

Real Estate Litigation

The firm's attorneys have successfully litigated, tried and arbitrated a wide range of real estate disputes (both domestic and international) and have deep experience in, among other areas:

- Project Finance
- Off Balance Sheet Financing
- Anti-Deficiency and One-Action Litigation
- Title
- Land Use
- Commercial Leases
- Insurance
- Mortgage-Backed Securities
- Class Actions
- Partnership Disputes
- Specific Performance Actions
- Insolvency Proceedings

We have represented every variety of client in connection with real estate disputes, including:

- Fortune 500 Companies
- Insurers
- Government Entities
- Trusts
- Investors and Lenders
- Builders, Developers, and Engineers
- Retailers
- Property and Asset Managers

RECENT REPRESENTATIONS

- We represented **TPG Real Estate** in a dispute over control of a 2,100-acre data center campus land development project, reaching a settlement resulting in TPG's complete control over management and development of the project on extremely favorable economic terms.
- A few months before trial, we were retained by **Anatamage, Inc.**, a cutting-edge medical device company, for a contentious dispute with its former commercial landlord. The Landlord sued Anatamage for over \$7 million, alleging that Anatamage vacated its leased space and stopped paying rent before its term ended. Anatamage cross-claimed against the Landlord for breaching its covenant of good faith and fair dealing and for

constructive eviction, alleging the Landlord falsely complained about odors coming from Anatomage’s leased space, excessively noticed inspections in bad faith, and lodged baseless zoning violation complaints with city officials. After a two week trial, the jury rejected the Landlord’s claim entirely and awarded Anatomage \$4,400,000 in compensatory damages, plus interest, and another \$4,000,000 in punitive damages, on its cross-claims. The jury’s verdict also entitled Anatomage to an award of costs and attorneys’ fees.

- We represented **Regus Corporation** in a Third Circuit appeal involving a contract dispute. A bankruptcy court held a trial and ruled that Regus Corp. was liable for breach of contract, and that decision was affirmed by a district court. We then secured a 2-1 Third Circuit outright reversal for our client.
- We represented **Samsara Inc.** in a commercial landlord/tenant action with claims for fraudulent concealment and breach of contract arising from the landlord’s failure to disclose lead and asbestos contamination before signing a 10-year lease. We successfully reversed an attachment order on appeal with instructions based on the real property court’s failure to determine whether Samsara’s retaliatory eviction defense bars the landlord’s unlawful detainer action and whether the landlord sought attachment for an improper purpose. The case settled in January 2024.
- Obtained complete victory in Delaware Chancery Court on behalf of **Mirae Asset** in the first “**busted deal**” case of the COVID-19 era to go to trial. The sprawling action concerned defendant’s attempt to sell a portfolio of hotels to affiliates of our client for \$5.8 billion. But Mirae learned about undisclosed problems with the transaction at the same time that COVID-19 caused the hotels to drastically curtail their operations. Mirae sued the defendant for breach of the purchase agreement, and defendant sued to compel Mirae to close the deal. The highly expedited schedule required what the Court described as “Herculean” discovery efforts, by which QE—over the course of a month—reviewed hundreds of thousands of documents, prepared dozens of expert reports, and conducted 49 depositions, and built a record of defendant’s breaches and material omissions and misrepresentation. After a week-long trial in late August 2020, the Court awarded Mirae the return of its \$581.7 million deposit with interest, \$3.685 million in damages, and attorneys’ fees and costs as the prevailing party. In perhaps the most broadly applicable aspect of its opinion, the Court held the drastic operational changes at the hotels constituted a breach of the purchase agreement, which is likely to have significant impact on M&A deals and litigations.
- We obtained a swift and decisive appellate victory for **Caruso Management Company** in the California Court of Appeal for the Second District. Our client operates The Grove, a Los Angeles shopping mall owned by Rick Caruso, a candidate for Mayor of Los Angeles. The Grove rejected a request to hold marches of up to 30 to 50 people through The Grove to protest Caruso’s mayoral candidacy, citing The Grove’s longstanding policies limiting the number and location of speakers at the mall. Plaintiffs alleged a violation of their free speech rights under the California Constitution, and the trial court issued a preliminary injunction requiring The Grove to permit a protest.

