

## **Energy Sector Disputes**

Quinn Emanuel built its reputation by carving success from long odds in “bet the company” litigation. We are home to many of the best litigators, including in the energy sector, where disputes often involve complex legal, technical, contractual, political, and regulatory aspects. We rely on unparalleled advocacy skills, with the best practitioners from both the common law and the civil law worlds, in the United States and internationally. We focus on the goal to be reached and the shortest and most efficient way to reach it.

No wonder that our partners have been involved in the largest and most complex energy disputes in recent history, both internationally and in the United States. To take a few examples, we represented Entergy Mississippi in successfully defending a suit by the Mississippi Attorney General that sought approximately \$2 billion for allegedly imprudent energy procurement practices. We currently represent FirstEnergy Corporation in a recently filed complaint by the Office of Ohio Consumer Counsel at the Federal Energy Regulatory Commission (“FERC”) seeking to impose upon Ohio transmission owners a requirement of preconstruction approval by FERC of “local” (meaning not regional) transmission projects. Internationally, we represented Exxon and Petronas against Chad in the largest ICC arbitration ever, with USD 77 billion in dispute. One of our partners also represented the majority shareholders of Yukos in the arbitrations that led to an award of more than \$50 billion awarded—the largest arbitral award ever.

We regularly represent industry giants, such as Entergy, Exxon, FirstEnergy, Total, Shell, CNOOC, Occidental Petroleum, Petronas, Sonatrach, EDF and Repsol as well as start-up technology companies. We represent energy clients in disputes over patents, environmental claims and investigations, regulatory, contract, tax and tariff stabilization, price review, operation of hardship provisions, and business tort issues in court cases, regulatory proceedings, and international arbitrations. We have extensive experience handling arbitrations between energy companies and foreign governments under project agreements, bilateral investment treaties (BITs), and the Energy Charter Treaty (ECT). A small selection of credentials is set out below, providing a flavor of our expertise in a range of different areas.

### **MEET THE TEAM**

#### **Ted Greeno**

Ted is a partner in Quinn Emanuel’s London office and Co-Chair of the firm’s Energy Practice. Ted has specialized in energy industry disputes since the 1980’s, and was the first lawyer in London to do so. He has advised major oil, gas, and power companies (including buyers and sellers) on litigation, arbitration and expert determinations relating to all aspects of oil field and power generation projects around the world, from construction and engineering claims to pricing, distribution and ownership disputes as well as claims arising from major catastrophes caused by engineering or operating failures. He is recognized in Band 1 for Energy Disputes by Chambers,

who reported that “*Ted Greeno’s disputes practice is immensely respected within the energy industry – a sector he is reputed to ‘have made his own’.*”

### **Sanford I. Weisburst**

Sanford (“Sandy”) Weisburst is a partner in Quinn Emanuel’s New York office and is Co-Chair of the firm’s Energy Practice. He specializes on energy matters at the administrative agency, trial court, and appellate levels. He was named a Law360 MVP for energy law for 2020, in recognition of his accomplishments including helping Entergy Mississippi defeat a suit by the Mississippi Attorney General seeking approximately \$2 billion for alleged misconduct in energy procurement practices, and his victory for Total Exploration and Production in the U.S. Court of Appeals for the Fifth Circuit overturning a multimillion dollar judgment concerning decommissioning liability. Sandy currently represents respondents in two major cases pending at FERC, one on behalf of System Energy Resources, Inc. (owner of a majority of the Grand Gulf Nuclear Station in Mississippi), and another on behalf of FirstEnergy affiliate American Transmission Systems, Inc. Sandy also represents these entities in pending appeals in the U.S. Court of Appeals for the Fifth and Circuit Circuits. Sandy graduated first in his class at the University of Chicago Law School and went on to clerk at the U.S. Court of Appeals for the D.C. Circuit and the Supreme Court of the United States before entering law practice.

### **Karl Stern**

Karl Stern joined Quinn Emanuel’s Houston Office in 2014. Karl is Co-Chair of the firm’s Energy Practice and has over 30 years of extensive experience trying cases to juries, courts, and arbitrators within state and federal courts throughout the U.S. and before domestic and international arbitral tribunals. Many of his cases deal with complex transactions in the energy industry, which include joint ventures, international gas investments, gas and power trading and marketing, and the development, acquisition, sale and ownership of oil, gas, renewable energy, and power assets. Karl’s cases also involve mergers and acquisitions, finance, corporate, LLC, and partnership governance, and shareholder rights.

