

## Brett Lowe

Special Counsel

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### CONTACT

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Brett Lowe is special counsel in the Washington, DC office of Milbank LLP and a member of the firm's Litigation & Arbitration Group.

### Primary Focus & Experience

Mr. Lowe represents clients in international arbitration proceedings, including representations of sovereign governments and foreign corporations in investor-state disputes and international commercial arbitration matters. He also represents clients in proceedings to recognize and enforce international arbitral awards and foreign judgments.

Mr. Lowe also represents clients in federal and state courts in complex commercial litigation and financial restructuring litigation. Mr. Lowe has experience representing debtors, creditors' committees, bondholders, and other entities in financial restructuring matters.

Mr. Lowe also has experience advising clients and litigating issues concerning corporate governance and compliance with various laws and regulations, including with respect to the US Foreign Corrupt Practices Act (FCPA) and other anti-bribery laws, securities laws, anti-money laundering laws, national security and export control laws, and government contract bid protests under the Federal Acquisition Regulation (FAR) and agency-specific regulations.

### Select Case Experience

#### International Arbitration & Enforcement Proceedings:

- Representation of Asia Broadcast Satellite, a global satellite operator based in Hong Kong, against the Korean telecommunications company KT SAT in an ICC arbitration in New York, and in subsequent recognition and enforcement proceedings in the US District Court for the Southern District of New York and the Second Circuit. The arbitration involved claims related to the sale and operation of a geostationary satellite and issues regarding the applicability of Korean laws and public policy and national security concerns.

- Representation of Metro Rail Transit Corporation, the builder and owner of Metro Manila's principal light rail system, against the Philippine Department of Transportation in an UNCITRAL arbitration in Singapore. The arbitration involved claims and counterclaims for breaches of a 25-year build-lease-transfer agreement.
- Representation of Bloomberry Resorts and Hotels Inc. and Sureste Properties, Inc. in an UNCITRAL arbitration in Singapore, and in subsequent enforcement proceedings in the US District Court for the Southern District of New York. The arbitration involved claims related to the termination of a management services agreement for an integrated resort and casino in Manila's Entertainment City.
- Representation of German airport operator Fraport AG against the Republic of the Philippines in an ICSID arbitration in Washington, DC. The arbitration was in connection with the expropriation of Fraport's investments in an international airport terminal in the Philippines.
- Representation of the Government of Mongolia in a treaty-based arbitration brought by Chinese investors following Mongolia's revocation of their iron ore mining license for the Tumurtei deposit, one of the largest such deposits in Mongolia.
- Representation of investment fund Harvardsky Prumyslový against Viktor Kožený in action to enforce in New York a \$410 million judgment handed down by a Czech court as part of a criminal conviction related to post-Cold War privatization vouchers issued to Czech citizens.

#### Complex Commercial and Financial Restructuring Litigation:

- Representation of multiple funds advised and/or managed by Whitebox Advisors against Transocean, an offshore drilling contractor, in a litigation brought in the US District Court for the Southern District of New York and in appellate proceedings in the Second Circuit. The litigation involved securities claims and issues relating to the interpretation of an indenture.
- Representation of a committee of lenders against Standard General, an investment firm, in an adversary proceeding in the US Bankruptcy Court for the District of Delaware in connection with the bankruptcy of American Apparel. The adversary proceeding involved claims for breaches of a credit agreement and the implied covenant of good faith and fair dealing, recharacterization and equitable subordination.
- Representation of Voyager Aviation Holdings as chapter 11 debtor (Bankr. S.D.N.Y.).
- Representation of ad hoc committee of unsecured noteholders in objection to plan confirmation in Cobalt International Energy's chapter 11 case (Bankr. S.D. Tex.).
- Representation of OneWeb Global Limited as chapter 11 debtor (Bankr. S.D.N.Y.).
- Representation of ad hoc committee of secured creditors in Midstates Petroleum's chapter 11 case (Bankr. S.D. Tex.).
- Representation of the Official Committee of Unsecured Creditors in Breitburn Energy's chapter 11 case (Bankr. S.D.N.Y.).
- Representation of ad hoc group of noteholders in LINN Energy's chapter 11 case (Bankr. S.D. Tex.).
- Representation of the Official Committee of Unsecured Creditors in ATP Oil & Gas Corporation's chapter 11 case (Bankr. S.D.N.Y.).
- Representation of ad hoc group of bondholders in the cross-border insolvency proceedings of Nortel Networks.

#### Recognition & Accomplishments

Mr. Lowe received his B.A., *cum laude*, from Dartmouth College and his J.D. from the University of Virginia School of Law. While at Dartmouth, Mr. Lowe was a varsity athlete and received Academic All-Ivy honors.

Mr. Lowe maintains an active pro bono practice. He represented John Francis Wille, a Louisiana man sentenced to death for murder in 1986, in a post-conviction proceeding to exonerate him on the basis of false confessions and numerous constitutional violations, and successfully secured a court order vacating Mr. Wille's death sentence. He has also represented the Humane Society of the United States (HSUS) in federal court.

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ADDITIONAL DETAILS

EDUCATION

- University of Virginia School of Law, J.D.
- Dartmouth College, B.A.

ADMISSIONS

- California
  - District of Columbia
  - US District Court for the District of Columbia
  - US Court of Appeals for the Second Circuit
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EXPERIENCE

International Arbitration

Litigation & Arbitration

United States

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16 Milbank Attorneys Named to Washington DC Bar 2023 Pro Bono Honor Roll

Milbank Attorney Melanie Westover Yanez Discusses Prevailing in Religious Discrimination Case on Pro Bono Institute Podcast

20 Milbank Attorneys Named to Washington DC Bar's Pro Bono Honor Roll

Milbank Obtains Settlement for Muslim Nonprofit in Action Against Virginia County That Blocked Religious Cemetery