Within 30 days of taking over the case on appeal, QE obtained a stay, and then complete reversal of the injunction.

- We represented the founder and former CEO of **ORCO Property Group, S.A.**, a publicly-traded real estate development company based in Luxembourg, in a U.S. action asserting RICO and other claims arising from allegations that our client assisted a shareholder in his illicit efforts to acquire a controlling stake in the Company. The U.S. action was filed four years after an action in Luxembourg asserting substantially similar claims and involving the same core parties. The Court dismissed the action in its entirety, at the pleading stage, on grounds of international comity.
- In a truly historic partnership between a regulator and a private firm, we represented the **Federal Housing Finance Agency** (“**FHFA**”), as Conservator for Fannie Mae and Freddie Mac, in connection with its investigation and litigation of nearly \$200 billion in residential mortgage-backed securities. As widely reported, this was one of the most significant court actions taken by any federal regulator since the advent of the mortgage crisis, and the single largest set of actions ever filed by a governmental entity. We recovered over \$23 billion, including (i) a \$5.5 billion settlement against RBS—one of the largest recoveries ever in a securities action—and (ii) an \$800 million judgment against Nomura and RBS after a four-week trial.
- We represent the **National Association of Realtors** in connection with various suits and a DOJ investigation alleging anti-competitive activity. In one such action in the Northern District of California, we defeated a motion for a TRO and a separate motion for a preliminary injunction asserted by plaintiff Top Agent Network.
- We are lead counsel for the **ResCap Liquidating Trust**, which was formed pursuant to the chapter 11 plan confirmed by Residential Funding Company (“**RFC**”) to pursue claims for the benefit of RFC’s creditors. We brought actions against approximately 90 mortgage originator Defendants that sold defective mortgage loans to RFC—which loans were securitized by RFC and resulted in lawsuits that forced RFC into bankruptcy. The cases asserted breach of contract and indemnification claims stemming from widespread breaches of the representations and warranties the Defendants made at the time they sold the loans to RFC, which caused RFC’s liabilities and losses in the bankruptcy. We ultimately recovered almost \$1.3 billion from Defendants, including a \$68 million jury verdict against Home Loan Center. Our representation of the Trust helped to establish a growing plaintiff-friendly body of RMBS caselaw. Among other things, we successfully defeated a number of Defendants’ affirmative defenses, excluded various expert witnesses on *Daubert* motions, and prevailed on a statistical sampling methodology and multiple discovery motions. The actions have involved significant discovery, including over 250 depositions, 65 million pages of documents, and expert analysis of thousands of loans.
- We represent **Gemini Arts Initiative** and **BRT Powerhouse LLC** in connection with the development of an arts center in the Gowanus section of Brooklyn. Gemini has had to expend approximately \$20 million to clean up pollution left over from when the

property generated power for the City's rail lines, and seeks compensation from New York City as the responsible party.

- We resolved a \$1.5 billion New York real estate development dispute on behalf of an investor against Hines and Whitehall (affiliated with Goldman Sachs). After we issued a demand letter indicating we were prepared to file for arbitration, we obtained a quick settlement that enabled the parties to continue to work together on favorable terms.
- We have litigated multiple cases for trustees or securities administrators on behalf of various RMBS Trusts. Two of the cases were brought on behalf of four **Home Equity Mortgage Trust (“HEMT”)** trusts, adverse to Credit Suisse. Another case is currently pending on behalf of a **Natixis trust**, adverse to Natixis, seeking the repurchase of thousands of loans that Natixis sold to the Trust that breached representations and warranties concerning their quality. These cases, colloquially known as “put-back” actions, collectively involve claims that exceed \$2 billion.
- We assisted **The Los Angeles County Museum of Art** in negotiations with Los Angeles County over amounts the County owed LACMA under agreements from the time of LACMA's founding, when LACMA's land was donated to the County.
- We successfully defended a **French real estate magnate** against a sprawling civil RICO complaint alleging that he had engaged in a conspiracy to mislead investors.
- Represented two **real estate investors** in a fraud case in which defendant misappropriated \$3 million in loan principal. Our clients extended to certain entities loans guaranteed by the defendant, an individual. The entities did not pay, and the defendant attempted to avoid participating in the litigation altogether. QE delivered a complete victory—judgment in our clients' favor and 100% of our fees and expenses awarded—all within a year. We then obtained unanimous affirmance in the Seventh Circuit before, among others, Judge Easterbrook.
- Represented **KKR** in a dispute in which the plaintiff attempted to undo a \$77 million sale of real estate to KKR. Quinn Emanuel obtained a complete dismissal of all claims on appeal. In the process, the New York Appellate Division issued a landmark decision establishing that the Uniform Commercial Code does not allow aggrieved debtors to unwind sales after they have closed.
- On behalf of **Insolvency Services Group (ISG)**, we obtained summary judgment and an award of \$15.7 million against Meritage Homes Corp. The trial court found that defendant could not extricate itself from a repayment guarantee, which it had executed in connection with a Las Vegas real estate development venture. We also successfully defended the decision before the Ninth Circuit.
- We defended **UniCredit S.P.A.** in a long-running real estate dispute against a \$45 million fraud claim in New York State's Commercial Division. The dispute related to