### **Christopher Porter**

Chris is Co-Managing Partner of Quinn Emanuel’s Houston office. Chris is an experienced trial lawyer focused on the key disputes businesses face – from breach of contract and trade secret claims to business torts and antitrust disputes. A natural in the courtroom, Chris brings substantive jury-trial experience and commands the respect of judges and juries alike. His comfort level with going to trial is a formidable competitive advantage for his clients – both in and outside the courtroom. In 2022 and 2023, Chris was ranked by *Chambers USA* in General Commercial Litigation and most recently has been named Litigator of the Week by *The American Lawyer*. He has also been repeatedly recognized as a “Texas Rising Star” by Thomson Reuters’ *Super Lawyers*, and he has been named to the Texas *Super Lawyers* list from 2020-2023. Most recently Chris was named *Legal 500* “Recommended Lawyers” in general commercial Disputes and Energy Litigation: Oil and Gas 2023. Chris has also been selected to the *Lawdragon 500* Leading Plaintiff Financial Lawyers guide from 2020-2023 and *Lawdragon’s* Top 500 Lawyers in America guide for 2024. Chris currently serves on the Board of Directors for the Houston Parks Board.

### **Anthony Sinclair**

Anthony Sinclair is a partner in Quinn Emanuel’s London office and Co-Chair of the firm’s Energy Practice. His work spans a broad range of industry sectors, with particular focus on the oil and gas,

energy and mining, telecommunications, infrastructure and utilities sectors, especially in emerging markets, as counsel and arbitrator. His experience includes handling disputes under ICC, LCIA, ICSID and UNCITRAL arbitration rules arising out of concession agreements, licenses, production sharing and operating agreements, joint ventures, EPC and other construction agreements, host government and inter-governmental agreements, management and service agreements, distributorships, investment agreements, financing agreements and derivatives and post-M&A matters. He also has extensive experience as counsel for both private investors and States handling disputes under bilateral investment treaties and the Energy Charter Treaty.

### **Philippe Pinsolle**

Philippe Pinsolle is the managing partner of the Paris office. He has acted as counsel in more than 200 international arbitrations, with a particular focus on Investor-State arbitrations and commercial disputes involving the energy, power, oil & gas, construction and defense industries. He has been involved in arbitrations under the auspices of virtually all major arbitration institutions including the ICC, the LCIA, the ICSID, the SCC, the AAA, the ICDR, the Swiss Chambers of Commerce, the AFA, as well as in ad hoc cases under the UNCITRAL rules or otherwise. Philippe Pinsolle has also served as arbitrator in more than 45 cases, as well as expert witness on arbitration and French law issues. He has been ranked as a leading practitioner by Chambers UK for over 20 years and is listed in Band 1 for Litigation and Energy and Natural Resources. He is consistently recognized by Chambers Global, the Global Arbitration Review, Who's Who Legal, and Best Lawyers.

### **Maaren Shah**

Maaren Shah is a partner in Quinn Emanuel's New York Office. She often participates in one or more trials or major arbitration hearings per year and has emerged as one of the leading young trial attorneys at the firm, having recently secured a \$70-million verdict and a \$115 million verdict following confidential arbitration proceedings that were heard on highly expedited schedules. Maaren has increasingly focused her practice on the energy sector, representing clients in energy-related disputes and representing energy-sector companies in complex commercial disputes. She has represented FirstEnergy Generation Company in disputes concerning coal-fired electricity generation stations, as well as oil-and-gas production and exploration companies and energy commodities trading firms. She has significant experience advising her clients on the strategic resolution of commercial disputes and on general legal strategy short of litigation. She was recently honored as a "Rising Star" by the *New York Law Journal* (2016) and as a "Rising Star" in Energy by *Law360* (2018), and has twice been named to *Benchmark Litigation's* "Under 40 Hot List" (2016 and 2018).

### **Ellyde Thompson**

Ellyde Thompson is a partner in Quinn Emanuel's New York Office. For more than a decade, Ellyde has represented energy companies in a wide range of proceedings, before federal and state administrative agencies, on trial and appeal, before the United States Supreme Court, and in arbitration hearings. She was recognized as one of the *Lawdragon 500 Leading Energy Lawyers* for Energy Litigation & Appeals, 2023.

### **Michael Young KC**

Michael is a partner specializing in international arbitration in the energy sector. He is one of the leading practitioners globally, joining Quinn Emanuel in 2017 from Allen & Overy LLP (where he was Global Co-Head of their arbitration practice and led their Africa disputes practice). He is a Vice-President of the ICC Court. Leading directories have described Michael as someone who has

“the wit of a master, knows ICC rules inside out, and never loses”, a “perfect mastery of the rules of arbitration and procedure, as well as a spectacular ability to resolve cases” and “one of the country’s premier advocates... A connoisseur of international arbitration”. He has advised and represented international clients in countless arbitrations throughout the world, both ad hoc and under each of the major institutional rules. Those disputes have arisen worldwide, but with a particular focus on Africa (both North and Sub-Saharan), North America, Asia and the Middle East.

