



## John Ansbro

### Partner

New York

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### Practice Areas

- Complex Litigation & Dispute Resolution
- International Arbitration & Dispute Resolution
- Mass Torts & Product Liability

### Education

- J.D., Yeshiva University, Benjamin N. Cardozo School of Law, 1995
- B.A., Columbia University, 1988

### Clerkships/Externships

- Hon. Peter K. Leisure, United States District Court, Southern District of New York, 1994 (Alexander Judicial Fellow)

### Memberships

- New York State Bar Association

John is senior litigator focusing on complex commercial litigation representing large, sophisticated clients in their most important matters in state and federal courts across the country. A proven trial lawyer and appellate advocate, he has obtained over \$1 billion in damages when acting as plaintiffs' counsel and secured pleading stage and summary judgment dismissals when defending his clients. Given his experience in the rarely litigated area of force majeure, John co-leads Orrick's COVID-19 Force Majeure Task Force.

John litigates a wide range of commercial disputes, including financial services litigations involving RMBS, long-term take-or-pay and liquidated damages disputes, force majeure, bankruptcy litigation, insurance recovery, consumer class actions, and commercial real estate foreclosure. He was also an arbitrator on an ICC International Court of Arbitration panel in a cross-border industrial contract dispute.

COVID-19's unprecedented global market impact has clients across an array of industries seeking John's counsel on force majeure and related breach of contract disputes. These include force majeure matters across jurisdictions and industries, including Energy & Infrastructure, Pharmaceuticals, Financial Services, Real Estate, Hospitality, and Retail.

John litigates significant, high stakes matters. For example, in 2017 on behalf of his client Hemlock Semiconductor Corp., in a case of first impression in Michigan, on appeal John won the dismissal of an attempt by a Japanese conglomerate to avoid \$1.4 billion in purchase obligations on the theory that alleged acts by the Chinese Government constituted an "act of government" under the parties' force majeure provision. The *Michigan Bar Journal* declared it one of the top 10 business cases of 2010-2019. In 2019, one of the very few RMBS actions to be tried, John was trial counsel for Credit Suisse Securities USA in a \$700 million dispute in the Supreme Court of New York. At trial he handled the defense expert in the critical area of loan underwriting.

Prior to joining Orrick, John was a Litigation Associate at Donovan Leisure Newton & Irvine LLP.

## Representative Engagements

### Financial Services Litigation.

Senior member of the Orrick team representing Credit Suisse Securities (USA) in 12 lawsuits seeking several billion dollars in alleged damages pending in state and federal courts across the country brought by (i) monoline insurers seeking to deny coverage under financial guarantees covering residential mortgage-backed securitizations and (ii) investors in residential mortgage-backed securitization alleging breaches of representations and warranties relating to the loans underlying securitizations. In 2019, John handled a key expert witness at trial in a \$700 million action in *MBIA Insurance Company v. Credit Suisse Securities LLC, et al* and has argued numerous motions and appeals in these matters.

In *CIFG Assurance N. Am. Inc. v. Credit Suisse Securities (USA) LLC*, John obtained dismissal on statute of limitations grounds of a \$46 million action in which CIFG alleged that it was fraudulently induced to guarantee a credit default swap referencing \$396 million of CDOs, dismissal affirmed on appeal. John demonstrated to the court that based upon public information and other facts known to the issuer, it was on sufficient notice of the alleged fraud well before the expiration of the statute of limitations. John argued and won a unanimous appellate affirmance of that dismissal.

John is also a senior member of Orrick's team representing one of the nation's largest mortgage loan servicers. This engagement covers all the company's RMBS related legal issues, including allegations by various certificate holders and RMBS trustees of faulty loan servicing under the trust agreements. None of these allegations has succeeded.

### Long-Term Supply Agreements/Take-or-Pay/Force Majeure.

Lead counsel to Hemlock Semiconductor Operations LLC in seven actions in Michigan federal and state court and New York state court arising from breaches of long-term contracts for the supply of polycrystalline silicon used in the manufacture of solar panels. The actions sought over \$3 billion in damages against defendants located in Japan, Germany, China and Taiwan, and involve numerous disputed legal issues, including the contracts' take-or-pay and liquidated damages provisions, as well as defenses raised under the anti-trust laws of Japan and the EU, the doctrines of force majeure, commercial frustration and impracticability, among many other defenses.

