

Excellence | Collaboration | Innovation

LITIGATION

YEAR IN REVIEW | 2019

MAYER | BROWN



WITH THANKS

I am delighted to share with you Mayer Brown's *Litigation Year in Review*. It highlights the successes we achieved in 2019 by partnering with clients and delivering on our core principles.

Excellence - our commitment to client service will always remain our number-one priority. Clients rely on us to deliver extremely high and uncompromising standards of quality across a variety of litigation disciplines.

Collaboration - our global platform of litigators is built to serve the complex needs of our clients, whose businesses and matters are increasingly multijurisdictional in nature. Our "one-firm" culture—seamless and integrated across all practices and regions—ensures that our clients receive the best of our knowledge and experience.

Innovation - clients look to us for fresh ideas to familiar problems. We believe that insight and continued innovation are key characteristics to solving our clients' concerns in an ever-changing business environment.

We hope you enjoy this brief overview, which features some of the complex and noteworthy cases we have worked on and also celebrates the arrival of a dozen lateral partners who are committed to advancing the strategic aims of our clients.

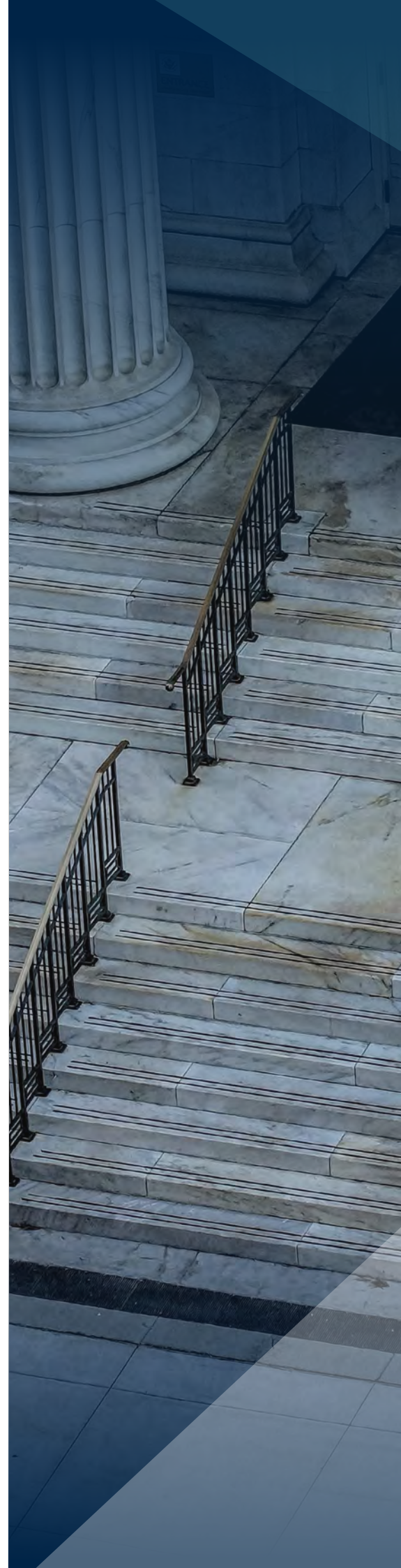
Thank you for allowing us to be a part of your success.



RICHARD A. SPEHR
HEAD OF LITIGATION & DISPUTE RESOLUTION
| NEW YORK

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As one of the largest litigation practices in the world—with more than 500 litigators worldwide—our team has the intellectual depth, creativity and geographic scope to successfully resolve virtually any type of legal dispute in the Americas, Asia, Europe and the Middle East.

LAW360

2019

PRACTICE GROUPS OF THE YEAR

For the fourth consecutive year, Mayer Brown was named a 2019 “Firm of the Year” by Law360 on the basis of its victories in eight “Practice Group of the Year” categories, including: Appellate, Banking, Benefits, Consumer Protection, Environmental, Project Finance, Securitization and Tax. This award recognizes the top firms “behind the litigation wins and major deals that resonated throughout the legal industry in the past year.” Many of the prominent dispute-resolution activities that led to this recognition are captured herein.

APPELLATE

Mayer Brown was named a *Law360* Appellate Practice Group of the Year after arguing eight cases before the US Supreme Court last Term—more than any other firm. The profile highlighted two major victories before the Court (*Lamps Plus Inc. v. Varela* and *Weyerhaeuser Company v. United States Fish and Wildlife Service*) and referenced significant circuit court decisions in favor of high-profile clients, including Facebook and HSBC.

BANKING

Mayer Brown was once again named a *Law360* Banking Practice Group of the Year for earning highly significant victories for many of the world's leading financial institutions, including Société Générale, HSBC, The Bank of New York Mellon and Citibank N.A.

BENEFITS

Mayer Brown earned a spot in *Law360's* Benefits Practice Group of the Year category for winning dismissals in a wave of ERISA class action lawsuits against prominent universities throughout the United States. Our practice was also recognized for securing a win for AT&T in an ERISA class action suit and representing a leading financial institution in a complex transaction involving the largest full plan termination in 2019.

TAX

Mayer Brown was named a *Law360* Tax Practice Group of the Year after earning key victories including one for Bank of America over the US Department of Justice in a tax refund battle. Our practice also secured a rare bench opinion for Fidelity and a coal-refining partner in a fight with the IRS over credits.