### **REPRESENTATIVE HIGH-PROFILE REPRESENTATIONS:**

- We represented **System Energy Resources, Inc.** and **Entergy Service, LLC** (together, “SERI”) in a rehearing at the Federal Energy Regulatory Commission (“FERC”) and in an appeal of FERC’s order denying SERI of rent payment recovery during the renewal term of 21 years under the sale-leaseback agreement it entered in 1988. The appeal also concerned the implications of a so-called “uncertain tax position” SERI had taken on its ability to deduct future expenses of decommissioning the plant at the end of its life from the cost of goods (electricity) sold in the present. The appeal was resolved by settlement.
- We represented German gas company **Uniper** in an international arbitration against global gas giant Gazprom Export. Uniper suffered damages of over USD 14 billion due to Gazprom Export’s decision to not deliver any gas to Germany anymore. We obtained a full win for the client of over USD 14 billion in addition to a confirmation of a right to terminate the gas delivery contracts.
- We represented **TRC** in a case against Chevron where we obtained a \$120 million jury verdict and then won an appellate victory that reinstated that verdict after an erroneous new trial order by the trial court. TRC and Chevron are oil producers operating adjacent well fields in Kern County, California. TRC claimed that Chevron’s negligent steaming operations created dangerous conditions that forced TRC to suspend operations; Chevron counterclaimed against TRC. The case proceeded to trial before a California jury, which found for TRC and awarded TRC \$73 million in damages and \$47 million in prejudgment interest. After trial, the trial court found the verdict supported by substantial evidence, but granted Chevron a new trial on the ground that one of the jurors had not disclosed a 40-year-old felony conviction that allegedly rendered him statutorily ineligible to serve as a juror. TRC appealed and Chevron cross-appealed. In a unanimous, precedential opinion, the California Court of Appeal ruled for TRC and against Chevron, reversing the new trial order and directing the trial court to reinstate the judgment in favor of TRC. With post judgment interest, the final award to TRC will exceed \$150 million.
- We achieved a groundbreaking victory for our client **Santos** (one of Australia’s leading oil and gas companies) in the Federal Court of Australia against an application brought by three applicants who are Indigenous people from the Tiwi Islands, represented by the Environmental Defenders Office. The Santos-operated Barossa Gas Project is a \$5.8 billion offshore gas and condensate project and its financial viability was at serious risk pending the outcome of the proceeding. The

judgment is particularly noteworthy as it is the first time that many of the provisions in the Regulations, that were relied upon by the Applicants, have been judicially considered. The Court dismissed the applicants case entirely. The judgment represents not only a significant win for Santos but also sets new precedent as to the proper construction of the Regulations and is consequently a very important judgment for the offshore oil and gas industry in Australia.

- We represented **Talen Montana** in litigation to recover hundreds of millions of dollars Talen Montana’s former parent, PPL Corp., transferred to itself, and leaving Talen Montana without assets sufficient to meet its large environmental and pension obligations. In December 2023, after more than five years of litigation, PPL paid \$115 million to Talen Montana to settle the fraudulent transfer claims.
- We represent **System Energy Resources, Inc. (“SERI”)** and **Entergy Services, LLC** in an appeal to the U.S. Court of Appeals for the Fifth Circuit from a FERC decision addressing two issues concerning the Grand Gulf Nuclear Station (which is majority owned by System Energy). The first issue concerned a sale-leaseback transaction into which SERI had entered many years ago, in which it sold a portion of the plant to third parties, who then leased that portion back to SERI for a term of years, with SERI to pay rent payments but also to enjoy the capacity and energy produced by that portion of the plant. The second issue concerned SERI’s treatment in its rates of a previously-uncertain-but-since-resolved tax position that SERI had taken with the IRS concerning characterization of decommissioning costs as a cost of goods sold. SERI filed a petition for review in the U.S. Court of Appeals for the Fifth Circuit, which is pending.
- We are currently defending FirstEnergy subsidiary **American Transmission Systems, Inc. (“ATSI”)** at FERC against a complaint filed by the Ohio Consumer Counsel (“OCC”) against various Ohio transmission owners including ATSI. This lawsuit stems from the increased construction and updating of local transmission projects to meet higher demand and aging infrastructures in Ohio. OCC claims that there is a “regulatory gap” because existing state and federal transmission planning approval mechanisms are insufficient to oversee the construction of these projects. It asks for a sea change resolution—that FERC develop a pre-construction approval regime for transmission projects. Meanwhile, FERC is already addressing the issues raised in the complaint in pending rulemaking proceedings.
- We won an 8-1 victory for Shell Oil in the U.S. Supreme Court in *Burlington Northern & Santa Fe Railway v. United States*, which greatly limited “arranger” liability under CERCLA and held that Shell could not be held liable as an arranger for shipping useful chemicals. The case also greatly clarified the standards for apportionment in CERCLA suits.
- We successfully represented **Barra Energia** in an arbitration concerning a consortium agreement for an oil project in Brazil. The arbitration was commenced by Dommo Energia after Barra Energia issued a withdrawal notice requiring Dommo Energia to exit the consortium for non-payment of its share of the

consortium's costs and expenses. In three arbitration awards, the tribunal upheld the validity of Barra Energia's notice and ruled that it could not be nullified under Brazilian law. The tribunal also held that Dommo Energia was not entitled to any compensation even though it was required to exit the consortium and transfer its interest in the consortium to the remaining parties at no cost.

