

Daniel Perry

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Dan Perry is a partner in the New York office of Milbank LLP. Mr. Perry is a seasoned trial lawyer representing clients in federal and state court in complex commercial disputes involving securities and corporate law, mergers and acquisitions, insurance and reinsurance, and financial restructuring. He has extensive experience managing disputes out of court and routinely conducts arbitrations before a variety of domestic and international tribunals. Mr. Perry also represents clients in a range of industries facing various regulatory and criminal investigations.

Primary Focus & Experience

Mr. Perry has been called in to represent large, institutional clients in precedent-setting cases involving complex financial instruments. Among the notable civil litigation matters that Mr. Perry has handled at Milbank are:

- Representation of funds in litigation brought in connection with failed acquisitions, claims against portfolio companies, partnership disputes, and securities cases.
- Representation of financial institutions in connection with various complex commercial, securities, and mergers and acquisitions litigation.
- Representation of debtor and creditor clients in connection with complex financial restructuring litigation.
- Representation of domestic and international clients in a variety of arbitration proceedings.
- Multiple non-public representations of CEOs, CFOs, general counsels, entrepreneurs, and others in criminal and regulatory investigations.

Recognition & Accomplishments

Mr. Perry has been recognized by *Legal 500* and *Benchmark Litigation* as one of the leading lawyers in America for general commercial and securities litigation. Clients describe him as “a highly skilled trial lawyer who strikes the right balance of taking the time to understand the

details/nuances of a matter or issue while still being efficient and mindful of costs. He also communicates well with the business side where necessary." (Benchmark Litigation)

Mr. Perry frequently speaks and writes about complex corporate and securities litigation. He graduated Phi Beta Kappa with a Bachelor of Arts degree from the University of Wisconsin-Madison in 1996. Mr. Perry received his law degree cum laude from Cornell Law School in 1999.

Select Case Experience

Complex Commercial Litigation and Trial Practice

- Representing Helix Generation, LLC as Plaintiff in a breach of contract lawsuit filed in the Delaware Superior Court against Defendant TransCanada Facility USA, Inc., and other TransCanada entities, in connection with Helix's purchase from TransCanada of Ravenswood Generating Station, an electricity generating station in Queens, New York.
- Represented Citigroup Global Markets Inc. (CGMI) in a lawsuit that culminated in a trial related to a claim brought by Saudi nationals Abdullah and Ghazi Abbar and their related investment vehicles. The Abbars filed a request for arbitration before the Financial Industry Regulatory Authority (FINRA) against CGMI, a FINRA member. They claimed that they lost over \$350 million, due to alleged misconduct by CGMI and other Citigroup entities with respect to the structuring, monitoring, and handling of the Abbars' investments. The Court ruled from the bench and found that the Abbars and their investment vehicles were not customers of CGMI within the meaning of the applicable FINRA rule. The Second Circuit affirmed the decision.
- Represented Dycom Industries, Inc. in a lawsuit that culminated in a trial relating to disputes arising out of non-competition and related provisions in a Stock Purchase Agreement.
- Represented Club One Acquisition Corp. (COAC) in a lawsuit that culminated in a trial related to disputes arising out of a subordination agreement between the parties. The case was tried in the Commercial Division of the New York Supreme Court, New York County. The Court ruled in COAC's favor. While an appeal was pending, the parties reached a global settlement and the appeal was withdrawn.
- Representation of Bloomberry Resorts and Hotels, Inc. in connection with a case initially filed by the Bangladesh Bank in the United States District Court for the Southern District of New York relating to the cyber-hacking by North Korean hackers of Bangladesh Bank's account at the New York Federal Reserve Bank in Manhattan.
- Represented Citibank, N.A. and its affiliates in a lawsuit brought in the Southern District of New York by Simmtech Co., Ltd. in which the South Korean circuit board manufacturer alleged that it lost \$73 million at the height of the 2008 global financial crisis because of foreign exchange options trades it entered into with Citibank's Korean affiliate. The district court dismissed the case and the Second Circuit affirmed the decision. Simmtech then filed a petition for writ of certiorari in the US Supreme Court, which was denied.
- Represented Citibank, N.A. and its affiliates in a lawsuit alleging fraud in connection with foreign currency exchange trade. This lawsuit, which was brought by six Korean businesses, was dismissed in its entirety by US District Judge Jed S. Rakoff in New York. The United States Court of Appeals for the Second Circuit later affirmed the dismissal.