CONSUMER PROTECTION

For the third consecutive year, Mayer Brown was recognized as a *Law360* Consumer Protection Group of the Year after securing a significant victory for Facebook involving data collection and steering a variety of other household-name companies to victory in high-stakes consumer litigation, including AT&T, Cablevision and Google. Our litigators also scored a series of precedent-setting victories for Nestlé and its iconic Coffee-mate brand involving labeling and false advertising class actions.

ENVIRONMENTAL

For the second year in a row, Mayer Brown's Environmental practice was recognized as a *Law360* Practice Group of the Year after securing a complete victory in the US Supreme Court in the most closely watched environmental case concerning the scope of the Endangered Species Act and achieving multiple precedent-setting wins in Clean Water Act litigation across the United States. The practice also continues to defend companies such as 3M, Nicor and Veolia against some of the most high-profile mass/water contamination cases in the nation.

“Mayer Brown was named a *Law360* Appellate Practice Group of the Year after arguing eight cases before the US Supreme Court last Term.”



Devi Shah | London

Mayer Brown is a significant force in today's major world markets. We are well-known for our strategic counsel and for our dispute-resolution capabilities.



NLJ

TRAILBLAZER AWARDS

Since 2014, *The National Law Journal* has published an annual list of Trailblazers, recognizing lawyers who show a “deep passion and perseverance in pursuit of their mission, having achieved remarkable successes along the way.” In the past five years, 15 Mayer Brown litigators have been recognized as Trailblazers for moving the needle in the legal industry and exhibiting excellence in their respective practices.

LAUREN R. GOLDMAN NEW YORK

■ PIONEER SPIRIT

Lauren Goldman attended law school with dreams of arguing appeals. "A professor introduced me to the founder of Mayer Brown's appellate practice and I was fascinated." Now, 20 years later, she co-leads the practice.

■ TRAILS BLAZED

Goldman develops strategies for high-risk cases and does a great deal of work in technology. "I started out working on mass tort cases, which often involve complicated legal and scientific issues. That work eventually led me into data privacy, which seemed to be an expanding area of law. Data privacy cases are intriguing because you're frequently applying traditional legal principles to very modern disputes." She has represented Facebook for years, including in some of the first matters brought under Illinois' Biometric Information Privacy Act. Her matters include *Gullen v. Facebook*, in which a US district judge granted Facebook summary judgment in a putative class action brought by a nonuser that targeted the company's facial-recognition technology. In June 2019, the Ninth Circuit unanimously affirmed the decision. Goldman also secured a victory in *Smith v. Facebook*, which addressed the sufficiency of Facebook's disclosures about data collection. "The Ninth Circuit found that the challenged practices were fully disclosed in Facebook's terms and policies and held that plaintiffs' consent to those terms barred all of their claims."

■ FUTURE EXPLORATIONS

The plaintiffs' bar will push for expansive treatment of federal and state laws that provide for statutory damages. "Plaintiffs may keep trying to apply these statutes to areas they were not intended to cover. And at some point, Congress may enact federal privacy litigation that will preempt the patchwork of state laws."

“Data privacy cases are intriguing because you’re frequently applying traditional legal principles to very modern disputes.”



ELIZABETH MANN LOS ANGELES

“We got a judgment that you can’t ever certify a class because everyone’s health is different...”



PIONEER SPIRIT

Elizabeth Mann always wanted to be a trial lawyer. “I ended up doing a defamation case for a health care client, I got a good result, and we formed a good relationship. So, when they had health care lawsuits, they called me. I thought it was interesting. I started studying and learning, and soon I was a health care lawyer.”

TRAILS BLAZED

Mann represents clients in many different areas, including around wellness and coaching programs. “Insurance companies and third-party administrators are not licensed to provide services, but they can deliver educational services. I’ve helped a number of health care companies develop these.” Among her clients, she has worked with American Specialty Health for many years, including successfully defending the company in a class action lawsuit in Oregon over Section 2706, the antidiscrimination provision of the Affordable Care Act. The lawsuit, filed by naturopathic physicians and their patients, claimed ASH discriminated against them by denying claims that were otherwise covered when fulfilled by other medical providers. “We defended the case very purposely by establishing that no plaintiffs had any injury, and therefore they had no standing. We got a judgment that you can’t ever certify a class because everyone’s health is different and therefore claims cannot be brought as a class action.”

FUTURE EXPLORATIONS

Half of Mann’s practice is health care litigation and the other half is M&A. “I see two things. One is significant merger activity and consolidation. No matter where you are on the political spectrum, our system is unsustainably expensive. So, we will see a drive toward efficiency. But — and this is harder — we need people to take more responsibility for their own health. And a tool to take care of that is the federal government and insurance companies experimenting with all kinds of reimbursement options that incentivize wellness.”

PHILIP R. RECHT LOS ANGELES

“These informal, consensus-based rules will become more popular.”



PIONEER SPIRIT

Phil Recht attended law school in the late 1970s with the intention of returning to the federal government. “But everyone I had relationships with were Democrats, and they all lost in 1980. So I went into private practice.” In 1992, he became the lawyer for Bill Clinton’s California campaign. “When Clinton won, I was appointed chief counsel of the National Highway Traffic Safety Administration (NHTSA). I worked there for close to five years and then joined Mayer Brown to start its California government regulatory practice.”