- We represented **Occidental Petroleum** and won a jury verdict establishing liability in an insurance coverage case regarding business interruption losses sustained from over two hundred terrorist bombings of an oil pipeline in Colombia. The case settled for nine figures before the damages phase of the trial.
- We represented **Edison** in a major gas supply dispute against Eni in connection with a long-term gas supply agreement in the Italian gas market. We obtained an arbitral award retroactively reducing by more than EUR 1 billion (without interest) the price paid by our client Edison, which represented over 97% of Edison's claim. This billion-dollar victory is one of the largest amounts ever awarded in a price review arbitration.

## **OTHER INTERNATIONAL REPRESENTATIONS:**

### **PSAs, PSCs, CONCESSION AGREEMENTS:**

- We recently achieved a very significant settlement for two solar power executives and entrepreneurs just days after closing arguments in an arbitration. The adversary had made a settlement offer of essentially nothing the week before – but, after learning the award was about to issue right after argument, the adversary hastened to settle the matter with urgency and on very favorable terms for the clients.
- We represented **local subsidiaries of the ExxonMobil and Petronas groups** as member of a consortium involved in a dispute against the Republic of Chad over Chad's attempt to levy a statistical tax on crude oil exports by the consortium in violation of the provision of two conventions entered into by the parties for the production and export of crudes. Chad had sought relief in its own national courts in violation of the arbitration agreements of the conventions and a local court had ordered our clients to immediately pay over USD 800 million even as an appeal was pending. We filed for ICC arbitration and first obtained ex parte super provisional measures (later confirmed after a hearing) enjoining Chad from seeking enforcement of the local court decision, followed by a partial award in which the Tribunal retained jurisdiction over the dispute. In parallel to the arbitration effort, the parties settled the dispute. The amount in controversy was USD 77 billion.
- We represent an **North African National Oil Company (NOC)** in ad hoc UNCITRAL arbitration proceedings against a North African company, claiming termination of two contracts for the exploration, development, and production of

gas/oil fields. The procedure was bifurcated into three phases: jurisdiction, merits, and quantum. Quinn Emanuel won the first two phases for its client and is now engaging in the third phase. The award on the merits gave right to our client on all grounds. The amount in dispute is approximately USD 2.5 billion. The seat of arbitration is Geneva.

- We advise a **global petroleum company** operating globally and an investment company owned by an Arab Emirate, in connection with the potential withdrawal from various contracts entered into with a Middle Eastern Government for the development of an oil field. Our client lost around US\$1 billion on the project as of 2014 and losses are projected to amount to US\$5 billion by the end of the contract period. We are advising them on the consequences of withdrawing from their contracts with the local Government.
- We represent a **leading European oil company** in a series of disputes concerning PSA interests in Yemen, each worth several \$100 million and all against the challenging legal and factual environment prevailing in that State.
- We represent a **major Asian NOC** in arbitration proceedings (seated in Lagos) against the Nigerian State concerning significant cost recovery issues and lifting disputes under the terms of the relevant PSAs. Several billion dollars are at stake.

## JOAs, JVAs AND RELATED AGREEMENTS:

- We represented the **owner of an oil-producing property** in a negligence action against the operator of an adjacent oil-producing property. After a 7 week jury trial, the jury awarded our client its full damages and prejudgment interest—\$120 million.
- One of our partners acted for **Chevron** in its defense of Total's claim that their joint venture managing company was liable for the £1 billion costs of the Buncefield oil depot explosion and that, alternatively, Chevron was obliged to indemnify Total for its liability for those costs.
- We represented **General Atomics Energy Services, Inc.** in an AAA proceeding to recover costs attributable to respondent's negligence in causing the unplanned shutdown of a uranium hexafluoride production plant, which was jointly owned by the parties. We prevailed on cross-claims for wrongful termination.

## UNITIZATION AGREEMENTS:

- One of our partners represented a **North African NOC** against a consortium of foreign companies in an UNCITRAL arbitration in Geneva arising from the impact of a unitization agreement on an existing production sharing agreement. Algerian law applied. A settlement was achieved.

- One of our partners represented **the owners of the Nelson field** in relation to proceedings arising out of an expert's equity redetermination process under the Nelson Field Unitization Agreement in *Svenska and Neste v. Shell, Esso, Enterprise and Enterprise Elf*.
- One of our partners represented an international oil company in expert and arbitration proceedings relating to an equity redetermination for a unitized field offshore of West Africa.
- A member of our team was counsel for an **African national oil company** in an UNCITRAL arbitration in Geneva initiated by an international oil company arising from an unitization agreement. Hundreds of millions of U.S. dollars were in dispute.