Real Estate Litigation

- Secured on behalf of Plaintiff D2 Mark LLC a preliminary injunction in NY state court stopping the imminent foreclosure involving interests in The Mark Hotel, a luxury hotel on the Upper East Side of Manhattan. D2 Mark sought injunctive and other relief via an Order to Show Cause to halt OREI VI Investments' improper and predatory attempt to capitalize on the COVID-19 pandemic by conducting a commercially unreasonable foreclosure under New York's Uniform Commercial Code ("UCC") aimed at taking The Mark Hotel. The case is significant as it is the first New York court decision involving a lender seeking a non-judicial UCC foreclosure of a commercial property that was indisputably healthy and performing pre-COVID.
- Advised the joint venture Monroe Capital and The Witkoff Group in connection with litigation arising out of the joint venture's acquisition of the defaulted loans related to "The XI" luxury condominium in New York, NY and the Shore Club project in Miami, FL.
- Represented Fortis Property Group and a special purpose vehicle that acted as sponsor to the State Street Financial Center in Boston, MA in litigation aimed at avoiding foreclosure in January 2022.
- Represented Vanke USA in connection with its existing investment in a Midtown apartment building where its joint venture partners are New York-based RFR Realty, whose principals are Aby Rosen and Michael Fuchs, and Chinese asset management company, Cinda Capital Management.
- Represented Monarch Alternative Capital in a dispute arising out of a mezzanine loan is secured by the equity in The Dayton's Project located in downtown Minneapolis at 700 Nicollet Mall, Minneapolis, MN. The project is a 1.2M square foot office building with ground floor retail and food hall being redeveloped by 601W Companies.
- Representing Soilbuild Group Holdings Ltd in defense against a breach of contract lawsuit filed on May 28, 2020, in the Delaware Chancery Court relating to its termination of purchases of seven Kimpton Hotels in Santa Barbara, CA, Denver, CO, Chicago, IL, Portland, OR, Philadelphia, PA, Salt Lake City, UT and Alexandria, VA.
- Represented Serdar Bilgili and BLG US Holdings Inc. (together, BLG) in court and arbitration proceedings involving a dispute between BLG and its two joint venture partners, SHVO (a New York-based real estate development firm) and Deutsche Finance.

International Arbitration & Related Enforcement Proceedings

- Represented the Government of Mongolia before the US Supreme Court in a petition brought by Chinese state-owned entities and supported by amici, seeking to set aside an arbitral award that had been rendered in favor of Mongolia in 2017.
- Representing Bloomberry Resorts and Hotels Inc. and Sureste Properties, Inc. in connection with a civil complaint filed with the U.S. District Court of the Southern District of New York by Global Gaming Philippines LLC, a unit of United States-based Global Gaming Asset Management LLC ("GGAM") seeking to enforce an international arbitration award.
- Representation of Canadian Solar Inc., Fieldfare Argentina S.R.L., CSI Solar Co., Ltd., and its affiliates in connection with an international arbitration and related litigation arising out of a dispute over the construction of the Cafayate Solar Project in Salta province in Argentina.
- Represented a major trade finance provider in an arbitration arising out of a dispute over the sale of trade finance fund interests.
- Represented the Senior Lenders in an enforcement action brought by CIMC Raffles, a shipbuilder, against various affiliates of Schahin Engenharia S.A. In an arbitration, CIMC was awarded damages to be paid by the Schahin Entities and sought enforcement of

the award in federal court. CIMC undertook a variety of enforcement actions, including a novel attempt to invade the collateral accounts—which were already pledged to the Senior Lenders. In addition, CIMC sought to impose a lien on the rigs at issue in the arbitration, which were already pledged to the Senior Lenders. Mr. Perry successfully beat back CIMC’s attempts to bypass the Senior Lenders’ first priority liens.