TRAILS BLAZED

During Recht’s time in the Clinton administration, NHTSA developed new standards for advanced airbags. “Those still govern how airbags work today.” In private practice, Recht has represented various clients in cutting-edge regulatory matters. “My first client was a group of 70 California tribes negotiating the first-ever casino compacts with the state.” He was also hired by Waymo, then part of Google. “We helped enact the first state laws — in Nevada, Florida and California — to allow testing of autonomous vehicles (AVs). We also worked with NHTSA to encourage adoption of a federal AV regulatory scheme.” He has represented clients in other emerging industries, including Airbnb and Bird scooters. “These matters all involve working with government from a clean sheet of paper to develop first-of-their-kind regulatory schemes for new industries.”

FUTURE EXPLORATIONS

The rate of technology change used to be slow enough that government could stay ahead of it. “But the pace has accelerated and will keep accelerating, and government won’t be able to keep up. To regulate quickly and effectively, government can work with industry to develop voluntary compliance standards. These informal, consensus-based rules will become more popular.” Companies are also hiring more in-house regulatory attorneys and doing so more quickly, than before. “The learning curve is shorter and everything is moving much faster.”

A TRUE PARTNERSHIP

NOTABLE CASES

CDK GLOBAL

We represent CDK Global in a multi-district litigation in which CDK is alleged to have conspired with its primary competitor, The Reynolds and Reynolds Company, to exclude third parties from the “data integration” market, monopolize the alleged after-market for applications for automobile dealers who license the CDK dealer-management systems, and engage in anticompetitive exclusive dealing contracts with its customer dealers and third-party vendors. The MDL is currently comprised of two class actions—one on behalf of dealers, the other on behalf of vendors—and three individual actions on behalf of a third-party “integrator,” a vendor and one of the largest companies in the automotive space. In one of the early-filed actions, plaintiff brought a motion for a preliminary injunction seeking to enjoin defendants’ alleged anticompetitive conduct. It was successful at the district court level, but reversed on appeal in the Seventh Circuit. The litigation has expanded quickly to involve players from virtually every level of the supply chain.

GOOGLE

Mayer Brown litigators won a ringing district court victory for Google in a significant class action alleging that Google’s core cost-per-click advertising product business made “preferential secret deals” with large companies that host the ads. During the eight-year litigation, we achieved three successful motions to dismiss, won a motion disqualifying the named plaintiff due to a conflict of interest, successfully argued that the alternative plaintiff lacked standing, and even beat back an attempt by the original plaintiff to take over the litigation. The alternative plaintiff has appealed to the Ninth Circuit. As the case stands, plaintiff and his counsel will recover nothing following eight years of litigation.

P&O FERRIES

Mayer Brown is representing P&O Ferries, the leading UK-based ferry operator, in respect of claims arising out of the award of and cancellation of capacity contracts with ferry companies in relation to Brexit arrangements at the Port of Dover. This high-profile matter was featured in *Law.com’s* “Legal Week” and provides a glimpse into Mayer Brown’s role serving as counsel to major organizations preparing to operate post-Brexit.

MULTINATIONAL MANUFACTURER

Mayer Brown is currently conducting an internal investigation involving alleged Foreign Corrupt Practices Act (FCPA) violations in China for a large multinational manufacturing client operating in the fields of industry, worker safety, health care and consumer goods. This investigation focuses on travel and record-keeping related to marketing its products in China and involves more than 20 lawyers from Mayer Brown's Chicago, Hong Kong, Washington DC, Los Angeles, Beijing and Shanghai offices.

NICOR

Mayer Brown litigators represented Nicor in a case in which the City of Evanston, Illinois alleged that contamination caused by Nicor migrated a half mile into the city and contaminated its water mains, putting the health of the city's 77,000 residents at risk. The city demanded an injunction that would require Nicor to conduct a detailed study and replace miles of aging city water mains at a cost of hundreds of millions of US dollars. After a two-week trial that included more than 10 experts, a federal trial court ruled in favor of Nicor, determining that there was no evidence that the water mains were contaminated by Nicor and no evidence that the city's water posed a risk to its residents. In June 2019, the Northern District of Illinois dismissed the case with prejudice.

WYNN MACAU

Working alongside local counsel in Malaysia, we secured an important win in the Malaysia High Court in a HK\$33 million claim on behalf of our longstanding client, Wynn Macau. This judgment appears to be the first time the Malaysian Court allowed the enforcement of outstanding gaming credit by a foreign casino. Prior to this judgment, the general sentiment in the gaming world was that foreign gaming credit and transactions related to gaming are not enforceable in Malaysia. This judgment will significantly alter how the gaming industry deals with credit patrons from Malaysia. The defendant has appealed and the case will be heard by the Malaysia Court of Appeal in July 2020.

MULTINATIONAL FOOD & BEVERAGE CORPORATION

A cross-office Mayer Brown litigation team obtained a significant victory for our client in an ICC international arbitration against the exclusive licensee of the client's trademarks in the Middle East. The claims centered on a number of unauthorized and damaging actions that the licensee was taking with our client's trademarks. Following a two-week trial in London, the arbitration panel unanimously declared the licensee in material breach and repudiation of the agreements and awarded our client the ultimate relief it was seeking: the right to immediately terminate the agreements 13 years prior to the 2032 expiration date. The panel also denied the licensee's counterclaims for over US\$71 million in damages.

LAMPS PLUS

Mayer Brown litigators obtained a US Supreme Court victory for Lamps Plus in a case addressing whether a court may order class-wide arbitration when an arbitration agreement does not expressly discuss the subject. The Court held, by a 5-4 vote, that the Federal Arbitration Act (FAA) requires an affirmative basis in the contract for concluding that the parties agreed to class arbitration—recognizing that class arbitration is fundamentally different from the individualized arbitration protected by the FAA. The Court therefore reversed the Ninth Circuit’s decision that had allowed class arbitration by applying the state-law public policy rule that ambiguities are construed against the drafter. That holding is likely to have broad impact in other cases challenging the enforcement of arbitration agreements.