### **TRANSPORTATION/STORAGE AGREEMENTS (PIPELINES, ETC.):**

- We represent a **European subsidiary of a major oil company** in two arbitrations. The dispute relates to the suspension of shipments to a European refinery by three shipping companies. The pipeline company supplying the refinery initiated a joint arbitration against the shipping companies in their capacities as shareholders of the pipeline, and individual arbitrations against each shipping company as client of the pipeline. The total amount in dispute is around EUR 100 million.
- One of our partners acted for **Chevron Nigeria Ltd.** in Interpleader proceedings in which an English court upheld for the first time a purchaser's equitable lien under a contract for work and materials.

### **AGREEMENTS WITH CONTRACTORS (DRILLING ETC.):**

- We represented **Vantage Deepwater Company** and **Vantage Deepwater Drilling, Inc.** in an ICDR arbitration against Petrobras America Inc., Petrobras Venezuela Investments & Services, BV, and Petróleo Brasileiro S.A. – Petrobras (together, "Petrobras") concerning Petrobras's improper early termination of an eight-year deepwater drilling contract. A majority of the Tribunal rejected Petrobras's contentions that termination was proper due to purported operational failures and that the contract was void or voidable for being procured by bribery. The Tribunal awarded Vantage \$622 million in benefit-of-the-bargain damages, plus post-judgment interest. Petrobras challenged the award, arguing that the tribunal had not properly considered whether or not that contract was procured through bribery. In May of 2019, U.S. District Judge Alfred H. Bennett (S.D. Tex.) rejected this argument and confirmed the award, and Petrobras was forced to pay our clients over \$700 million.
- We represent a **major European energy company** acting as Respondents in an ICC arbitration initiated by a major engineering company on the basis of a frame agreement for engineering studies. The engineering company asserts that the



Respondents used confidential information to obtain a patent on a deepwater drilling method and to use this method in an exploration and production project in Congo. The Respondents submitted counterclaims, also based on the use and disclosure by the engineering company of the confidential information it provided.

- We represent a **major European energy company** in an ICC arbitration against a global offshore engineering and construction contractor, in an English language arbitration seated in Paris regarding ownership of intellectual property in high value drilling and extraction technology. French law applies to the merits of the case. The amount in dispute is in excess of USD 200 million.
- We represent **an international oil and gas services company** based in the UK with respect to pre-arbitration issues in a potential dispute with an African State-owned oil company. The potential dispute arose out of a contract for the provision and operation of an oil rig. The UK company claimed that the State-owned oil company had failed to pay a number of invoices, whereas the State-owned oil company threatened a counterclaim based on contractual liability for a technical incident on the rig. Local law applies to the merits and the seat of the arbitration is in France.
- We represented a subsidiary of **Occidental Petroleum** as a plaintiff in a price-fixing antitrust action against the provider of fuel necessary to operate its drilling pumps. The case settled for a multi-million dollar payment shortly after it was filed.

#### **LONG-TERM GAS SUPPLY AGREEMENTS (OTHER THAN PRICE REVIEWS):**

- We successfully defended a **leading European energy distributor** in an ICC arbitration seated in Geneva against a leading European gas supplier in connection with a medium-term gas supply agreement. The dispute revolved around the validity under NY law of the termination of the agreement by application of a hardship provision. We obtained a complete victory for our client. The tribunal dismissed all of Claimant's claims (totaling USD 100 million), including an unrelated claim for payment of contested invoices.
- One of our partners acted for the six owners of the CATS North Sea gas pipeline, **Amoco (UK) Exploration Co. and Ors**, in a send-or-pay dispute with Enron through which Enron sought to avoid paying for pipeline capacity and ultimately to escape its obligations under the J-Block gas take or pay agreements.

#### **GAS PRICE REVIEWS:**

- We represent a **North African NOC** in a price review arbitration against a leading European gas supplier arising out of a long term gas sale and purchase agreement. The arbitration is conducted under the Rules of the ICC and the seat of the arbitration is Geneva. Local law applies to the merits. The amount of the dispute is in excess of USD 750 million.

- We represented a **major European energy company** in a dispute arising from its termination of a medium-term take-or-pay gas supply agreement entered into with a major European gas seller. The agreement was governed by New York law and subject to ICC arbitration with a seat in Geneva. The seller's claims totaled USD 100 million. The arbitral tribunal sided with our client on every issue, rejected all of the seller's claims, and thus confirmed the validity of the termination.
- We represented a major **European energy company** in a price review arbitration and expert determination proceeding against another major European energy company. The dispute revolved around the interpretation of the price review provision and the respective scopes of the arbitration and the expert determination proceedings. We obtained a first major victory for our client by securing the suspension of the expert determination proceeding and an award on jurisdiction dismissing the counterparty's objection to jurisdiction. Following that decision, and while the amount claimed against our client exceeded EUR 430 million, the final decision rendered by the experts' panel awarded the other company only a quarter of the damages it sought. This was a significant victory for our client.