Securities & Other Class Action Litigation

- Represented Primero Mining Corp. in a putative securities class action in the Central District of California, related to the Canadian company’s disclosures regarding its Mexican subsidiary Primero Empresa Minera, S.A. de C.V. (“PEM”). Milbank moved the Court to dismiss the case under Rule 12(b)(6) of the FRCP. The Court dismissed the class action. The 9th Circuit upheld the dismissal on appeal.
- Represented Citigroup, Inc., Citibank, N.A., and Citigroup Global Capital Markets Inc. in a putative class action filed in the Southern District of New York. Plaintiffs, holders, and beneficial owners of American Depositary Receipts (“ADRs”) for which Citibank, N.A. served as the depositary bank, allege that Citibank charged unreasonable and undisclosed fees when converting dividends and other payments associated with the ADRs from foreign currencies into US dollars, harming the investors.
- Achieved victory on behalf of former Chief Executive Officer, Frederico Pinheiro Fleury Curado, and current Chief Financial Officer, Jose Antonio de Almeida Filippo, of Embraer S.A., by securing a dismissal of a class action complaint filed in a federal court for the Southern District of New York. The complaint asserted federal securities fraud claims against Embraer and the individual defendants, alleging principally that defendants committed fraud by disclosing only that investigations into allegations of FCPA violations were underway and failed to disclose the scope and potential financial ramifications.

Financial Restructuring Litigation

- Trial Counsel in the Station Casinos LLC Chapter 11 cases filed in the District of Nevada. Represented Station Casinos in all litigated proceedings during the restructuring proceedings.
- Represented Station Casinos LLC in dispute with the Greenspun family related to management of the Green Valley Ranch Casino in the District of Nevada. Plaintiff alleged that Station Casinos breached its fiduciary duty by directing high end junket play to other Station Casinos managed properties. The plaintiff ultimately determined not to pursue the litigation after discovery and several early rulings in Station Casinos’ favor.
- Served as trial counsel for the junior secured noteholders in ResCap in highly contentious intercreditor litigation involving their entitlements to par plus hundreds of millions of dollars of post-petition interest. After the conclusion of a lengthy trial, the case was settled for an above par recovery for the junior secured noteholders.
- Served as trial counsel for Fortress as collateral manager in connection with the involuntary bankruptcy filing of Taberna IV, a Cayman Island CDO. After conclusion of the trial, the Court ruled in favor of Fortress and the other creditors opposing the involuntary bankruptcy.

White Collar Crime & Government Investigations

- Representation of numerous individuals in multi-jurisdictional investigations related to hiring practices.

- Representation of a major financial institution in an investigation by the U.S. Securities and Exchange Commission of certain practices as depository of American Depositary Receipts (ADRs).
- Representation of a corporation in connection with a government investigation and civil litigation relating to allegations of insider trading and FCPA violations in South America.
- Conducted an internal investigation on behalf of a global investment management corporation of matters raised by employee communications to colleagues, regulators and members of the press and responded to regulatory inquiries concerning those matters.
- Representation of a multi-national corporation in connection with an internal investigation of accounting and financial statement-related concerns of a subsidiary.
- Representation of a multi-national corporation in connection with an internal investigation relating to impairment analyses performed by a subsidiary.
- Representation of a global independent investment bank as financial advisor to a company in connection with an insider trading investigation by the SEC and US Attorney's Office.

ADDITIONAL DETAILS

EDUCATION

- Cornell Law School, J.D.
- University of Wisconsin, B.A.

ADMISSIONS

- California
- New York
- US District Court for the Eastern District of New York
- US District Court for the Southern District of New York
- US District Court for the Central District of California
- US Court of Appeals for the Second Circuit
- US Court of Appeals for the Fourth Circuit
- US Court of Appeals for the Ninth Circuit
- US Court of Appeals for the Eleventh Circuit
- US Court of Appeals for the District of Columbia Circuit
- US Supreme Court

EXPERIENCE

General Commercial Litigation

Global Risk & National Security Practice

Insurance and Reinsurance

Litigation & Arbitration

White Collar Defense and Investigations

Gaming and Hospitality

Latin America Disputes

United States

FEATURED NEWS

Twenty Milbank Lawyers Recognized in *Benchmark Litigation* 2024 US Guide

Milbank Secures Victory for Owner of Okada Manila Casino in Broken SPAC Transaction

Milbank Adds Leading Antitrust Partners Rich Parker and Grant Bermann in DC

Milbank Expands Litigation & Arbitration Practice with Addition of Partner Viren Mascarenhas in New York

Milbank Advises Werfen on Acquisition of Immucor from TPG

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