

Banking Practice Group Of The Year: Mayer Brown

By **Reenat Sinay**

Law360 (January 28, 2020, 3:58 PM EST) -- Mayer Brown LLP has led the pack on banking litigation stemming from the Anti-Terrorism Act over the last year with wins for HSBC that narrowed the scope of liability for banks accused of financing terror attacks, earning it a spot among Law360's 2019 Banking Groups of the Year.

Christopher Houpt and Mark Hanchet, the co-leaders of the banking group's litigation practice, told Law360 that the results they've achieved were made possible by the deep integration of banking litigators and specialized experts on the transactional side of the practice.

"When we have a securitization case, we can draw on a group of lawyers who handle securitization deals for a specific type of collateral," for example, said Houpt. "If it's mortgage loans, we have a mortgage securitization group.

"We draw on those resources all the time," he added. "That makes us much better litigators than we would be if we were a standalone practice."

Mayer Brown's global banking practice is spread across the Americas, Asia, Europe and the Middle East, with a particular emphasis on the major financial centers of New York, London and Hong Kong.

As the firm's second-largest practice overall, with 70 litigators and 300 transactional attorneys, its ever-expanding banking and financial group goes wherever clients need it to be, said Hanchet. Mayer Brown most recently opened an office in Tokyo in 2018.

Its global reach and collaborative practice certainly helped Mayer Brown defend British bank HSBC, which faced ATA claims of financing terror activities in the Middle East.

Hanchet said the most "tangible judicial result" of the past year was the Second Circuit's August ruling in *Siegel v. HSBC North America*. A three-judge panel affirmed a lower court's finding that the bank could not be held accountable for allegedly helping to finance a series of deadly terror attacks in Jordan in 2005 that killed 57 people.

The judges held that because HSBC had ceased to do business with Al Rajhi Bank — a Saudi Arabian



institution believed to have ties to al Qaeda — nearly a year before the bombings, the plaintiffs couldn't show intent or knowledge of the alleged terrorism financing.

"That ruling really changes the landscape in favor of the financial community, and that was a groundbreaking decision that we're very proud of," Hanchet said. "There are a series of similar ATA cases that we have shepherded through the courts in such a way that these lawsuits involving the financing of terrorism have been turned back."

One month after the Siegel decision, a New York federal judge dismissed another ATA case against HSBC in which it was accused of providing banking services to Iran in the knowledge that it would fund terror attacks on the U.S. military in Iraq. The judge cited the Siegel decision in finding that the law has evolved to increasingly disallow allegations of terrorism financing in which the institution did not provide banking services directly to the terror group, the firm said.

Like other firms, Mayer Brown's banking group has largely focused on financial crisis litigation over the past several years. As that type of litigation winds down, Houpt is looking to prepare his clients for the next challenge: the transition away from the scandal-ridden Libor interest rate benchmark at the end of 2021.

While the firm is hoping to avoid litigation stemming from the transition to alternative benchmarks, Houpt said it has "major" potential to be the next big wave.

"That will affect a lot of legacy contracts that are tied to Libor, so financial institutions and non-financial institutions involved in financial products are having to review the contracts they have and figure out how each of them will be affected by the disappearance of Libor and come up with commercial and litigation strategies for dealing with that," he said.

Other trends he's focusing on include federal preemption of state interest rate regulations and developments that could help define and clarify the scope of federal authority in that area.

Hanchet said he's seen an uptick in government investigations into antitrust violations as well as civil antitrust litigation.

Whatever obstacles come its way, Hanchet said the banking practice's vast client list of financial institutions at home and abroad exposes the group to and prepares it for any kind of challenge.

"Some law firms represent one or two banks and they're very familiar with what those banks are doing," he said. "We are representing virtually all of the banks internationally and domestically, and as a result, if one bank is encountering an issue, almost certainly it's something that we've seen before with one of our other clients. I think this gives us a huge competitive advantage over the rest of the legal marketplace."

--Editing by Adam LoBelia.