BNYM & CITIBANK

Mayer Brown litigators obtained dismissal of claims asserted by the Federal Deposit Insurance Corporation (FDIC) against The Bank of New York Mellon and Citibank, N.A. in the Southern District of New York for their alleged breach of contractual and statutory duties as RMBS trustees. This was plaintiff FDIC’s second attempt to move past the pleading stage in its US\$695 million suit following a previous dismissal for lack of standing. The court dismissed the case again, finding that the claims had not been ratified by their current owner.

COLUMBIA PIPELINE GROUP

Mayer Brown litigators obtained a victory in an appraisal action filed in Delaware Chancery Court challenging the US\$25.50/share deal price in TransCanada’s US\$13 billion acquisition of Columbia Pipeline Group. After a five-day trial and extensive post-trial briefing, the court rejected the petitioners’ attempt to value Columbia at US\$32.47/share and agreed with TransCanada that the deal price was the best indicator of Columbia’s fair value. Two months later, we obtained another victory in a securities action filed in the Southern District of New York alleging disclosure violations and breaches of fiduciary duties in connection with the acquisition. The court granted Columbia Pipeline’s motion to dismiss—which plaintiffs did not appeal—finding that the putative class claims were time-barred and also failed on the merits.

NORDDEUTSCHE LANDESBANK

A two-office maritime team in Hong Kong and Singapore represented a syndicate of lenders in ship-mortgage enforcement proceedings involving the supertanker “Brightoil Glory.” The supertanker was owned by a subsidiary of Hong Kong-listed company Brightoil Petroleum Holdings Limited, which filed for bankruptcy protection in Singapore. The Mayer Brown team took control of the ship in international waters in the Persian Gulf and directed it several thousand nautical miles to Hong Kong where they arrested it upon arrival. Mayer Brown succeeded in the Hong Kong Court of Appeal by obtaining the dismissal of Brightoil’s attempt to stay the court sale of the vessel pending the Singapore restructuring, thereby enforcing the lenders’ security rights. The Court of Appeal victory marked the turning point in the lenders’ litigation against Brightoil.

VANTAGE DRILLING INTERNATIONAL

Mayer Brown litigators helped Vantage Drilling International (VDI) defend its interest in multiple proceedings arising from Brazil's "Operation Car Wash." The dispute arose out of a US\$1.8 billion contract between VDI and Petrobras that Brazilian authorities alleged had been secured by bribery. After VDI secured an arbitration award for US\$700 million, Petrobras refused to pay, alleging that VDI had committed bribery. A Brazilian court issued a restraining order freezing US\$124 million of VDI's assets and asked the US Department of Justice to enforce the award in the United States. Our litigators successfully challenged the order in Brazil and the United States. In Brazil, we convinced an appellate court to stay the restraining order, while the DOJ adopted our argument that the restraining order was unenforceable. Subsequently, Petrobras and VDI entered into an agreement to satisfy the arbitration award.

2019

FINANCIAL TIMES'
MOST INNOVATIVE
LAW FIRMS



INNOVATIVE LAWYERS

FINANCIAL
TIMES

Mayer Brown continues to be recognized on a global basis for our ability to take on challenging matters and cases that require innovative, out-of-the-box solutions.

- Up against over 50 submissions, Mayer Brown was ranked as the “Most Innovative Dispute Resolution Firm” in Asia Pacific by the *Financial Times*.
- Mayer Brown was ranked among the top 10 “Most Innovative Law Firms” in Asia Pacific by the *Financial Times*, citing our precedent-setting international arbitration work for “invoking new rules introduced by the Singapore International Arbitration Centre” in a novel way that “represents a shift in the funding and conduct of arbitrations.”
- Mayer Brown was ranked as one of the “Most Innovative Law Firms: Overall” in the *Financial Times’* annual report, “North America Innovative Lawyers.” The report recognized our innovation in (1) collaborating in securing major settlements for a global bank in connection with related investigations, (2) enabling business growth and transformation through our representation of a global food and beverage company in a US\$7 billion licensing agreement and (3) obtaining a nationwide injunction for 60,000 Haitians residing in the United States.

LATERAL HIRES

2019 was another groundbreaking year for cultivating talent across the Americas, Asia and EMEA. The exceptional lawyers who joined our firm this year further strengthen our global footprint and enhance our litigation capabilities worldwide. We are delighted to introduce this distinguished group of lawyers to our clients.

LUIZ GUSTAVO BEZERRA
RIO DE JANEIRO / SÃO PAULO (T&C)



“He is recognized by major rankings and directories, both local and international.”

With 20 years of professional experience in both consulting and litigation, Luiz focuses his practice on environmental matters. He has a successful track record in judicial and administrative environmental-related litigation, as well as in negotiations (and other alternative dispute resolution methods) with governmental authorities, public prosecutors and other stakeholders. Luiz is the coordinator of the environmental committee and a board member at the Instituto Brasileiro de Direito da Energia and chair of the environmental licensing group of the AMCHAM.

Luiz also serves as a teacher for several post-graduation degree courses on environmental law. He is recognized by major rankings and directories, both local and international, and is the author of a wide range of academic papers, books and technical articles on environmental matters.

