



## Financial Services

The Financial Services industry punches above its weight in the kind of work we thrive on, generating a disproportionate number of complex—and exceptionally high stakes—disputes across the country and around the world. Comprising Asset Management, Banking and Securities, Insurance, Private Equity and Venture Capital sectors, Financial Services has become a key focus of our national practice.

In our first decade, Susman Godfrey deployed the team that pioneered “lender liability” in an epic battle between members of a legendary Texas oil family and a dozen of the world’s largest banks. Since then, our broad and sophisticated understanding of the financial services industry has grown with the firm. Lawyers in our Los Angeles office have taken the lead nationally in disputes involving the \$600 billion life insurance sector. Opening on the eve of the 2007-09 financial crisis, our New York office quickly became a magnet for matters involving Wall Street firms that are either prosecuting or defending against claims seeking many billions of dollars. Seattle, likewise, has handled a broad range of disputes in the Silicon Valley, the Seattle area, and elsewhere involving venture capital firms, entrepreneurs and venture capital-backed companies, and the various novel financial services markets relating to cryptocurrencies and blockchains.

### *Representative Experience*

#### **Asset Management**

- ***Saba Capital v. Voya Prime Rates Trust and Voya Investments.***  
Obtained a preliminary injunction on behalf of an activist preventing the trustees of a closed-end mutual fund from enforcing a new bylaw designed to block the investor’s nominated slate of trustees from winning election at an annual meeting

- **Confidential Hedge Fund Litigation.** Represented a hedge fund accused of improperly marking-to-market certain illiquid securities, obtaining a prompt and favorable settlement
- **Confidential Hedge Fund Litigation.** Obtained a complete dismissal of a \$6 billion case against a hedge fund involving allegations that it spread disinformation in order to profit from short sales of shares of an insurance company
- ***Public Sector Pension Investment Board v. Saba Capital.*** Represented hedge fund Saba Capital, and its founder, Boaz Weinstein, in an asset valuation dispute with its investor, PSP. Successfully briefed motions leading the court to dismiss three of the four claims at issue. The case settled while Saba's summary judgment motion to knock out plaintiff's one remaining claim was pending. [Read more.](#)
- ***Fairfax Financial Holdings v. S.A.C. Capital Management.*** Won a summary judgment that was upheld on appeal by the New Jersey Supreme Court for Dan Loeb and his hedge fund Third Point in the Fairfax litigation, where plaintiffs sought damages of \$8 billion. [Read more.](#)

## Banking & Securities

- ***In re Libor-based Financial Instruments Antitrust Litigation.*** Secured, to date, \$590 million in settlements for plaintiffs who allege several banks were involved in setting LIBOR and manipulating it to their advantage. Since that time, a multitude of lawsuits have been consolidated as part of a multidistrict litigation proceeding. Barclays PLC agreed to pay \$120 million, Citigroup agreed to pay \$130 million, Deutsche Bank agreed to pay \$240 million, and HSBC agreed to pay \$100 million. These settlements are each combined with breakthrough agreements with the defendant banks to cooperate with plaintiffs in the ongoing litigation.
- ***In re Municipal Derivatives Antitrust Litigation.*** Serving as co-lead counsel to a class of municipalities suing 10 large banks and broker for rigging municipal auctions. To date, we have secured settlements totaling \$100 million for plaintiffs alleging price-fixing in the municipal bond industry and six defendants including Societe Generale, National Westminster Bank, and UBS. A total of over \$220 million dollars in settlements have been achieved on behalf of the class to date (net fees and expenses not yet determined).
- ***Mittal v. Investment Technology Group.*** Won a judgement of \$6 million (\$4 million after fees and expenses) as co-lead counsel to Hitesh Mittal, the former head of head of liquidity management at Investment Technology Group Inc (ITG), in a FINRA arbitration. Mittal claimed that the brokerage wrongly implicated him in a regulatory probe that led to his termination from hedge fund, AQR Capital Management. The arbitration award is one of the largest granted by a panel at FINRA and Susman Godfrey's third win before the group. [Read more.](#)
- ***In re Allergan Proxy Violation Derivatives Litigation.*** Recovered \$40

million (before fees and expenses)—what is believed to be the largest recovery ever obtained on behalf of derivative securities investors—in an insider trading case. Our team served as co-lead counsel for the plaintiff class, who alleged that Valeant Pharmaceuticals International, Inc. provided non-public information to Pershing Square Capital Management about its impending hostile takeover of Allergan, Inc. so that Pershing Square could secretly buy Allergan stock and commit that stake in support of Valeant's bid. Plaintiffs claimed that Pershing Square then secretly acquired a 10% stake in Allergan and gleaned millions of dollars in profits by selling on the news of the takeover bid. A California federal judge granted final approval of two settlements totaling \$290 million to resolve these insider-trading claims shortly before trial was set to commence in the first of the two actions.