#### **LONG-TERM ELECTRICITY CONTRACTS:**

- We represented a **European energy company** in a EUR 700 million ICC arbitration against a financial institution arising out of a failed joint-venture project in Central Europe. Italian law applied. A favorable settlement was achieved.
- One of our partners acted for **TXU Europe Energy Trading Ltd.** in defense of claims for alleged breach of two long term "Virtual Power Station" agreements valued by Enron at £1.2 billion.

#### **ENERGY INFRASTRUCTURES (CONSTRUCTION TYPE DISPUTES):**

- We represent a **North African National Oil Company (NOC)** in a major ICC arbitration in relation with the construction and exploitation of an oil and gas plant by an Italian contractor. The dispute arose out of additional costs allegedly incurred by the contractor during the execution of the EPC project. The dispute exceeds USD 500 million and relates to an infrastructure project valued in excess of USD 1.7 billion. The seat of the arbitration is Paris. Local law applies.
- We represented a **North African NOC** in an ICC arbitration initiated against a French multinational company of the energy industry specialized in project management, engineering, and construction. The dispute pertains to delays in an Engineering Procurement and Construction (EPC) contract for the rehabilitation and adaptation of a refinery in North Africa. The seat of the arbitration is Geneva. Local law applies. A parallel procedure was filed also with the ICC by the French

company. Consolidation was requested and obtained. A settlement was achieved. The amount in dispute exceeded USD 3.5 billion.

## **INVESTMENT DISPUTES:**

### *OIL & GAS*

- One of our partners represented the majority shareholders in former **Yukos Oil Company** as Claimants in a series of three arbitrations against the Russian Federation in relation to the expropriation of their investment in the company. The claims were brought under the Energy Charter Treaty, a multilateral convention governing trade and investment in the energy sector. The arbitrations were conducted in accordance with the UNCITRAL Arbitration Rules and were administered by the PCA in The Hague. These cases have attracted a lot of attention in the arbitration community due to the size of the claim, the identity of the parties and the political context surrounding the Yukos matter. In July 2014, the arbitral tribunal ordered the Russian Federation to pay damages in excess of USD 50 billion to Yukos majority shareholders. This is the largest arbitral award ever.
- We obtained three victories in Russia for a prominent Ukrainian businessman, **Dmitry Firtash**. The dispute was about control over EMFESZ, a leading Hungarian gas trader with annual turnover of over \$1 billion. We won a Russian arbitration for entitlement to trader's shares and also succeeded in two related Russian litigations, where the courts upheld the client's cornerstone legal argument and then refused to set aside the award.
- We represented the **Republic of Azerbaijan** in ICSID proceedings under the Energy Charter Treaty involving an alleged investment in Azpetrol, Azerbaijan's largest downstream petroleum company, and Azertrans, an oil transportation and transshipment company. We achieved outright success when the Claimants agreed to a "drop hands" settlement following the State's application to dismiss the claims on grounds that, through acts of corruption, the Claimants had violated transnational public policy.
- We represented a **North American oil and gas company** in proceedings under the Germany-Venezuela BIT and Canada-Venezuela BIT concerning interference with its interests in a field in the Orinoco. We achieved a favorable lump-sum settlement for our client.
- We represented **GasTransBoliviano** in proceedings against the Republic of Bolivia concerning interference with the operation and taxation of a natural gas pipeline. We achieved a favorable settlement.

### *ELECTRICITY & POWER*

- We represent Italian investors **Hydro S.r.l. and others** as claimants in an ICSID arbitration against the Republic of Albania under the Italy-Albania BIT (ICSID Case No. ARB/15/28). The dispute is in relation to an electricity generation venture. It pertains to actions taken by Albania including expropriation measures and measures amounting to breach of fair and equitable treatment. In this arbitration, the Tribunal issued a historical decision on provisional measures ordering Albania to suspend its criminal proceedings against the claimants and to withdraw the extradition proceedings that it brought in the United Kingdom. The amount in dispute is in excess of USD 350 million.
- We represent **several Italian investors**, including the most important waste treatment consortium in Italy (M. Angelo Novelli, Costruzioni S.r.l.) and their Albanian operation company (Albaniabeg Ambient Sh.p.k.), as claimants in an ICSID arbitration against the Republic of Albania (ICSID Case No. ARB/14/26). The dispute arose out of Albania's failure to execute and perform a concession agreement entered into with the Albanian operation company for the construction of an integrated center for the treatment of waste and production of electrical energy. The claim is brought under the Energy Charter Treaty and its amount exceeds USD 400 million.
- We represented the **Republic of Slovenia** in a pending ICSID dispute involving a nuclear power plant operation. We achieved dismissal of the Energy Charter Treaty claims in a preliminary ruling.
- We represented the **CDC Group** against the Republic of Seychelles in ICSID proceedings involving an energy contract. We achieved success on the merits following a cost-effective and strategic application for a preliminary determination and defeated respondents' subsequent application for annulment.
- We represented the **Republic of Panama** in its first ever ICSID dispute, which was filed by three U.S. investors and involved a thermal power plant operation. We achieved dismissal of all claims after a full hearing on the merits and obtained an award taxing costs against the Claimants and in favor Panama.