CHRIS CHAPMAN
LONDON



Chris advises banks, insurers, other financial institutions and their senior managers on contentious and non-contentious regulatory issues under UK and EU law, including internal and external investigations and domestic and cross-border transactions, and matters involving regulatory and law enforcement authorities, such as the Financial Conduct Authority and the Prudential Regulation Authority. He also represents financial institutions in litigation and arbitration disputes. Chris previously served as head of contentious insurance regulation at another large international law firm.

ALAIN FARHAD
DUBAI



Alain acts as legal counsel or as an arbitrator in international arbitration proceedings arising out of commercial contracts, construction projects or investment protection treaties. He has experience in resolving disputes relating to many different business sectors, with a focus on the oil and gas, infrastructure, trading and real estate industries. Alain has also represented a number of governments, as well as state-owned entities, in commercial or investment treaty disputes. He has been based in Dubai since January 2011. Prior to relocating to the Middle East, Alain practiced international arbitration in Paris. He is a French qualified Avocat à la Cour and a member of the New York Bar.

DANIEL T. FENSKE
CHICAGO

Daniel concentrates his practice on antitrust litigation, having represented clients in DOJ and FTC investigations, class actions and monopolization suits. Along with colleagues from Mayer Brown's Chicago and Washington DC offices, he currently represents a defendant in a large antitrust MDL in the computer software space. In recent years, Daniel represented a major multinational company in an investigation by the DOJ Antitrust Division and in follow-on civil litigation. He also advised a major telecommunications company in a significant monopolization suit, helping to successfully obtain summary judgment for his client. Most recently, he represented a health care company in successfully obtaining dismissal of a suit alleging a conspiracy to monopolize. Additionally, Daniel maintains a diverse appellate practice.

MAURO PEDROSO GONÇALVES
BRASÍLIA (T&C)



Mauro focuses his practice on briefing and arguing cases before the Brazilian highest courts. He also crafts strategies and briefs major issues in appellate and trial courts, as well as in courts of accounts and regulatory agencies. Moreover, he has substantial experience in pre-litigation cases, settlement negotiations and cross-border litigation. Mauro's unparalleled reputation in the legal market makes him a valuable asset in strengthening Mayer Brown's appellate practice in Brazil. Before joining the firm, among other positions, he served as a law clerk at the Brazilian Superior Court of Justice.

ADRIANA GIANNINI
SÃO PAULO (T&C)



Adriana has been practicing competition law since 2000, including merger-control notifications, cartel and antitrust investigations, as well as antitrust litigation. She specializes in complex merger review cases, cross-border cartel and abuse of dominance investigations, and advises leading international players and large national companies before the Brazilian Antitrust Authorities. Adriana is also active in the development and implementation of competition law compliance programs for companies and trade associations, and the development and review of distribution programs.

ULRICH HELM
FRANKFURT



Ulrich advises major companies and organizations on complex arbitration and litigation proceedings in connection with infrastructure and plant construction projects as well as out-of-court disputes. He has substantial experience with infrastructure investments, energy disputes and international arbitration. Prior to joining Mayer Brown, Ulrich co-founded and served as head of the German infrastructure, energy, resources and projects practice at another large international law firm.

JASON LINDER
LOS ANGELES / WASHINGTON DC



Jason is an experienced trial lawyer who served as a senior DOJ FCPA prosecutor and, most recently, headed the white collar practice of a prominent Los Angeles firm. He guides companies, boards and executives through crises and cross-border investigations and, when necessary, zealously defends them before government agencies around the world. Jason appears regularly before the DOJ, US Attorney's Offices, the SEC, and other US and international regulatory agencies, with a particular focus on FCPA/ anti-corruption, money laundering and securities fraud matters, and has led investigations in more than 60 countries in every major industry sector.

LORENA NISIYAMA
BRASÍLIA (T&C)



Lorena advises clients on all areas of competition law, with a strong focus on cartel investigations, abuse of dominance, negotiations of leniency and settlement agreements with the antitrust authority, antitrust litigation regarding CADE (Brazil's Administrative Council for Economic Defense) decisions and general consulting in the area, particularly in vertical agreements and distribution issues. Lorena is also very experienced in internal antitrust audits and antitrust compliance investigations and trainings. She is recognized by numerous prestigious directories and publications such as *Global Competition Review*, *Análise Advocacia 500* and *Legal 500* as an antitrust Rising Star. She is also a pro bono professor of Antitrust Law at the Universidade de Brasília Law School.

FRANCISCO TODOROV
BRASÍLIA (T&C)



Francisco serves as the head of Mayer Brown's antitrust group in Brazil. He focuses on several areas of competition law, including merger-control filings, cartel investigations, abuse of dominance, negotiations of leniency agreements and termination of practice, antitrust litigation regarding CADE (Brazil's Administrative Council for Economic Defense) decisions and general consulting in relation to competition law. He is recognized by numerous prestigious directories and publications, including *Chambers and Partners*, *Global Competition Review*, *Análise Advocacia 500*, *Latin Lawyer 250* and *Legal 500* as one of the most prominent antitrust lawyers in Latin America. He is also a pro bono professor of Competition Law at Universidade de Brasília Law School.