the failed purchase of a hotel/condo development at 400 Fifth Avenue in New York City. We then defended the ruling before New York State's Appellate Division.

- We obtained for our clients—senior executives of **Paulson & Co. Inc.**—a complete and decisive dismissal of a civil complaint brought derivatively by Five Mile Capital seeking more than \$158 million in damages. The executives were directors of a portfolio entity, MSR Hotels & Resorts, Inc. The victory made clear that our clients properly fulfilled all duties and cleared the way for MSR to emerge from bankruptcy.
- We achieved a favorable settlement on behalf of **mezzanine lenders** to the \$5.4 billion acquisition of Stuyvesant Town-Peter Cooper Village—the largest single real estate transaction in U.S. history. Mezzanine lenders brought suit against the mortgage lender and the special servicer to the mortgage loan, among others, in connection with their attempt to transfer the property pursuant to a deed in lieu of foreclosure. In our complaint, we alleged that the defendants breached the applicable intercreditor agreement for, among other things, failing to provide prior notice of the deed in lieu to the mezzanine lenders and failing to obtain prior consent to the transfer of the property from the mezzanine lenders. While the case did not result in a reported decision on our claims, the settlement reflects the robust interpretations we offered with respect to the mezzanine lender's rights under the intercreditor agreement, paving the way for other mezzanine lenders in future disputes.
- We represented **Infinity World**, a subsidiary of Dubai World, one of the world's largest holding companies, in its dispute against MGM MIRAGE over the funding of the \$8.5 billion CityCenter project in Las Vegas. A little over a month after we filed a complaint against MGM in Delaware Chancery Court, MGM and CityCenter's lenders capitulated to Dubai World's demands. MGM agreed to fund its remaining equity contributions, to be solely responsible for potential cost overruns, and to pledge additional collateral as security for its funding obligations. CityCenter's lenders agreed to fund the full \$1.8 billion promised under CityCenter's senior credit facility.
- We were retained to represent **Oakland Bulk & Oversized Terminal, LLC (OBOT)** in Oakland regarding a Development Agreement with the City of Oakland that gave OBOT the right to build a marine terminal near the Port of Oakland and protected OBOT from later-enacted regulations. The City then passed a law that would have prohibited coal from being handled at the terminal. Following a bench trial, the court found a breach of contract and awarded our client an injunction precluding Oakland from enforcing the coal ban legislation against it.
- We represented **AIG Employee Services, Inc.** and **American International Group, Inc.** in a commercial lease dispute concerning 180 Maiden Lane in lower Manhattan. Landlord Almah, LLC sued in New York Supreme Court, Commercial Division for purported breaches of the underlying lease, which were valued at over \$30 million. Quinn Emanuel was retained after the action had commenced and prior counsel had made a largely unsuccessful motion to dismiss. Quinn Emanuel successfully joined the prior tenant and subtenant (The Goldman Sachs Group, Inc. and Goldman, Sachs &

Co.) as necessary parties and ultimately obtained dismissal of all central claims based upon a previously undisclosed release.

