

## Banking Group Of The Year: Mayer Brown

By **Lauren Berg**

*Law360 (January 24, 2025, 4:03 PM EST)* -- Mayer Brown LLP's banking team secured the reversal of a \$1 billion verdict against BMO Harris Bank over Thomas Petters' Ponzi scheme, achieved a landmark False Claims Act win for Citibank, and helped BNY Mellon beat claims over a financial crisis settlement, placing the firm among the 2024 Law360 Banking Groups of the Year.

Known as a financial services firm that represents leading financial institutions, Mayer Brown's banking practice has a footprint in major financial centers around the world, including New York, London, Paris, Tokyo, Hong Kong and Dubai, according to partner Mark Hanchet, co-chair of banking and finance litigation.

"Where our clients are located, that's where we want to be," Hanchet said. "It's almost a mirror image — where you find big banks, you find us."

Of the more than 1,700 attorneys working at Mayer Brown across the world, the banking group has nearly 500 lawyers, according to the firm.

Mayer Brown's banking practice is a one-stop shop for clients big and small, handling litigation, transactional work and financial services, and its reputation as a sterling financial services firm means it gets called upon to help smaller or foreign banks that are not accustomed to being sued in the United States, partner Chris Houpt said.

"Those banks recognize that they have a unique problem and that Mayer Brown is the top firm to call on," Houpt said.

One arena where the firm's banking attorneys are seeing more action is in internal investigations and white collar work, according to Hanchet, who said growth is driven by their clients' needs.

Mayer Brown attorneys in September secured the reversal of a \$563 million verdict — that ballooned to more than \$1 billion with interest — against BMO Harris over claims that it was complicit in a \$3.8 billion Ponzi scheme run by Petters, successfully arguing that BMO Harris should have been allowed to raise a defense that would have barred the suit in the first place.

More than a decade after Petters received his 50-year prison sentence, a Minnesota federal jury in November 2022 largely rejected the claims brought by the bankruptcy trustee for the company Petters



once operated, but determined that BMO Harris as the successor-in-interest to M&I Bank had aided and abetted its longtime client's breach of fiduciary duty to his would-be investors.

The Eighth Circuit, however, held that the doctrine of "in pari delicto," or in equal fault, was critical to BMO Harris' defense and was erroneously withheld from it by the district court. The appellate panel found that even if the acquired bank "aided the scheme to the degree [alleged in the case], BMO cannot be more culpable than the entity that orchestrated the scheme."

"The trustee was trying to recover on behalf of the perpetrators," Houpt said.

The attorney noted that most claims with such enormous damages — in this case the trustee initially sought \$24 billion — often settle, but he said the team representing BMO Harris scored a "complete victory."

That win followed another significant victory Mayer Brown achieved for Citibank NA in a False Claims Act case that presented a new theory of liability that equates a situation in which a defendant makes a false statement to avoid a potential regulatory penalty and a defendant that profits from making a false statement, according to Houpt.

But the Second Circuit in August rejected that theory, the attorney said, adding that had the firm lost the appeal, "it could have opened a whole new area of FCA litigation."

The appellate court upheld the dismissal of a Citibank senior risk analyst's whistleblower suit seeking a piece of a \$400 million fine the bank paid, saying her claims that Citi violated consent orders by hiding third-party risk management failures failed to state a "reverse false claim" because she didn't show that the bank had an obligation to pay the government in the first place.

Mayer Brown also won victories for the Bank of New York Mellon, including securing a New York magistrate judge's recommendation to dismiss the remaining claims in a lawsuit alleging the bank breached its duties as trustee for several residential mortgage-backed securitization trusts over a state court's approval of a landmark \$8.4 billion settlement stemming from the financial crisis.

The firm represented BNY in both the negotiation of the settlement and the four-year court approval process, before stepping in to defend the bank against the lawsuit that claims the trustee should have sued the loan originators for more damages instead of settling for the \$8.4 billion, Houpt said.

After winning summary judgment on the argument that a New York state court's approval of a settlement bars claims alleging a defendant should have recovered more money, the Mayer Brown team in January 2024 scored a federal magistrate judge's recommendation that the rest of the suit should be tossed.

Then in August, the firm secured the dismissal of an investor's claims that BNY incorrectly calculated payments for a re-securitization program, after arguing the alleged breaches related to an entirely different contract.

Houpt, who specializes in cross-border issues, securitization, structured finance, and derivatives and asset turnover, said he enjoys the sprawling nature of his work and the way the banking and finance industry affects "everything."

For instance, the firm works on cases involving environmental and climate change liability, sanctions against terrorist groups or foreign banks, and complex financial structures, he said.

Hanchet, who largely works on matters involving commercial litigation, arbitration and regulatory enforcement, said he enjoys the global nature of his practice and being able to work with banks and attorneys all over the world.

"It exposes me to different ways of thinking — domestic lawyers have a different lens of the law in their countries," Hanchet said. "And it's the international nature of our clients that I find enjoyable and fascinating. We deal with interesting people and issues."

For both attorneys, it's the firm's deep bench of caring and knowledgeable lawyers that makes Mayer Brown a sterling firm. If a complicated issue arises in a case, there's an attorney with experience or expertise who can step in and help, Houtp said.

"I feel like the tip of the spear in court, but I always have those knowledgeable colleagues right behind me," he said.

Hanchet added that it's "enormously gratifying" to work with lawyers — who have become friends — in all different parts of the world.

"This firm seems to bring together a certain kind of lawyer that is interested in the world and interested in helping our clients. I feel like I just read you a Hallmark card, but it's true," he said, laughing. "This is a good place, with good people."

--Additional reporting by Hannah Albarazi, Jon Hill, Ryan Davis, Sarah Jarvis, Hailey Konnath and Al Barbarino. Editing by Janice Carter Brown.