

quinn emanuel trial lawyers
quinn emanuel urquhart & sullivan, llp

**Recent Investment Fund and Fund Advisor Litigation
Representations and Representative Clients**

- We represented **two groups of investors** in a bankrupt beverage manufacturer that was operated as a massive Ponzi scheme. In California state court, we represented approximately 73 par holders of the company's bonds in an action against the bank that underwrote the bonds and the company's outside auditors. In New York state court, we represent a large group of holders of the company's bank debt, in an action against the company's principal bank, outside auditors, and other third parties.
- We represented **MHR Fund Management**, its founder Dr. Mark Rachesky and its affiliated funds relating to Carl Icahn's 2010 hostile bid for Lions Gate Entertainment Corp. MHR is a longstanding significant investor in Lions Gate, and Dr. Rachesky is a member of Lions Gate's board. Icahn brought actions in British Columbia, where he alleged shareholder "oppression," and New York, where he alleged tortious interference with a standstill agreement between Icahn and the company. In both actions, Icahn sought to rescind transactions that closed immediately following the expiration of the standstill, in which the company exchanged certain convertible notes held by Kornitzer Capital Management, which in turn sold the new notes to MHR for approximately \$105 million. MHR immediately converted the new notes for approximately 16 million shares. Following a four day trial, the Supreme Court of British Columbia rejected Icahn's bid to rescind the transactions or sterilize MHR's votes. Two months later, just days before Lions Gate's annual general meeting at which Icahn was running a proxy contest, the New York Supreme Court denied Icahn's request for a preliminary injunction to bar Rachesky's fund, MHR, from voting 16 million shares of Lions Gate stock at the annual meeting. Following that ruling, Icahn did not close his then-outstanding tender offer, his slate of directors was defeated in the proxy fight and Dr. Rachesky and the management directors were re-elected to the Board.
- We represented film producer **Robert Cort** in a three-week jury trial resulting in a verdict finding breach of contract and fraud against a hedge fund. Our client received full compensation for all damages plus an award of punitive damages for a verdict of approximately \$5 million, along with an award of attorneys' fees. Defendants appealed, and the firm's appellate attorneys successfully persuaded the California Court of Appeal to affirm the judgment in full.
- We successfully tried a FINRA arbitration for a large merger arbitrage fund against a one of the leading global broker-dealers over the liquidation of a swap transaction. After four weeks of hearings spread over three months, we recovered over \$10 million for our client in a confidential settlement. The dispute concerned the market

quote method of valuing an equity swap under the 1992 ISDA Master Agreement where the broker-dealer sought and received quotes from three reference market makers. We effectively challenged the validity of the settlement value by attacking the quotes as shams which were the product of coaching friendly market makers and manipulating the market price through heavy volume sales.

- We represented two dozen hedge funds, including international funds grouped under four management entities -- **Elliott, Davidson-Kempner, Appaloosa, and Angelo Gordon** -- as plaintiff-holders of Yosemite and Enron Credit-Linked (ECLN) Notes in the Yosemite v. Citibank action in the Enron MDL, where we successfully obtained a settlement in excess of \$2.1 billion.
- We represented **XE Capital Management** in a case against its joint venture partner for failing to pay commissions into their joint venture, XE-R, LLC. The defendant counterclaimed, seeking control of a third venture and various insurance policies, worth over \$250 million. A three member Arbitration Panel unanimously found in favor of XE Capital, awarding them \$10 million in misappropriated commissions and denying all of the defendant's counterclaims.
- We represented emerging market and distressed hedge fund, **VR Capital Management**, the largest creditor of failed Refco, Inc.. At trial in Refco's bankruptcy proceeding, we won a ruling worth hundreds of millions of dollars establishing that Refco was a broker under Chapter 7, subchapter three and thus entitling VR Capital to priority recovery as a securities customer. We ultimately recovered nearly \$800 million.
- We represent a **consortium of hedge funds and other investors** who were initial and secondary market lenders to bankrupt beverage manufacturer Le Nature's, Inc., in litigation against Wachovia Capital Markets, BDO Seidman, and certain Le Nature's executives. Separately, we represent a group of approximately 75 pension funds, investment funds, and other investors that purchased bonds issued by Le Nature's at par value. The defendants in that case include Wachovia, Ernst & Young, and BDO Seidman.
- We represented the principals of, and the entity, **August Capital**, in litigation arising out of the Epinions-Dealtime merger that created Shopping.com and the subsequent acquisition of Shopping.com by eBay Inc.
- Won a multi-million dollar jury verdict in New York Supreme Court on behalf of departing partner of multi-strategy hedge fund in dispute with fund manager.
- Currently representing group of investors in multi-billion dollar hedge fund in dispute involving redemption of interests.