- ***Assured Guaranty v. Flagstar Bank.*** Obtained a landmark \$105 million judgment (\$90 million net of fees and expenses) against Flagstar Bank for bond insurer Assured Guaranty Municipal Corp. after winning the first significant RMBS trial in the country and establishing an important precedent both in the use of loan sampling and a damages model. Assured Guaranty filed suit against Flagstar Bank in which it claimed the loans underlying nearly \$1 billion in mortgage-backed securities did not comply with the representations and warranties made by Flagstar Bank. Federal Judge Jed S. Rakoff ruled that Flagstar Bank had to pay Assured Guaranty approximately \$90 million plus contractual interest and attorneys' fees and costs in a case involving breach of contract by the originator and sponsor of residential mortgage-backed securities. This amount was substantially all of the damages sought by Assured Guaranty in the first case of its kind to go to trial.
- ***Morgan Stanley Smith Barney v. Carreras and Molina.*** Secured a unanimous ruling in a precedent-setting case by FINRA arbitrators in favor of two former Morgan Stanley brokers in a multi-million-dollar dispute against global bank Morgan Stanley. The case centered on nearly \$5 million in bonuses Morgan Stanley paid to the brokers, which the bank claimed were owed back to them when the brokers resigned from the firm to join another bank. We filed a plaintiffs' counterclaim on behalf of the brokers, and after a three-day arbitration and testimony from several witnesses, the panel rejected Morgan Stanley's claims in their entirety, and ordered that the bank pay nearly \$1.5 million to our clients on account of commissions lost as a result of the bank's actions.
- ***Platt et al. v. Barclays Capital et al.*** Prevailed in defending two former financial advisors against claims by Barclays Capital that it was entitled to claw back \$4 million in signing bonuses. The bank argued that the terms of promissory notes signed by the financial advisors in connection with the bonuses required them to repay the bank in full if they left the firm for any reason before a seven-year retention period ended. Susman Godfrey countered that Barclays broke a fundamental promise to them by shutting down the bank's Latin American wealth management business less than a year after they joined the firm. The three-member FINRA panel sided with

our clients, forgiving their debt in full.

- ***SIFMA v. NASDAQ***. Secured arbitration ruling in favor of NASDAQ Stock Market LLC, and NYSE on a challenge brought by The Securities Industry and Financial Markets Association (“SIFMA”), to the prices charged by the exchanges for their proprietary “depth-of-book data” products. SIFMA alleged that neither exchange “was subject to significant competitive forces in setting the terms” of its fees. When NASDAQ found out the case would result in a hearing with witnesses, its General Counsel called on founding partner Steve Susman to take over the suit from their then-current firm. Despite having to wait a year for a final ruling, Susman Godfrey’s leadership helped uphold NASDAQ’s rule changes and pricing decisions in every respect.
- ***Brand et al. v. Linton and Promega Corporation***. Represented a group of minority shareholders against privately held Promega Corporation and its founder, CEO, and majority owner on a claim of shareholder oppression. The team from Susman Godfrey routed the defendants in a four-week bench trial and forced a post-trial settlement and \$300 million+ buyout in one of the largest shareholder oppression recoveries on record.
- ***In re Taxable Municipal Bond Securities Litigation***. Served on the Plaintiffs’ Executive Committee and supervised and managed every aspect of this consolidated multi-district proceeding brought on behalf of defrauded purchasers of taxable municipal bonds. The case resulted in numerous reported decisions on important recurring issues arising under the federal securities laws. After several years of intense litigation, the case was settled for over \$100 million.
- ***Wool v. Tandem Computers***. Achieved a significant victory for the plaintiffs in a Ninth Circuit appeal, which established important precedent concerning the measure of damages recoverable in federal securities fraud class action cases, the standard for “controlling person” liability under the federal securities laws and the requirements for pleading fraud with the particularity specified under Rule 9(b), Fed.R. Civ. P. Following the issuance of the Ninth Circuit’s decision, the case was settled for \$16.5 million.
- ***Plaine v. McCabe***. Secured a substantial victory for plaintiffs and established significant precedent in the Ninth Circuit regarding the standards for liability and remedies for violations of tender offer disclosure rules under the federal securities laws.