GLENN K. VANZURA
LOS ANGELES

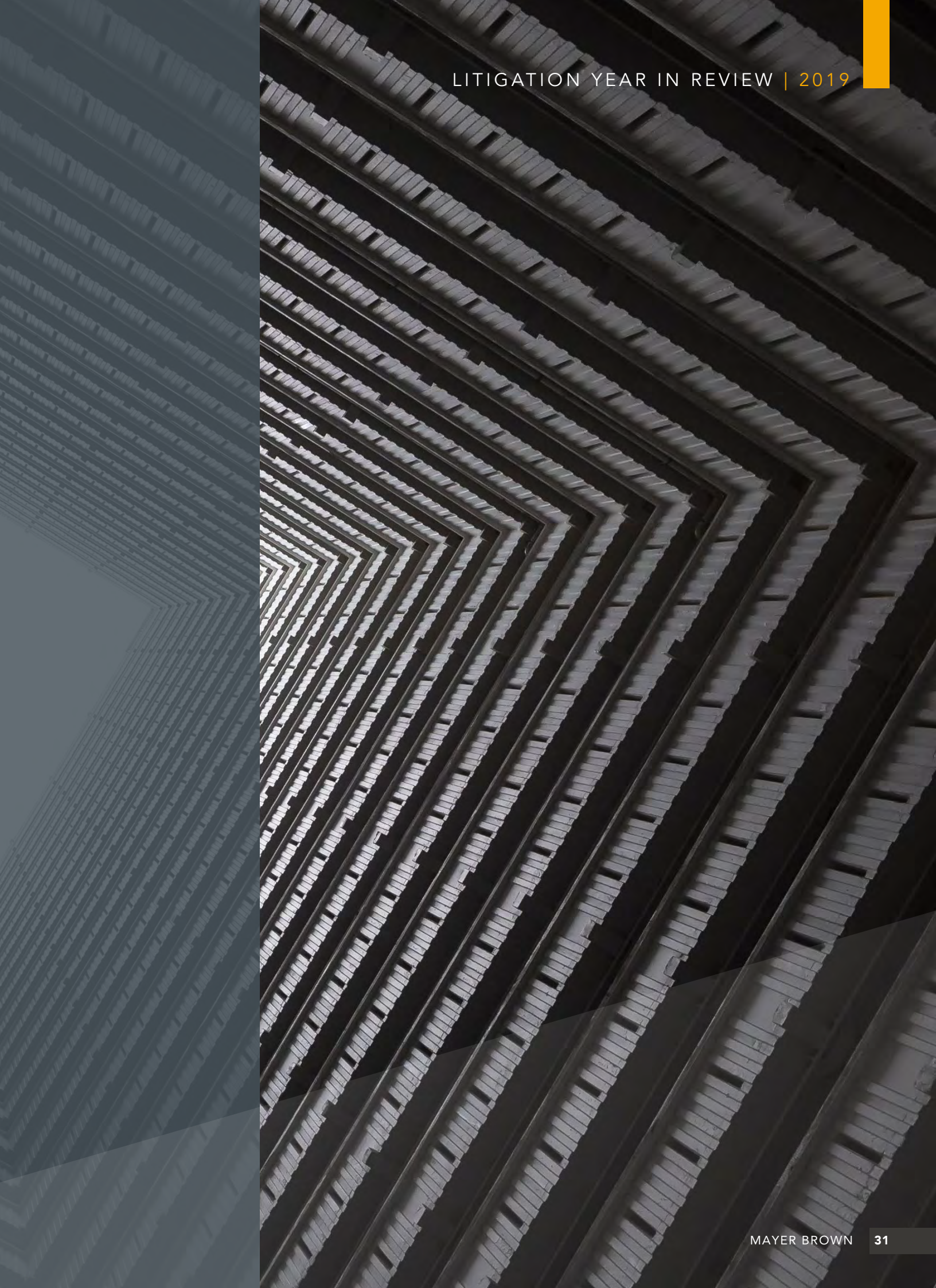
Glenn is a complex commercial litigator with 20 years of experience—both as an economist and as a lawyer—in securities litigation, complex business litigation, white collar criminal matters and internal corporate investigations. He has defended multiple civil litigation matters involving more than US\$2 billion in claimed damages each, and has represented clients before the DOJ, SEC, FINRA, EPA and other US government agencies. Although based in California, Glenn's matters have taken place throughout the United States and overseas. His clients have included Fortune 100 companies, directors, officers and other individuals in a variety of industries, including the biopharmaceutical, semiconductor, medical service provider, automotive, real estate, casino gaming, hotel, smartphone application, entertainment, manufacturing and restaurant industries. Glenn has also represented Am Law 100 law firms in legal malpractice and related matters, and provided neutral party consultation to mediators in securities matters, particularly in respect of loss causation and damages issues.





EMILIE VASSEUR
PARIS

Emilie has almost 20 years of experience in civil and commercial litigation. She represents listed and non-listed companies in diverse industry sectors in connection with their most complex litigation matters. Emilie advises clients on conflicts between shareholders (including shareholder activism), disputes relating to managers' and directors' liability and post-acquisition difficulties. She focuses her practice on a broad range of business disputes, including pre-trial settlements and representation before French courts. Clients trust her to guide them through their most significant litigation challenges. Emilie also has deep experience in sanction proceedings before the Commission des sanctions of the French financial markets authority (Autorité des marchés financiers).



Mayer Brown delivers extremely high and uncompromising standards of quality across a variety of litigation disciplines, and our litigators have been repeatedly recognized as leaders in their fields.



