Most Feared Plaintiffs Firm: Gibbs & Bruns LLP

By **Kelly Knaub**

Law360, New York (November 06, 2014, 4:08 PM ET) -- Houston-based Gibbs & Bruns LLP has guided a team of institutional investors, including Pimco and BlackRock, in a trailblazing effort to enforce securitization contracts in the wake of the national subprime mortgage crisis, securing a whopping total of $21 billion in settlements from Countrywide, Residential Capital, JPMorgan and Citigroup.

The firm saw its $8.5 billion settlement with Bank of America — the largest private legal settlement in Wall Street's history — **finalized by a state judge** earlier this year, earning it a place among **Law360's Most Feared Plaintiffs Firms.**

Litigation partner Kathy Patrick, who led the team of attorneys in the colossal mortgage-backed securities settlement, recently recalled what founding partner Robin Gibbs told her about the firm when she first joined it nearly 30 years ago.

"Texas is the place to be if you want to be a trial lawyer," Gibbs had said. "And our little firm is going to be heard from. You just watch."

And he was right. The 30-lawyer firm, which was founded by Gibbs in 1983 and specializes in high-stakes commercial litigation, has earned itself a reputation as a hard-hitting, top-notch boutique that has achieved success with big wins.

In 2010, 22 of the largest institutional investors as well as the Federal Reserve Bank of New York and the Federal Home Loan Mortgage Corp. engaged the firm to assert claims against Countrywide Financial Corp. and Bank of America in connection with representation and warranty violations as well as mortgage servicing claims at issue in 530 Countrywide residential mortgage securitization trusts.

Patrick, who worked alongside managing partner Scott A. Humphries, partner Robert J. Madden and associate David Sheeren, said that Pimco and BlackRock knew the firm was familiar with securitization documents because it had represented them in various cases for many years.

Gibbs & Bruns also represented a large group of bondholders who sought to protect their rights in the wake of the 2002 collapse of Ohio-based health care finance company National Century Financial Enterprises Securities and ultimately recovered more than $1 billion for its clients.

The $8.5 billion BofA settlement, which was announced in June 2011 and approved by New York Supreme Court Justice Barbara Kapnick in January, provides an $8.5 billion cash payment to the trusts and requires BofA to make improvements to streamline the servicing of the 770,000 mortgages at issue in the trusts — improvements that are estimated to tack on an additional value of several billion dollars to the trusts.

It also requires the bank to cure certain mortgage document issues and provides 530 trusts, which include the firm's clients, with full indemnity for any value lost in connection with mortgages in the trusts as a result of certain mortgage documentation deficiencies.

Working with such a large group of institutional investors was no easy task, but the firm organized its clients to band together to negotiate a deal that they couldn't have achieved on their own.

Because the contracts required collective action, people had to work together if they wanted a remedy, Patrick said. The firm set up a steering committee with dedicated senior-level personnel who were not engaged in trading any securities and did not know which holders owned what.

The multitude of interests at stake and the sheer complexity of the contracts were the biggest challenges of the case, according to Patrick.

She emphasized the importance of having a clear vision of the desired end result and said that the firm's willingness to dive in and thoroughly understand the contracts was crucial.

"A dogged determination to read and understand the contracts deeply was the key to our success," Patrick said.

Humphries said the most difficult task was keeping the momentum going, both for the firm's clients and for the negotiations with BofA. He agreed with Patrick that keeping focused on their objective was key.

"It could have been very easy to have gotten bogged down into the details and not have accomplished anything, and keeping a view of what the goal was and some momentum toward it" was essential, he said.

The firm said that the impact of the BofA settlement announcement in the financial sector was immediate, noting that the U.S. Securities and Exchange Commission released a letter to the banking industry reminding them to disclose risks associated with such claims following the announcement of the deal. And the disclosure of their liability, the firm said, has resulted in significantly more market transparency.

Gibbs & Bruns said the settlement is a radiant sign of market reform for its investor clients and borrowers alike, and said it is intent on using the deal's model with other banks on behalf of its cohesive investor group.

Last November, 21 of the firm's institutional investor clients **reached a $4.5 billion agreement** with JPMorgan Chase & Co., under which JPMorgan will make a binding offer to the trustees of 330 residential mortgage-backed securities trusts issued by JPMorgan, The Bear Stearns Companies Inc. and Chase to settle mortgage repurchase and servicing claims.

And in April, 18 of its institutional investor clients **reached a $1.13 billion agreement** with Citigroup, under which Citigroup will make a binding offer to the trustees of 68 Citigroup-sponsored RMB trusts that issued a total of $59.4 billion in RMBS.

Mayer Brown's Jason Kravitt, who represented the Bank of New York Mellon Corp. in the settlement negotiations, told Law360 that he found the Gibbs & Bruns attorneys to be extremely constructive and practical and said their ability to adjust and be good strategists sets them apart.

“They’re very effective. If they need to be extra-aggressive, they’re extra-aggressive,” Kravitt said. “If they’ll do better by being constructive and working toward a common goal, they‘ll do that.”

--Additional reporting by Jeremy Heallen, Stewart Bishop, David McAfee and Jeff Sistrunk. Editing by Jeremy Barker and Patricia K. Cole.