 billion agreement resolving investors' claims that JPMorgan & Chase Co. misled them into buying risky RMBS. Ingber's client, the Bank of New York Mellon, was one of the trustees that evaluated and accepted the settlement on behalf of the investors.

Ingber and his team also won an appellate victory reversing a state court judge's decision not to dismiss breach of contract claims against BNY Mellon in July. That ruling, in turn, was cited by plaintiffs in a separate, but similar, case against BNY Mellon when they voluntarily dropped their claims against the bank, he said.

Jason Kravitt, the Mayer Brown partner who founded the firm's securitization practice, said that Ingber's continued success is attributable to his preparation and focus. No matter what question a judge throws at him, Ingber is always ready with an answer that he's thought through ahead of time, Kravitt said.

"The best litigators have to focus 100 percent of their attention on one issue at a time, or one case at a time, or one problem at a time, instead of all the other things that are going on, and he never panics," Kravitt said. "He doesn't try to hit a five-run homer, because you can't hit a five-run homer."

Ingber's contribution to the Article 77 strategy previously landed him among Law360's Banking MVPs in 2014 and 2015 and it worked again this year when New York Supreme Court Judge Marcy Friedman approved the \$4.5 billion settlement on Aug. 12.



Article 77 allows trustees to seek the court's guidance on matters related to express trusts. It provides investors with a way to object to the proposed settlement while bringing finality if the court approves the trustees' decision to settle. Ingber and his team previously used Article 77 on their way to an \$8.5 billion deal between Bank of America and BNY Mellon.

Although critics have referred to the Article 77 proceedings as a shortcut that doesn't allow investors to get their day in court, Ingber said that the provision's purpose is to maintain transparency and give investors an opportunity to be heard.

A month before the \$4.5 billion settlement was finalized, the New York State Appellate Division, First Department, dismissed some claims brought by Commerce Bank, which had alleged that BNY Mellon had violated its duties as a trustee by failing to tell investors that BofA affiliate Countrywide had allegedly misrepresented the quality of mortgages underlying certain RMBS.

The trustees, including Ingber's client, BNY Mellon, had long argued that their duties are limited and laid out in their governing contracts, which mostly cover administrative functions, he said.

About a month later, lawyers representing the Retirement Board of the Policemen's Annuity and Benefit Fund of the City of Chicago in its case against BNY Mellon, cited the First Department's decision when they voluntarily dropped their case. They'd first sued BNY Mellon in 2011, alleging, similarly, that the bank had failed to uphold its duties as trustee for investors in Countrywide mortgage-backed securities.

The George Washington University Law School graduate joined Mayer Brown in 1998 and has spent his entire career at the firm. He was pulled into a new case involving a bank client and the New York Islanders on his first day and he said it initially interested him because of the hockey team, he dug into the issues and found them intellectually challenging. Those issues, combined with his clients and colleagues, are what keep him interested in his work, he said.

But one of the most important keys to his success is the focus Kravitt saw when he tapped Ingber to handle the BofA and BNY Mellon settlement. Whether it's preparing for an argument or a deposition, stepping away from the flood of emails and phone calls to focus on the task at hand is essential to doing the job well, Ingber said.

"As a litigator, there's no shortcuts," he said. "You've always got to put in the time and effort and understand the facts and understand the documents, and the only way to do that is to remove yourself from some of the email traffic that we all struggle to navigate every day."

--Editing by Jill Coffey.