



Jonathan J. Brennan

Principal

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Background

Jonathan J. Brennan is an attorney with over 20 years of experience representing clients in complex litigation. He is the former head of Wealth Management Litigation for Bank of America where, from 2012 to 2018, he led a team of lawyers and paralegals responsible for managing all customer-related litigation arising from the Bank's retail broker-dealer (Merrill Lynch Wealth Management), its ultra-high net worth private bank (U.S. Trust), its self-directed and online brokerage platform (Merrill Edge), and its institutional retirement business.

From 2010 to 2012, Jon managed the Bank's retail litigation involving auction rate securities, collateralized debt obligations, and asset-backed commercial paper. Jon joined Merrill Lynch in Newport Beach, California in 2005, and managed its private client litigation in the Western United States from 2005 to 2010. Prior to joining Merrill Lynch, Jon practiced law at Sidley Austin LLP in New York, where he represented publicly-traded companies and broker-dealers in complex commercial litigation, arbitrations, and government investigations.

Representative Experience

Wealth Management Litigation

- Supervised thousands of customer arbitrations involving claims of suitability, overconcentration, churning, unauthorized trading, fraud, misrepresentation, and breach of fiduciary duty.
- Managed significant Credit Crisis product litigation arising from the sale of auction rate securities, collateralized debt obligations, and asset-backed commercial paper to retail and middle market clients. Matters included multiple class actions, individual state and federal civil litigations, and over 100 FINRA arbitrations.
- Directly managed many of the Bank's largest and most difficult wealth management litigation matters including multi-claimant theme cases, cases brought against prominent advisors, and claims brought by celebrity clients.
- Extensive experience with arbitration-related litigation including motions to compel arbitration, motions to confirm arbitration awards, and expungement matters.

Admissions

New York
California
Ohio
Southern District of New York
Eastern District of New York

Education

The University of Michigan Law
School (J.D., 1997)
Miami University, Oxford, Ohio
(B.A., 1994)

Professional Affiliations

American Bar Association
Hispanic National Bar Association
New York City Bar Association
Arbitration Committee, Securities
Industry and Financial Markets
Association (2016 – 2018)
Litigation Advisory Committee,
Securities Industry and Financial
Markets Association (2014 –
2018)

Fiduciary and Private Banking Litigation

- Supervised client litigation in probate, state, and federal courts often involving the exercise of the Bank's fiduciary powers. Significant cases included alleged overconcentration of inherited securities, purported mismanagement of trust assets, lost trust records, disputes over fiduciary administration, lender liability, and losses due to third-party fraud.

Capital Markets Litigation

- Supervised the successful resolution of a \$2.6 billion litigation arising from the criminal embezzlement scheme at mortgage originator Taylor, Bean & Whitaker. Bank of America served as indenture trustee and collateral agent for Ocala Funding, TBW's wholly-owned commercial paper facility.
- Represented a large broker-dealer in a two-week federal jury trial involving claims alleging improper margin call and liquidation of a portfolio of mortgage-backed securities.

ERISA / Retirement Class Actions

- Supervised defense of putative ERISA and antitrust class action alleging the Merrill Lynch's institutional retirement business improperly limited a plan's investment options to actively managed mutual funds and engaged in improper revenue sharing arrangements with mutual fund companies. Merrill Lynch prevailed on a motion to dismiss.

Non-Party Litigation

- Supervised a team of lawyers that supported the Third-Party Services Team. This team is responsible for processing all subpoenas, garnishments, and levies directed to the Bank's various wealth management businesses.
- Represented an art gallery owner in a significant non-party subpoena related to a painting seized by the Nazis at the beginning of World War II.

Regulatory

- Represented clients in regulatory investigations conducted by the Securities and Exchange Commission, Federal Deposit Insurance Corporation, National Association of Securities Dealers (now Financial Industry Regulatory Authority), New York Stock Exchange, and Internal Revenue Service.
- Produced documents, prepared witnesses, and defended current and former employees in regulatory interviews and testimony.

General Civil Litigation

- Represented clients in complex commercial litigation involving many industries including alcoholic beverage, cable television, coal mining, and property and casualty insurance.

Speaking Engagements

Panelist, *Mission Critical: The Role of the General Counsel in Managing Corporate Relations and Public Opinion*, Thomson Reuters 2nd Annual Corporate Counsel Leadership Forum, New York, NY, November 16, 2016.

Panelist, *Arbitration: Practical Considerations*, Securities Industry and Financial Markets Association Compliance & Legal Annual Seminar, Phoenix, AZ, March 16, 2015.

Presenter, *Liability of Legal Officers in the Securities Industry*, Mecklenburg County Bar Association 14th Annual Banking and Finance Forum, Charlotte, NC, November 21, 2014.

Presenter, *Avoiding Litigation through a Disciplined Investment Practice*, Merrill Lynch Wealth Management Client Experience Program, Phoenix, AZ, June 3 and 24, 2014.

Presenter, *Financial Services: 25 Years of ADR in the Brokerage Industry*, 1st Annual Alternative Dispute Resolution ExecuSummit, Uncasville, CT, June 12, 2013.

Panelist, *Defining Fairness and Consumer Arbitration: A Report from the Future*, 1st Annual Alternative Dispute Resolution ExecuSummit, Uncasville, CT, June 11, 2013.

Conference Organizer, *Overview of the Securities Arbitration Process*, Merrill Lynch Western Division, San Francisco, CA, November 29-30, 2005.