Venna Y.W. Cheng | Hong Kong

LAW360

MVP PROFILES



Since 2010, *Law360* has published an annual list of MVPs, recognizing lawyers who have “distinguished themselves from their peers over the past year by securing hard-earned successes in high-stakes litigation, record-breaking deals and complex global matters.” Up against nearly 1,000 submissions, four Mayer Brown litigators were recognized as MVPs in 2019.



2019 BENEFITS MVP | BRIAN D. NETTER

In a headline-making year for Employee Retirement Income Security Act class actions against universities, Netter helped Mayer Brown achieve dismissals of four such suits. Approximately two dozen ERISA class actions against universities have been filed since 2016, accusing schools of letting their retirement plans charge high fees and offering underperforming investments.

"The year was dominated by the class-action lawsuits filed by the university retirement plans," Netter said.

Defense attorneys say this litigation wave was fueled by "copycat suits," and Netter perhaps lent credence to that characterization when he identified falsities in two complaints filed in May 2018 that lifted language from previous lawsuits.

Netter presented this information to the plaintiffs' attorneys, comparing the complaints with public disclosures that proved the allegations did not apply to the University of Rochester and Long Island University. After serving a motion for sanctions against the plaintiffs for suing without vetting the accuracy of their complaints, the plaintiffs' attorneys agreed to drop their lawsuits.

Netter also scored dismissals of lawsuits against Georgetown University and George Washington University in January and July, respectively.

Asked if he had a sole game plan for attacking these suits, Netter said that the circumstances of each case require his firm to strategize different approaches. Winning dismissals in four of the suits this year, though, has been "rewarding," he said.

“...the circumstances of each case require [Mayer Brown] to strategize different approaches.”

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Brian D. Netter | Washington DC



Andrew J. Pincus | Washington DC

2019 APPELLATE MVP | ANDREW J. PINCUS

Preparing to argue a case before the Supreme Court is no menial task, but the pressure is familiar to Pincus, who has found himself in that position nearly 30 times during his nearly four decades in the legal field.

At the tail end of 2018, the seasoned litigator was presented with an even higher-stakes scenario: delivering two arguments before the high court in the same week.

“Being a litigator, you’re asked to be the gladiator for your client, and that’s an awesome responsibility,” Pincus said.

In one case, Pincus needed to convince the court on behalf of his client *Lamps Plus* that unless an arbitration agreement expressly stated so, the Federal Arbitration Act did not allow one party to bring classwide claims into arbitration. In the other, the attorney was set to argue on behalf of Google that an \$8.5 million privacy deal that doled out funds to third parties instead of class members—known as a cy pres deal—was kosher.

So he developed a system to make sure he was prepared for both arguments.

“I sort of stepped back and figured that the way to do it was to prepare for the second one first and get all that under my belt, because that one would be further away in time, then turn to preparing for the first one,” Pincus said. “Then use the day and a half in between to take another deep dive [on the second case].”

While the condensed timeline “definitely was one of the bigger challenges” that Pincus has encountered in his career, it all seemed to turn out well in the end, he said.

The justices sided with him in the *Lamps Plus* case, largely closing the door to classwide arbitration challenges unless expressly provided for in the parties’ original agreement. And the court remanded the *Google* case back to the Ninth Circuit to decide the lingering issue of whether the class members had standing to sue at all.

“ Being a litigator, you’re asked to be the gladiator for your client, and that’s an awesome responsibility. ”

2019 TRANSPORTATION MVP | EVAN M. TAGER

In recent years, the Philadelphia Court of Common Pleas has attracted a growing number of Federal Employers' Liability Act lawsuits against railroads on behalf of workers who lived, worked and were injured elsewhere, partly because of a perception that it's a pro-plaintiff venue.

That makes all the more impressive Tager's success in convincing a state appeals court to reject—on grounds of forum non conveniens—a former New York-based rail worker's personal injury suit against Consolidated Rail Corp., which is based in Philadelphia, and CSX Transportation Inc., which is based in Florida.

The July win in *Wright v. Consolidated Rail Corp.* was notable in that the Pennsylvania Superior Court determined that the Philadelphia trial court had given plaintiff Samuel Wright undue deference in choosing where to litigate his FELA suit stemming from injuries in a New York rail yard. Before that, the trial court had largely rejected, without much explanation, forum non conveniens motions from railroads in scores of similar injury lawsuits.

"It was a significant accomplishment to get the Superior Court to say, 'just because Conrail is located in Philadelphia doesn't mean that we throw out our forum non conveniens principles and factors, and the plaintiff gets to stay in Philadelphia for a case that has no connection there,'" Tager told *Law360*.

Tager said that he's hopeful that *Wright* will "have a deterrent on new filings" and help beat back a series of other cases that are still pending against Conrail, CSX and other railroads.

"It's having a fairly broad impact. I'm not going to say the battle has been won," he said. "It's fought in stages and I think we have won an important stage."

"...he's hopeful that *Wright* will 'have a deterrent [effect] on new filings.'"



Evan M. Tager | Washington DC



Brian W. Kittle | New York

2019 TAX MVP | BRIAN W. KITTLE

Kittle represented Bank of America as it fought the government's bid to transfer the bank's \$163 million tax interest refund lawsuit to the U.S. Court of Federal Claims. The North Carolina federal court found it had authority to preside over the dispute.

The U.S. objected to the North Carolina federal court's recommendation and order, but the court denied the government's request to change venue in July.

The complaint, filed by Bank of America in 2017, says the Internal Revenue Service owed the bank interest that it overpaid on tax liabilities because it was entitled to a net rate of zero for overlapping periods of tax underpayments and overpayments.

