

## \$1.4 Billion Recovery for ResCap

Last month, the firm obtained an attorneys fee award nearly *three times larger* than our client’s underlying claim. Together with prejudgment interest, the defendant must now pay a \$22 million judgment on what was only a \$5.4 million claim. The story of this achievement—the latest chapter in a years-long litigation campaign in which we have recovered nearly \$1.4 billion for our client in a set of nearly 100 RMBS-related cases emerging from the 2008 financial crisis—is as follows.

**The Claims.** In the years before the financial crisis, Residential Funding Company (“RFC”) was in the business of buying mortgages and bundling them into securities. RFC got detailed representations when it bought the mortgages and passed many of those representations on to investors when it sold the securities. Beginning in 2007, securities investors and others sued RFC for tens of billions of dollars, alleging that RFC had misrepresented the quality of the securities and underlying mortgages. These claims were ultimately resolved in a bankruptcy settlement per which a new entity (the “ResCap Liquidating Trust”) was created to monetize RFC’s assets, pay the claimants, and wind down the company. One of RFC’s major assets was the right to bring contractual indemnity claims against the entities from which RFC had originally purchased the defective mortgages.

**The Litigations.** In early 2014, the ResCap Liquidating Trust hired Quinn Emanuel to prosecute nearly 100 contractual indemnity claims against mortgage sellers. The claims had been filed in the form of short cookie-cutter complaints and were pending before dozens of judges across five different jurisdictions. Over the next seven years, in litigation against the most well-respected defense firms in the country, our firm defeated scores of motions to dismiss; consolidated the cases before one primary judge; reunderwrote tens of thousands of mortgages; conducted hundreds of depositions; prepared and digested scores of reports submitted by dozens of experts on issues including statistical sampling, allocation, structured finance, appraisals, and bankruptcy; and prevailed on major summary judgment and *Daubert* motions.

**The Trials.** We resolved nearly all the cases via mediation, recovering nearly \$1.3 billion. Only two cases remained for trial despite best efforts to resolve them. The first, against a Lending Tree subsidiary represented by a team of lawyers at Williams & Connolly, was tried to a jury in 2019; our firm prevailed, obtaining a judgment of nearly \$70 million inclusive of fees, costs, and interest. The second, against Primary Residential Mortgage Company, which was represented by the same team of lawyers at Williams & Connolly, was tried to the bench in 2020; again, our firm prevailed, in findings of fact awarding the entire \$5.4 million the firm had sought. We promptly moved for an award of attorneys fees and costs.

**The Fee Award.** Last month, the Court issued a 103-page decision awarding essentially every dollar of fees and interest the firm had requested, converting a \$5.4 million contract claim into a \$22 million judgment. We are gratified by the Court’s assessment of our work: “The results obtained here were *exceptional*. . . [and an] *undeniable success*.” “[T]he excellent reputation of Plaintiff’s counsel is well-deserved. At all times, they have been *unquestionably candid, prepared, well-organized, effective, thorough, and respectful*.” “As to the experience, reputation, and ability of counsel, the Court’s prior assessment of Plaintiff’s counsel remains unchanged: *their work was outstanding*.” Addressing the size of the fee award, the Court noted that “[w]hile [defendant] balks at the notion of having to ‘pick up the entire tab’ for ResCap’s attorney’s fees and costs, the plain

language of the [contract] and the [previous trial] alerted [defendant] to the possibility that the parties would not ‘split the tab’ or ‘go Dutch’ on attorney’s fees and costs. Given all of this notice, [defendant] cannot credibly express indignation now. Its own poor judgment in relitigating settled issues throughout this litigation significantly drove up ResCap’s attorney’s fees and costs.”

Last week’s award may well mark the conclusion of all trial court proceedings in what is now a 7-year, 100-case, \$1.4 billion litigation campaign. The Court previously described these cases as “exceptional,” “among the most challenging, complex cases in her legal career,” and “requir[ing] the top-notch legal counsel that ResCap retained,” and indeed we are unaware of another litigation campaign that compares to this one in terms of size, scope, and complexity. We are deeply pleased to have been able to achieve this result for our client.

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If you have any questions about the issues addressed in this memorandum, or if you would like a copy of any of the materials mentioned in it, please do not hesitate to reach out to us.

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