Obtained dismissal of buyer's attempt to be excused from \$1.4 billion in performance obligations on the theory that Chinese government's illegal disruption of the market constituted an "act of government" force majeure event. *Kyocera Corporation v. Hemlock Semiconductor LLC*, 886 N.W.2d 445, 447 (Mich. Ct. App. 2015), appeal denied, No. 153238, 2016 WL 6909949 (Mich. Nov. 23, 2016). Obtained summary judgment on liability and an award of \$793 million against a buyer that raised numerous defenses,

including under EU and German antitrust laws, illegality, and frustration of purpose, among others. *Hemlock Semiconductor Corp. v. Deutsche Solar GmbH*, No. 13-CV-11037, 2016 WL 3743130 (E.D. Mich. July 13, 2016).

**Consumer Class Action Defense.** As lead counsel, obtained dismissal with prejudice of a putative nationwide class action against Rail Europe, Inc., the largest U.S. distributor of European railroad tickets and related services, in an action alleging deceptive sales practices, fraud, negligence and violations of consumer protection statutes.

**Import and Distribution Litigation.** As lead counsel for Centre Vinicole-Champagne Nicolas Feuillatte (CV-CNF), defeated applications by its former exclusive U.S. importer and distributor for a temporary restraining order and preliminary injunction that threatened to cripple CV-CNF's U.S. operations. CV-CNF produces the best-selling champagne in France and is the fifth largest selling brand in the United States.

**Bankruptcy Litigation.** Trial counsel for the court-appointed representative of future asbestos personal injury claimants in a five-week hearing of the multibillion-dollar estimation phase of *In re W.R. Grace & Co.*, Case No. 01-1137 (JKF), in the U.S. Bankruptcy Court for the District of Delaware.

**Bankruptcy Litigation.** Trial counsel for the court-appointed representative of future asbestos personal injury claimants in a five-week hearing of the multibillion-dollar estimation phase of *In re W.R. Grace & Co.*, Case No. 01-1137 (JKF), in the U.S. Bankruptcy Court for the District of Delaware.

**Information Technology Outsourcing.** Trial counsel for Capgemini US LLP in a three-week arbitration arising from a complex IT outsourcing contract. Successfully obtained a panel ruling that rejected almost all the claimant's request for more than \$10 million.

**Commercial Real Estate Foreclosure.** Counsel for a national U.S. bank acting as trustee to the AFLCIO Building Investment Trust in foreclosure on a \$56 million mortgage on a high-end condominium tower in downtown Manhattan.

**Reinsurance Arbitration.** Represented several Lloyd's of London syndicates in run-off in an arbitration in New York arising from alleged fraudulent inducement into a complex reinsurance program brokered in England.

**Accountants' Liability.** Represented PricewaterhouseCoopers LLP legacy United Kingdom firms against a complex action relating to U.K. audit and business review services, brought by a major European bank in California state court.

**Environmental Insurance Coverage.** Represented Wyeth (formerly known as American Home Products Corporation) in a complex declaratory judgment action to determine Wyeth's right to insurance coverage for liability imposed against the company as a result of environmental contamination at 37 sites located in more

than a dozen jurisdictions.

**Criminal.** Second-seated three homicide trials as a pro bono assistant district attorney with the Homicide Bureau of the Kings County District Attorney's Office.

### Speeches and Programs

- John spoke on the panel addressing "Coverage Issues Arising from Consumer Mortgage Fraud and the Impact of the U.S. Financial Meltdown," at the ABA Tort Trial and Insurance Practice's 20th Annual Mid-Year Program in February 2012.

### Admissions

- New York

### Court Admissions

- [United States District Courts](#) | Southern District of New York
- [United States District Courts](#) | Eastern District of New York
- [United States District Courts](#) | Western District of New York
- [United States District Courts](#) | District of New Jersey
- [United States District Courts](#) | Northern District of Florida
- [United States District Courts](#) | Eastern District of Michigan
- [United States Courts of Appeals](#) | Second Circuit
- [United States Courts of Appeals](#) | Sixth Circuit
- [United States Courts of Appeals](#) | Tenth Circuit