"The dispute in BofA involved a technical issue of statutory interpretation regarding overpayment interest," Kittle told *Law360*. "The principal focus was on statutory construction principles, including the meaning of certain terms and the legislative history of that statute, as well as the reasons why certain courts have agreed — and disagreed — with our interpretation."

In addition to the Bank of America case, Kittle told *Law360* that one of his biggest accomplishments was his work for Cross Refined Coal LLC and its partner Fidelity in their partnership tax dispute before the U.S. Tax Court.

In the Tax Court case, the IRS challenged the partnership by denying it refined coal product credits under Section 45(e)(8) of the Internal Revenue Code.

When Kittle litigated the case as the tax matters partner, which is the legal term for the partnership's representative, U.S. Tax Court Judge David Gustafson ruled in a rare bench opinion that the partnership was legitimate and entitled to claim the refined coal tax credits.

"My biggest accomplishment was being part of two successful litigations, Cross and BofA, which required the development and implementation of bespoke strategies and approaches," Kittle said.

The issue in Cross was different from the Bank of America case because it centered on whether the partners of the business should be treated as partners for tax purposes, he said. Because the inquiry was quite factual, Kittle said, a strong understanding of the refined coal production tax credit was necessary to integrate facts and legal requirements into a trial strategy.

"While the Cross and BofA [cases] both gained widespread attention given the issues in dispute, resolving large, complex matters without litigation and working on issues presented by tax reform have been equally satisfying," Kittle said.

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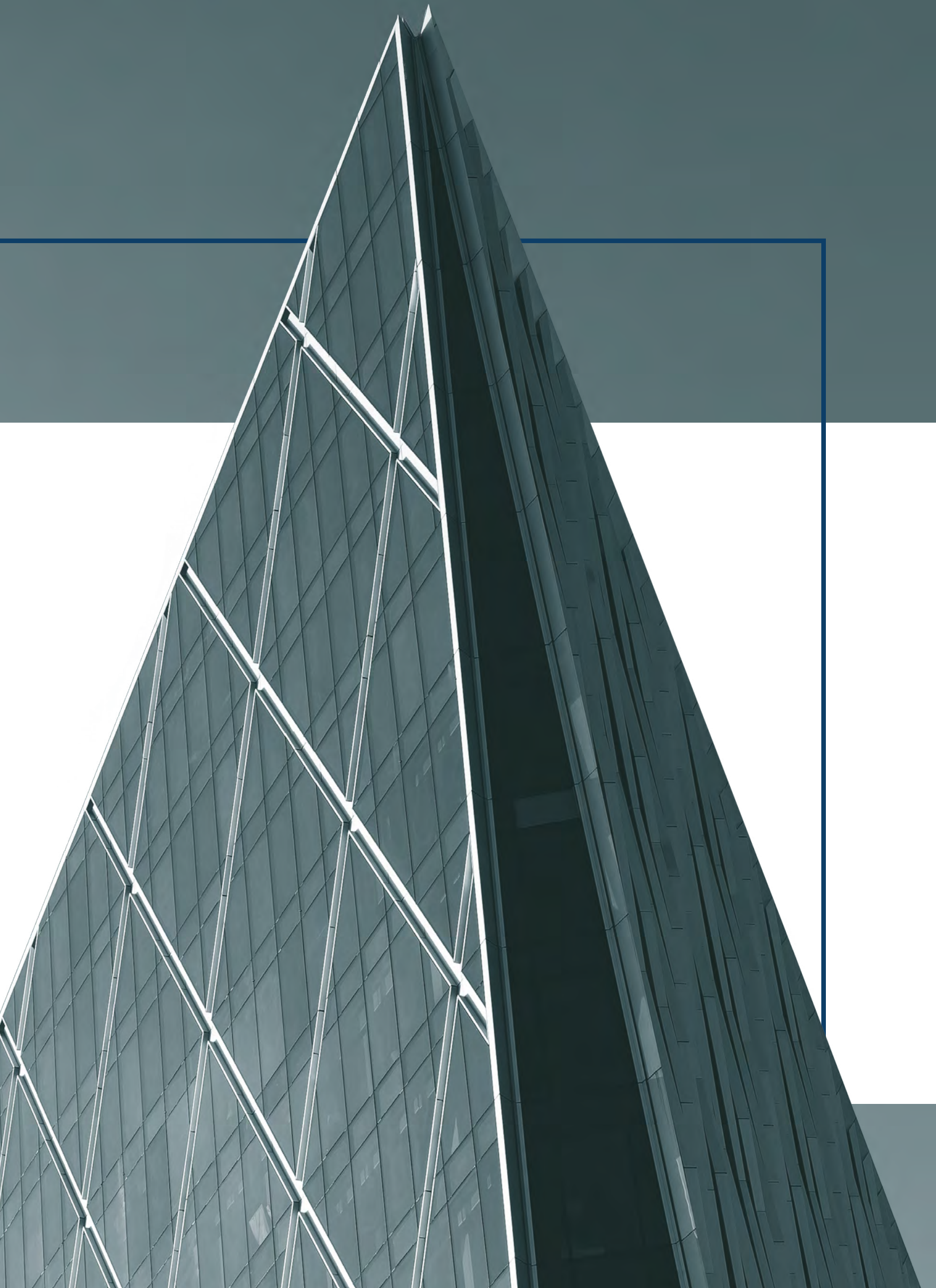
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