- We assumed lead counsel role shortly before trial on behalf of **Americana at Brand**, its parent company **Caruso Affiliated, Caruso Management Company**, and **the company's CEO** against Primo Hospitality Group. Primo sought more than \$7 million in compensatory damages, as well as unspecified punitive damages, against the four Caruso parties on a variety of contract and tort claims arising out of Primo's failed restaurant venture at Americana, a large, mixed-use real estate complex in California. Americana cross-claimed against Primo and its principal owners personally for \$1.4 million for breach of contract arising out of Primo's abandonment of its ten-year lease. We obtained more than \$1.6 million (including attorney's fees) as against Plaintiff's \$560,000 for certain tort claims.
- We were retained, more than a week after trial began, to step in and assume the role of lead trial counsel for **Caruso Affiliated Holdings** against General Growth Properties, then the nation's second largest mall developer. Our client alleged interference with prospective business relations based on threats General Growth made against a prominent nationwide restaurant chain to discourage the chain from becoming an anchor tenant in Caruso Affiliated's new shopping center across the street from a mall owned by General Growth. We obtained an \$89 million jury verdict, \$15 million of which was punitive damages.
- We defended **Langan Engineering**, a geotechnical engineering firm, in connection with claims arising out of the subsidence and tilting of the Millennium Tower, a 58-story residential building in San Francisco. Following mediation presentations by the firm, the matter was dismissed against Langan in exchange for payment of less than the amount plaintiffs had paid their expert witnesses to testify against Langan.
- We represented **KB Home, Toll Brothers, Pardee Homes** and **Beazer Homes** in connection with litigation, arbitrations, and a bankruptcy relating to the development of the "Inspirada" master planned community in Henderson, Nevada. Our work on the Inspirada development has included litigating claims by lenders over the terms of the project's \$585 million credit facility and the extent of recourse available to the transaction sponsors, arbitrating disputes between the project's consortium of partners, litigating claims under completion and non-recourse carve out guarantees and compelling performance by adjoining landowners of covenants running with the land.
- **Giorgio Armani Corporation** retained us in a dispute against real estate developer SL Green over Armani's flagship Madison Avenue retail store. We won a temporary restraining order for Giorgio Armani Corporation, leading to a settlement allowing Armani to remain in the store long term.
- We represented **K. Hovnanian Homes** in an arbitration against Schumacher/60th and Monroe Partners, LLC arising from a land purchase contract. The arbitrator ruled that Schumacher failed to meet pre-closing milestones, which excused K. Hovnanian's obligation to close, and awarded K. Hovnanian its deposit and attorneys' fees and costs.

- We represented **Playa Vista**, a master land developer in Southern California, in a dispute with a well-known real estate developer in which the real estate developer sought almost \$700 million in damages for breach of a series of land purchase agreements. With an early motion in limine, the judge excluded the vast majority of the claimed damages, and the case settled shortly thereafter for a nominal amount.
- After a two-week jury trial obtained a \$30 million judgment and attorneys' fees for breach of contract on behalf of **Mammoth Lakes Land Acquisition, LLC** against the Town of Mammoth Lakes. This was the largest jury verdict in the history of Mono County, California and the 67th largest verdict in the nation in 2008. We also successfully defended the verdict in the California Court of Appeal
- We acted for the **Government of Azerbaijan** in an UNCITRAL investment treaty arbitration concerning a high-value real estate site in the center of Baku, Azerbaijan's capital and largest city.
- We represented **Fannie Mae** in numerous real estate disputes relating to, among other things, multi- and single-family developments, allegations of water pollution in areas covered by developments on which Fannie Mae provided loans, and matters involving mortgage-backed securities. We have won or resolved all of our Fannie Mae matters on business terms better than those set at the beginning of the case by our client.
- On behalf of a ninety-year-old, disabled **World War II veteran**, we defended vacatur of a judgment obtained through undue influence, resulting in the restoration to our client of over 1,000 acres of ocean front property north of Malibu estimated to be worth up to \$200 million. The California Court of Appeal unanimously affirmed the judgment less than a week after oral argument.
- We obtained a unanimous jury verdict of close to \$3 million on behalf of **Borg Produce** in a commercial lease dispute relating to fraud and breach of contract on CAM overcharges. We also defeated counterclaims for nuisance and breach of the lease. On the morning of the punitive damages phase of the trial, the case settled for an amount in excess of the verdict. Prior to trial, our client offered a substantial payment to settle the case.
- We represented **Triple 5 Corporation**, the founding partner of the Mall of America, in a dispute over management of that development—one of the largest commercial properties in the world. At trial we persuaded a Minnesota District Court to transfer control of the Mall of America from Simon Property Group to Triple 5.
- We represented **Packaging Advantage Corporation**, the leading manufacturer of hospitality sized soap, shampoo and related products, in a case against its landlord over the lease of a manufacturing campus in Southern California. The landlord sought a declaration that the manufacturing company had breached the lease so the landlord could evict the manufacturer and redevelop the property or, at a minimum, terminate