- Currently representing merger arbitrage fund in FINRA arbitration against prime broker challenging liquidation of swap contract as improper and the product of market manipulation.
- We represented limited partners of a **hedge fund** in a shareholder derivative arbitration against a hedge fund manager and his stockbroker sister based on claims of systemic fraud through post-execution allocations of securities trades over more than a decade. After an arbitration that spanned seven months, the arbitration panel, in a unanimous opinion, awarded our clients \$75 million in compensatory and punitive damages, which included \$35 million for disgorgement of compensation for the period of the fraud. In what may be the highest arbitration award ever obtained against an individual defendant, we successfully obtained ratification by the New York Supreme Court.
- We represented **Ramius Capital** in a FINRA arbitration against Bear Stearns, asserting fraudulent misrepresentation and mispricing in its sale of initial portfolio collateral to a cash-flow collateralized debt obligation. The FINRA panel unanimously found in favor of Ramius, holding on clear and convincing evidence that Bear Stearns had fraudulently misrepresented the pricing and value of the ABS collateral.
- We represented **Benchmark Capital Funds**, the backers of eBay and other leading startup companies in securities, M&A, insurance coverage, employment and corporate governance matters.
- We represented the principal of **Lightspeed Venture Partners**, which was named as a derivative action defendant because of his board service on a leading telecom startup company.
- 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 and seeking approximately \$422 million in damages. Together with the filing of the complaint, we obtained an immediate ex parte attachment of all assets owned by the defendants located in the State of New York and we obtained an order sealing the file. The following day more than \$380 million worth of the Defendants’ assets in New York were attached. Having gained considerable leverage, we were able to reach a favorable settlement – receiving \$403 million – shortly thereafter.
- We represent the Joint Liquidators of **Kingate Euro Fund** and **Kingate Global Fund**, two BVI-based funds that invested more than a billion dollars with Madoff. The Madoff SIPA trustee sued both funds for return of distributions as preferences and fraudulent transfers, and we have been representing the funds in negotiating with the Madoff trustee. We have also been representing Kingate Global in seeking to dismiss a derivative action brought by a small shareholder in the fund against various third parties, including the funds auditors and directors.

- We represented **an ad hoc group of funds**/holders of bonds in connection with the Cattles plc. Cattles plc is one of the largest providers in the UK of subprime finance and there is currently a major dispute between a group of banks (led by Royal Bank of Scotland) and the holders of two high yield issues over the interpretation and meaning of a intercompany guarantee provided by Cattles to RBS. Following a recent hearing in front of the English High Court, the matter is now moving towards an appeal in the Court of Appeal, and if necessary the UK Supreme Court.
- We represented **an hoc group of funds**/holders of subordinated debt in relation to the recent and controversial pre-packed administration of Hellas, the owner of the Greek telecommunications company, Wind Hellas.

REPRESENTATIVE CLIENTS:

Abrams Capital	Credit Capital Investments, LLC
ADM Capital	Cyrus Capital Partners
Aegon Investments	D. E. Shaw & Co.
AIGFP	Davidson Kempner
Aladdin Capital	DDJ Capital Management
Alchemy Partners	Dune Capital Management
Anchorage Capital Group, LLC	Durham Asset Management, LLC
Angelo, Gordon & Co., L.P.	Eaton Vance
Apollo	Elliott Associates, L.P.
Appaloosa Management L.P.	Esopus Creek Advisors
Aristeia Capital	Fortelus Capital
Aurelius Capital Management	Greywolf Capital
Avidity Partners	Gulf Stream Asset Management
Babson Capital Management	Halcyon Asset Management LLC
Black Diamond Management	Harbinger Capital Partners
Blackrock Capital	Hartford Investment Management
Bond Street Capital, LLC	Hartford Investment Management
Brigade Capital	Highland Capital Management, L.P.
Callidus Capital	Highland Capital Management, L.P.
Canyon Partners LLC	Hillmark Capital
Capital Fund Management International, Inc.	Hillmark Capital
Carlson Capital	Industry Funds Management
Carlyle Group	Industry Funds Management
Caspian Capital Advisors	Lampe Conway & Co., LLC
Castle Creek	Lampe Conway & Co., LLC
Centerbridge Partners, LP	Longacre Fund Management, LLC
Cerulean Capital	Longacre Fund Management, LLC
Citadel Group	Luxor Capital Partners, L.P.
Clinton Group	Luxor Capital Partners, L.P.
Context Capital	Marathon Asset Management
	Marathon Asset Management

Matlin Patterson
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Monarch Alternative Capital
Morgan Stanley Senior Funding
Natixis
Normandy Hill Capital, L.P.
Oak Hill Advisors, LP
Oaktree Capital
Och-Ziff Capital Management
Orange Capital
Ore Hill Partners, LLC
Owl Creek Asset Management, LP
Paulson & Co.
Pentwater Capital
Perry Capital
Peter Schoenfeld Asset Management
PIMCO
PIMCO
Plainfield Asset Management
Prentice Capital Management, L.P.
QVT Financial L.P.
Redwood Capital Management
Restoration Capital Management, LLC
Riva Ridge Capital
Riversource Investments
Saybrook Capital LLC
Schultze Asset Management
Scoggin Capital Management
Seneca Capital
Sequoia Capital
Serengeti Asset Management, L.P.
Silver Point Capital, L.P.
Solus, L.P.
Stark Investments
Stone Tower Capital
Stonehill Capital Management, LLC
Strategic Value Partners, LLC
Taconic Capital Advisors, L.P.
TCW
Tennenbaum Capital
The Baupost Group
Third Point Capital
Venor Capital Management, L.P.
Viking Global
VR Capital

Western Asset Management Company
Whippoorwill Associates
Wolf Point Capital Management