

## Simona Gory

### Representative Cases – Quinn Emanuel Urquhart & Sullivan, LLP

#### Appellate Matters/Constitutional Law

- Lead associate on small team representing New York Governor in matter involving novel issue of constitutional law, upholding validity of the Governor's appointment of a Lieutenant Governor: *Skelos v Paterson*, (2009) 13 N.Y.3d 141 ([selected media](#)).
- Acted for bankruptcy trustee in appeal to New York's highest court on status of *parli delicto* defence (whether auditors and other advisers are liable to party who is also at fault): *Kirschner as Trustee of Refco Litigation Trust v KPMG LLP* (2010) 15 N.Y. 3D 466.
- Advice on various constitutional matters including application of federal preemption doctrine in context of national product liability litigation; application of first amendment rights in context of government limitations on advertising directed at children; constitutional equal protection rights in context of school funding.

#### Structured Finance and Derivatives

- Acted for AIG in \$1.2 billion contract dispute by counterparty claiming that AIG triggered bankruptcy defaults under 1987 ISDA as a result of US government bailout: *Brookfield Asset Management, Inc. v AIG Financial Productions Corp.*, 2010 U.S. Dist. LEXIS 103272 (29 September 2010).
- Successfully enjoined a \$3 billion proposed asset sale between BankAtlantic Bancorp and BB&T on basis that the transaction violated covenants in trust preferred securities issued by bank: *In re BankAtlantic Bancorp, Inc.*, (2012) 39 A.3d 824.
- Counsel in first referral to ISDA external review panel following Big Bang Protocol on decision of Credit Derivatives Determination Committee (whether Cemex S.A.B. de C.V. [had triggered](#) a restructuring credit event).
- Acted for Hildene Capital Management against FBR and Wells Fargo alleging sale of Tropic CDO assets in breach of indenture: *Hildene Capital Management v Friedman, Billings, Ramsey Group, Inc.*, 2012 U.S. Dist. LEXIS 115942 (15 August 2012).
- Acted for BNP Paribas against Bank of New York Mellon alleging breach of contract for misapplication of insurance proceeds received in connection with RMBS investments: *BNP Paribas v The Bank of New York Trust Company, N.A.*, S.D.N.Y. 11 Civ. 350 (28 March 2012).
- Acted for AIG Financial Products Corp. against a large Washington public utility

district asserting breach of an interest rate swap agreement related to the district's issuance of municipal bonds: [\*AIG Financial Products Corp. v Public Utility District No. 1 of Snohomish County\*](#), (2009) 675 F. Supp. 254; [\*Public Utility District No. 1 of Snohomish County v AIG Financial Products Corp.\*](#), (W.D. Wash. Civ 09-1086, 7 January 2010).

- Acted for Morgan Stanley in dispute with Citibank over termination and liquidation rights in relation to credit default swap on CDO: [\*Citibank, N.A. v Morgan Stanley & Co. International\*](#), (2010) 724 F. Supp. 2d 398.
- Acted for AIG Financial Products Corp against six CDOs involving alleged termination of interest rate swaps due to downgrades of AIG's credit rating; successfully defended action seeking injunctive relief ordering that relevant amounts due to AIG be placed in escrow: [\*Davis Square Funding I, Ltd v AIG Financial Products Corp.\*](#), 2009 U.S. Dist. LEXIS 30211 (9 April 2009).
- Acted for Rabobank against Wells Fargo alleging breach of contract and seeking injunctive relief in relation to interest rate swap agreement on CDO: [\*Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A v Brookville CDO Ltd\*](#), 2008 U.S. Dist. LEXIS 100460 (10 December 2008).
- Acted for Erste Abwicklungsanstalt (German government agency established to wind up WestLB) in suit seeking over \$200 million in damages against Wells Fargo, as CDO trustee, and Collineo Asset Management, as collateral manager, for breaching investment concentration limits under CDO agreements.
- Acted for AIG Financial Products in suit seeking over \$300 million in damages against Moore Capital for improper and mispriced sales of RMBS into the Triaxx CDO structures.
- Acted for Syncora Guarantee Inc. against Jefferson County, Alabama and JPMorgan Chase alleging fraud in connection with the procurement of municipal bond insurance and seeking over \$400 million in damages for past and future claims payments.
- Acted for Ambac against Citigroup and Credit Suisse Alternative Capital alleging fraud, negligent misrepresentation, fraudulent conveyance and other claims related to credit default swaps referencing \$2 billion of obligations issued by CDO structured by Citigroup and managed by Credit Suisse.