the manufacturer's option to extend the lease to 2014 on favorable terms. We prevailed after a three-week trial.

- We represented an **NFL stadium** in a highly publicized dispute with an NFL franchise that leased the stadium. The case involved a breach of the lease between the team and the stadium, the team's intention to move to a new stadium in a nearby city, and complex damages and mitigation issues relating to the unique use and development potential of the stadium property. We recovered nearly \$30 million for our client.
- After a two-week trial we obtained a \$4.5 million jury verdict of intentional fraud on behalf of a **real estate developer** against a civil engineering firm. The jury also found the case warranted punitive damages; the engineering firm agreed to settle before that phase of the trial began for the full amount of the verdict, plus interest, and all costs and fees that the developer incurred.
- We represented **Derek Quinlan** in litigation concerning the ownership of the Maybourne Hotel Group, which owns and controls London's Claridge's, Connaught and Berkeley hotels. The business was valued in excess of £1 billion, and the action was one of the largest disputes in London's courts up to that time. We prevailed in a three month trial in 2012 and upheld that verdict in the Court of Appeal in 2013.
- We represented home builder **TOUSA** in connection with a \$675 million claim brought by Deutsche Bank based on the default of an off balance sheet structured financing used to fund the largest acquisition of home sites in Florida history. We successfully brought claims against the engineering firm that improperly estimated the cost of horizontal land development, contributing to the default in project financing.
- On behalf of **People's Choice Mortgage** we obtained summary judgment on millions in class claims alleging misconduct against a lender from which People's Choice purchased numerous mortgages it packaged into mortgage-backed securities.
- We represented **Poe Development** against another major developer in a dispute over a 5-stage project in the Santa Clarita Valley involving thousands of homes as well as commercial and retail space. The dispute centered on allegations that the defendant developer had made significant misrepresentations to our client in connection with settling a previous lawsuit, in particular with respect to acquiring water for the development. Our efforts exposed defendant's experts as hired guns and their seemingly reasonable defenses as meritless on the way to settling for nearly the entire value of our claim.
- We represented **IBM** in a real estate dispute brought by several developers who claimed that IBM breached a contract for sale of land, allegedly by failing to assist the developers in obtaining a zoning variance from the City Council. We won a dismissal of the fraud claim on summary adjudication, and, after filing several key motions *in limine*, settled the case favorably on the first day of trial.

- We represented **Kmart**, and its former subsidiaries, **Borders Book Store**, **Pace Membership Warehouse** and **Builders Square**, in shopping center real estate litigation in many U.S. jurisdictions. The cases involved leasing and development disputes, alleged violations of restrictive covenants and shopping center agreements, easement issues, common area disputes, recording and title disputes, construction litigation, and other conveyance, operation and sale issues.
- We represented a **New York based asset manager** in a dispute regarding the management of a billion dollar commercial real estate portfolio. An action was filed against our client in New York Supreme Court, alleging the receipt of various improper fees, and seeking to rescind our client's residual interests in more than a dozen properties. We eliminated the lead counts and broadest damages claims at the pleading stage, and ultimately secured a settlement on favorable terms.
- We represent **Graham Harris** and certain entities he controls in disputes with NAMA, the Irish "bad bank," arising out of the development of a group of aparthotels in Central London. The developments were financed by Irish banks that failed during the Irish financial crisis, causing development delays and payment defaults by the development companies, following which NAMA appointed administrators to the companies. The two largest disputes concern the continuing rights of Mr. Harris' businesses to occupy the part-completed premises and whether, in the face of the banks' default, NAMA can enforce Mr. Harris' personal guarantees given in respect of the companies' borrowings.