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Lawyers in California 2016

LITIGATION

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SPECIALTY: ANTITRUST & COMPETITION, CLASS ACTIONS, COMMERCIAL DISPUTES

The Great Recession continued to resonate in the courtroom as Simon and his colleagues reached a landmark \$1.8 billion settlement with the world's largest banks over their alleged conspiracy to maintain opacity in the credit default swaps market in order to restrain trade and avoid competition in violation of the Sherman Antitrust Act. *In re: Credit Default Swaps Antitrust Litigation*, 13-md-2476 (S.D. N.Y., filed Oct. 22, 2013).

Simon's firm and co-counsel Quinn Emanuel Urquhart & Sullivan LLP will net about \$254 million in fees from the case. U.S. District Judge Denise L. Cote of New York wrote in April in approving the fee award, "I think there is a public policy that is important in this land to encourage top-tiered litigators to pursue challenging cases like this..." She said that plaintiffs' counsel spent more than 93,000 hours on the case and labeled the quality of representation "superb."

The case settled with a preliminary agreement in October on the eve of class certification hearings, Simon said. "We went right up to the brink." The suit named 12 banks, including JPMorgan Chase & Co., Goldman Sachs Group Inc., Bank of America Corp. and Citigroup Inc. "The banks had tended

to stick together, but when Citi settled early, that was the first domino to fall," he said. "I spent so much time in New York on the case that we got a contract rate at our hotel." And it was no luxurious high-end place either, he said. "We still try to be conservative about things like that. We look at it as the class' money." He and his Pearson Simon colleagues operated out of Quinn Emanuel's Manhattan offices.

To persuade the banks to settle, the plaintiffs' team spent millions of dollars upfront on elaborate computer algorithms that took more than a year to build in consultation with economic experts. They showed how the economy might have fared absent the banks' alleged anticompetitive acts. "We ran all over the country taking depositions," Simon said. "We put in a lot of sweat and a lot of money to show the defense we were serious."

Big as the deal is, Simon said similar suits could be on the way. "Financial institutions are so gigantic, and the ripple effects are so gigantic that we are keeping an eye out for another bubble of some type," he said. "We're looking at interest rate swaps, a related product. And we're watching the bond market and the quantitative easing policy" by which central banks infuse cash into the



economy to stimulate growth.

The stock market may be up now, Simon said, "but when things are going great, it's time to worry."

— John Roemer