## **REGULATORY AND ENVIRONMENT**

- We represented an **international consortium** in a number of court disputes with Russian environmental authorities regarding a major project worth several billions of U.S. dollars.

## **OTHER U.S. REPRESENTATIONS**

### **TRANSPORTATION/STORAGE AGREEMENTS (PIPELINES, ETC.):**

- Alta Mesa Holdings, Inc., an oil and gas company, entered into midstream gathering contracts with **Kingfisher Midstream, LLC**. Alta Mesa drilled for oil and gas, and Kingfisher gathered and transported it. The companies were under common ownership and had largely overlapping boards. Like many E&P companies, Alta Mesa filed for chapter 11 bankruptcy protection when faced with declining commodity prices and lower-than-expected yields. On the same day it filed for bankruptcy, it sued its corporate sibling, Kingfisher, arguing that it should be permitted to reject their gathering contracts under the Bankruptcy Code, and that Alta Mesa’s directors breached their fiduciary duties by agreeing to enter into those contracts in the first place. Quinn Emanuel argued at summary judgment that the gathering agreements conveyed Kingfisher interests in real property, and thus could not be rejected under the Bankruptcy Code. On the eve of trial, the Court ruled in Kingfisher’s favor. Quinn Emanuel then defended Kingfisher on the remaining claims, and after three trial days, Alta Mesa decided to discontinue the trial rather than pressing forward with its claims.
- We represent the **SemGroup Litigation Trust** stemming from the bankruptcy of SemGroup, a midstream oil and natural gas company engaged in storage and transport services from producers to refineries and asphalt manufacturers, in pursuing claims against various individuals, auditors and financial institutions involving fraudulent transfer, professional malpractice, breach of fiduciary duties, and other financial claims.
- We advised **Mobil**, one of the minority shareholders in the Alaskan Pipeline, in numerous suits, including the federal criminal investigation involving the wake of the Exxon Valdez oil spill.

## NUCLEAR ENERGY:

- We represented **Entergy** in seeking Vermont regulatory approval of a first-of-its-kind transaction in which an already-shutdown nuclear plant would be sold by a utility operator to a decommissioning schedule. The regulatory proceeding involved numerous rounds of written testimony, discovery, depositions, a settlement with certain parties (including the key Vermont agencies), and finally an evidentiary hearing before the Vermont Public Utility Commission. The Commission issued its decision granting approval on December 6, 2018.
- In the U.S. Court of Appeals for the D.C. Circuit, we successfully opposed an emergency petition seeking shutdown of the Indian Point 2 nuclear power plant, which is owned and operated by our client **Entergy**. The petition was filed by Friends of the Earth and two other organizations and alleged that Indian Point 2 should be shut down pending further study of degraded bolts that had been detected in the reactor vessel and replaced. The petition was filed notwithstanding that the federal regulator, the Nuclear Regulatory Commission (“NRC”), had found Indian Point 2 could be operated safely. The D.C. Circuit set an expedited briefing schedule over the course of a week, and then denied the petition.

- We successfully represented **Entergy Corporation** before the Vermont Public Service Board, obtaining a Certificate of Public Good for the continued operation of the Vermont Yankee Nuclear Power Station through December 2014. The Public Service Board held that, on balance, continued operation of the VY Station through December 2014 would promote the general good of the state of Vermont.

## **RENEWABLE ENERGIES:**

- We represented many wind farms, including **Innergex** and **EDF Renewables**, with respect to the Texas winter storm. Many of these disputes involved the application of force majeure provisions. Others involved nodal pricing disputes and personal injury lawsuits relating to the freeze. One dispute that progressed quickly involved **Stephens Ranch**, a west Texas wind farm that supplies thousands of households in the Odessa/Lubbock metropolitan area. During construction, Stephens Ranch entered a long-term contract with its investment bank to sell power at a fixed rate. During the February 2021 polar vortex that struck Texas, Stephens Ranch could not generate power because of the unprecedented weather conditions. Stephens Ranch's investment bank served it with an invoice worth multiples of annual revenue for one week of non-delivered power. We filed an action in New York Supreme Court for a declaration of force majeure and for a declaration that the calculations supporting the invoice were improper under the contract as well as an injunction to forbid the investment bank from seizing the wind farm in satisfaction of the disputed invoices, until the validity of the invoices could be resolved. When the lower court denied an injunction, Quinn Emanuel quickly appealed to the First Department, which less than a week later granted the injunction, thus allowing the case to proceed.
- We represented **Northrop Grumman** in a \$132 million lawsuit alleging fraud, negligent misrepresentation, and breach of contract arising out of the manufacture of solar arrays for satellites.
- We obtained summary judgment for **TRW** in a \$133 million negligence, negligent misrepresentation and fraud action brought by a European satellite manufacturer involving satellite manufacturing, solar arrays, solar energy, solar cells, solar array manufacturing, composite materials, rocket thrusters, optical glass, optical glass coatings, satellite telemetry data, and satellite communication.

