

Banking Group Of The Year: Mayer Brown

By **Melissa Daniels**

Law360, Los Angeles (January 17, 2018, 5:05 PM EST) -- Mayer Brown LLP's banking practice continued to notch courtroom victories and handle mega-sized transactions for some of the world's largest financial institutions over the last year, earning it a spot among Law360's 2017 Banking Groups of the Year.

The banking and finance practice is comprised of 275 transactional attorneys, plus more than 70 litigation and dispute resolution attorneys around the world who specialize in banking matters. Matt Ingber, co-leader of the firm's global litigation and dispute resolution practice, said integration between these groups is key to the firm's success in the high-profile arena of banking litigation.

"There's cross-collaboration between our litigation and our transaction lawyers to make sure the best minds are thinking about how best to approach these issues," he said.

Representing financial firms, Ingber said, is the firm's "bread and butter." But 2017 was unique for tallying up some precedent-setting and aggressively fought wins.

In March 2017, Mayer Brown successfully represented Bank of New York Mellon in a \$100 million suit from insurers alleging the bank failed to reject poor grade mortgages leading up to the financial crisis. A closely watched matter in the industry, it was the first case to go to trial against a residential mortgage-back securities trustee, and the Ohio state judge found the defendants weren't "remotely" a cause of the plaintiffs losses. The victory came after weeks in court, Ingber said.

That same month, the firm also defeated class certification in a \$1.12 billion suit against BNYM over its trustee role.

Ingber credited the RMBS victories to a collaborative approach across practice groups. Such cases require the litigation partners to heed the expertise of the top-notch banking lawyers who know the financial product or contract at the heart of the case, he said.

"We brought in our securitization lawyers who drafted the contracts that were being litigated," Ingber said. "They understood the ins and outs of the products better than I ever could."



The firm's other major banking litigation wins included resolving a lawsuit against JG Wentworth Co. in February 2017 and representing Societe Generale in a suit over alleged interbank loan rate rigging that was dismissed in March 2017.

Collaboration with Mayer Brown's appellate lawyers is also common, Ingber said, and it starts early.

"They know better than anyone how to best position an issue for appeal, how to best win on appeal," he said. "That doesn't start when you win or lose a case at the trial level. It starts when you get that complaint and you're thinking about how to defend the case."

The firm's notable circuit court wins in 2017 included a Second Circuit appellate victory for DZ Bank AG. The court affirmed a trial court's findings that the bank didn't breach a covenant of good faith and fair dealing when it declined to extend the term of a revolving credit agreement. Then, in March 2017, the firm scored a Seventh Circuit win while defending the Bank of Tokyo-Mitsubishi UFJ Ltd. against a bid from Israeli victims of an Iran-backed terror attack who sought to collect on a default judgment against the country. The court ruled that the bank would not have to reveal Iranian assets held in its worldwide branches because the U.S. courts lacked authority to order a search on foreign branches of foreign banks.

The blockbuster Spokeo ruling over consumers' actual injury requirements that Mayer Brown's appellate practice secured at the U.S. Supreme Court in May 2016 paid off for the firm's banking sector last year as well. A rare published ruling from the en banc Eleventh Circuit in May 2017 denied a petition for rehearing from a plaintiff alleging CitiMortgage violated a New York statute by not recording when a mortgage was paid off in a timely enough fashion.

Chicago-based partner Thomas Panoff said this case was an example of how the matters can "work seamlessly" across practice groups.

The firm's transactional side operates in a similar way, David Duffee, a New York-based partner who leads the banking and finance practice, said. Calling other attorneys for their opinions is a matter of course, he said, including on recent deals involving Frontier Communications Corp. that involved collaboration between securities and banking lawyers.

"It's a cultural thing in this firm," he said. "It's the sort of place where we talk to each other all the time, and there's no benefit, no premium, to doing things by yourself."

Other major transactions included spearheading an innovative transaction for Chicago Fundamental Investment Partners, which manages collateral loan obligations, for it to stay in regulatory compliance with new Dodd-Frank rules. The October 2016 deal allowed The Academy Group Inc. to buy a minority interest in CFIP and commit \$160 million for risk retention compliance.

Mayer Brown's transactional team also guided Cap Cana SA in a complex note exchange following a default on its bond that left it with a better credit risk profile.

On the fund finance front, cross-border deals are increasingly common — so much so that they've become the norm, Ann Richardson Knox, a banking and finance partner who oversees the firm's fund finance group out of New York, said.

"Both lending institutions and the borrowers they serve are more and more global," she said.

“Particularly when you’re dealing with private equity hedge funds, they are making investments are over the world. They are organizing all over the world.”

Mayer Brown is well-positioned geographically to handle clients with an international presence. It has offices in the major financial centers of New York, London, Hong Kong and São Paulo. It also announced in December it would open a new office in Tokyo in the first half of 2018.

Knox said this global reach, as well as the depth of expertise across all aspects of the finance business, positions Mayer Brown to take on banking clients that few other, if any, firms can serve.

“We really do have to collaborate because our clients are also global,” she said. “I think we have managed to capture that in a way where we can service very large transactions, very complex transactions, in a number of areas that hit upon banking, lending and finance, that I don’t think others are able to do.”

--Editing by Alyssa Miller.