## Private Equity & Venture Capital

- ***Neumann et al. v. SoftBank***. Hired by WeWork founder Adam Neumann to serve as counsel for one of the largest individual claims to be litigated this century as part of a multi-firm trial team after SoftBank withdrew its offer to buy up to \$3 billion in WeWork stock from Mr. Neumann and other shareholders. The litigation was placed on an expedited schedule in the Delaware Chancery Court. A week before trial was set, the case settled as reported by media outlets throughout the world. The *New York Times*’

coverage of the lawsuit can be accessed [here](#) and [here](#)..

- ***China Privatization Fund v. Galaxy Entertainment.*** Representing a private equity fund in a New York Supreme Court bench trial against a Macao gaming company in a dispute over the proper mechanism for exchanging convertible bonds into common stock. This is a massive dispute involving some of the most prestigious private equity firms in New York: GSO (now part of Blackstone) and Fortress, among others. We were hired as lead trial counsel shortly before trial after another large New York firm had been on the case for over five years because the client wanted truly experienced trial lawyers. While other firms were reluctant to take the case on because they deemed it too challenging, we put up enough of a fight that the judge still hasn't issued a ruling yet.
- ***Alcatel v. Cisco Systems.*** Representing portfolio company, Monterey Systems, a telecom start-up, in litigation brought against Monterey by Alcatel (USA). Alcatel asserted trade secret and copyright infringement claims. Susman Godfrey prevented Alcatel from obtaining a broad temporary injunction that would likely have crippled Monterey and killed a pending sale of the company to Cisco. After the sale was completed, Cisco retained Susman Godfrey to continue the litigation. Susman Godfrey ultimately won summary judgments on all counts.
- ***Confidential Private Equity Fund Litigation.*** Served as lead counsel for a prominent private equity firm and its co-founders and secured dismissal of claims seeking more than \$50 billion on behalf of pension fund beneficiaries and taxpayers.
- ***Dahl et al. v. Bain Capital Partners.*** Represented Texas Pacific Group in a class action brought against the nation's largest private equity firms. The plaintiffs alleged that the private equity firms conspired to allocate the market for leveraged buy-outs of public companies, by, among other things, submitting sham bids, agreeing not to bid and including "losing" bidders in the transactions. The suit named thirteen defendants including Kohlberg Kravis Roberts & Co, the Carlyle Group, Silver Lake Partners and Merrill Lynch & Co.
- ***Huntsman v. Black, Harris, and Apollo Global Management.*** Represented Apollo against allegations that it tortuously interfered in \$10.6 billion merger of Huntsman and Basell. The lawsuit filed in Texas state court sought \$3 billion in damages, \$100 million to cover its breakup fee payable to Basell, and unspecified damages related to its business and its value. Hexion and Apollo asserted in a related lawsuit that Huntsman's lower profits and increased debt would plunge the combined company into insolvency, such that the banks that had agreed to finance the deal, Deutsche Bank and Credit Suisse, would be unlikely to lend money to complete the deal under those circumstances. After substantial litigation, the parties settled the dispute.
- ***Accredited Home Lenders v. Wachovia.*** Won a temporary restraining order for AHL, a portfolio company owned by private equity firm Lone Star Funds. AHL had borrowed \$750 million from Wachovia to originate

mortgages, with Wachovia holding the loans as collateral. As the value of that collateral declined, Wachovia made repeated margin calls on AHL—a total of over \$110 million in one year, all of which AHL paid promptly. When AHL struck a deal to sell the loans to a third party for at least 85.875% of the unpaid principal balance, Wachovia attempted to scotch the deal by writing down the collateral value, imposing a particularly onerous \$35.7 million margin call and then declaring AHL in default—apparently calculating that if AHL were driven out of business, Wachovia could sell the collateral at a higher price. A Superior Court judge in San Diego put a hold on that action with a temporary restraining order. The matter settled shortly thereafter.

- **Confidential Private Equity Earnout Arbitration.** Secured a confidential settlement for private equity firm, after final submissions of evidence and arguments, in a complex earnout arbitration before Deloitte (as independent accounting referee) arising from the sale of a large tax-services business.
- ***Brown et al. v. Oaktree Capital Management.*** Defended Oaktree Capital Management, one of the premier private equity firms in the United States against \$7+ million in damages for alleged fraud and breach of fiduciary duty. As potential jurors were about to enter the courtroom, Susman Godfrey won a dismissal with prejudice of all claims against Oaktree.
- ***Lincolnshire Management v. Kumble and Corinthian Equity Fund.*** Defended a private equity firm and its founder against a breach of contract claim brought by another private equity firm seeking more than \$10 million in damages. At arbitration, secured a favorable net award for the client after drastically limiting the client's liability and prevailing on his counterclaims. Later successfully argued the motion to confirm the award in New York Supreme Court and defeated a motion to vacate.