



Recent Investment Fund and Fund Advisor Litigation Representations and Representative Clients

- 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.,

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Prior results do not guarantee a similar outcome.

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-Dealttime 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	Black Diamond Management
ADM Capital	Blackrock Capital
Aegon Investments	Bond Street Capital, LLC
AIGFP	Brigade Capital
Aladdin Capital	Callidus Capital
Alchemy Partners	Canyon Partners LLC
Anchorage Capital Group, LLC	Capital Fund Management International, Inc.
Angelo, Gordon & Co., L.P.	Carlson Capital
Apollo	Carlyle Group
Appaloosa Management L.P.	Caspian Capital Advisors
Aristeia Capital	Castle Creek
Aurelius Capital Management	Centerbridge Partners, LP
Avidity Partners	Cerulean Capital
Babson Capital Management	

Citadel Group	Paulson & Co.
Clinton Group	Pentwater Capital
Context Capital	Perry Capital
Credit Capital Investments, LLC	Peter Schoenfeld Asset Management
Cyrus Capital Partners	PIMCO
D. E. Shaw & Co.	PIMCO
Davidson Kempner	Plainfield Asset Management
DDJ Capital Management	Prentice Capital Management, L.P.
Dune Capital Management	QVT Financial L.P.
Durham Asset Management, LLC	Redwood Capital Management
Eaton Vance	Restoration Capital Management, LLC
Elliott Associates, L.P.	Riva Ridge Capital
Esopus Creek Advisors	Riversource Investments
Fortelus Capital	Saybrook Capital LLC
Greywolf Capital	Schultze Asset Management
Gulf Stream Asset Management	Scoggin Capital Management
Halcyon Asset Management LLC	Seneca Capital
Harbinger Capital Partners	Sequoia Capital
Hartford Investment Management	Serengeti Asset Management, L.P.
Hartford Investment Management	Silver Point Capital, L.P.
Highland Capital Management, L.P.	Solus, L.P.
Highland Capital Management, L.P.	Stark Investments
Hillmark Capital	Stone Tower Capital
Hillmark Capital	Stonehill Capital Management, LLC
Industry Funds Management	Strategic Value Partners, LLC
Industry Funds Management	Taconic Capital Advisors, L.P.
Lampe Conway & Co., LLC	TCW
Lampe Conway & Co., LLC	Tennenbaum Capital
Longacre Fund Management, LLC	The Baupost Group
Longacre Fund Management, LLC	Third Point Capital
Luxor Capital Partners, L.P.	Venor Capital Management, L.P.
Luxor Capital Partners, L.P.	Viking Global
Marathon Asset Management	VR Capital
Marathon Asset Management	Western Asset Management Company
Matlin Patterson	Whippoorwill Associates
Matlin Patterson	Wolf Point Capital Management
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	