## **REGULATORY AND ENVIRONMENT**

- The Ohio Office of Consumers' Counsel ("OCC") brought a complaint at the Federal Energy Regulatory Commission challenging the transmission rates of **American Transmission Systems, Inc. ("ATSI")** and other owners of transmission facilities in Ohio as allegedly including a 50 basis point adder to their return on equity based upon their membership in a regional transmission organization. OCC argued that no 50 basis point adder is justified under the federal statute or FERC regulation where a transmission owner is required by state law to belong to a regional transmission organization. FERC agreed with OCC on that

general issue but ruled that it warranted a reduction only of one transmission owner's (AEP) rate, not the rate of ATSI or another transmission owner whose rates had been set through a black-box settlement that made it unclear whether the 50 basis point adder was part of the rate. In a prior FERC case, FERC denied another transmission owner's (Dayton Power) application for the 50 basis point adder. Both the OCC and the Dayton Power cases are now on appeal in the U.S. Court of Appeals for the Sixth Circuit. Quinn Emanuel is lead counsel for **FirstEnergy Service Company, LLC** on behalf of ATSI. The cases are important because, among other things, they will determine whether state law can in effect deprive a transmission owner of the 50 basis point adder.

- We currently represent **Entergy Arkansas** in a lawsuit it filed against the Commissioners of the Arkansas Public Service Commission ("APSC") in the Eastern District of Arkansas seeking a declaratory judgment and injunctive relief. The lawsuit stems from a decision of the Federal Energy Regulatory Commission ("FERC") ordering Entergy to pay \$135 million to its sister companies in other states based on a supposed misinterpretation of an interstate tariff. Entergy then applied to the APSC for approval of a retail rate allowing it to recover a portion of this payment from retail customers, which the APSC denied. Entergy filed this lawsuit challenging the APSC's denial. The Court denied the Commissioners' motion to dismiss and the parties are engaged in discovery. Defendants moved to dismiss, while also arguing that no discovery should be permitted in the case. We defeated Defendants' motion to dismiss and successfully moved to compel discovery on our federal pre-emption and Dormant Commerce Clause claims. We tried the case in February 2023 and are awaiting a decision. In addition, we represented Entergy in an interlocutory appeal arising out of the same action, in which we defended the District Court's ruling denying intervention to a would-be intervenor. The appeal was decided in our favor in August 2023.
- We currently represent **System Energy Resources, Inc. and Entergy Corporation** in a complaint filed with FERC by the Louisiana Public Service Commission, the New Orleans City Council, and the Arkansas Public Service Commission alleging that the Grand Gulf nuclear plant in Port Gibson, Mississippi has been imprudently managed, and seeking damages of more than \$1 billion..
- We represented **Entergy Mississippi and affiliates** in defending a suit by the Mississippi Attorney General alleging that these Defendants intentionally purchased electricity from their own allegedly expensive power plants rather than from allegedly cheaper third-party sources, allegedly harming Entergy Mississippi's customers by forcing them to pay higher electricity rates. We assembled a factual defense that Entergy Mississippi and its affiliates needed to use their power plants to provide flexible electricity to match fluctuating demand for electricity, and that the third-party plants did not offer or provide the requisite flexibility. But we won summary judgment on the legal ground that this case was effectively a challenge to decisions made under standards set forth in the Entergy System Agreement, which is a federal tariff approved by the Federal Energy Regulatory Commission, and the violation of

which is within the exclusive jurisdiction of that agency rather than any federal or state court.

- We obtained a complete appellate victory for **Southern California Gas Co. (“SoCalGas”)** in one of 2019’s most-watched business cases in the California Supreme Court. In a unanimous decision, the court reaffirmed that California follows the economic loss rule, which holds that plaintiffs may not recover in negligence for purely economic losses caused by harm to third parties. The decision required dismissal of actions against SoCalGas for indirect economic harms to local businesses allegedly suffered when local residents relocated temporarily after a gas leak. The decision clarifies California tort law and eliminates the potential threat of billions of dollars in liability against California businesses for purely economic harm in mass disaster cases.
- We obtained a significant victory in the Ninth Circuit for **Shell Offshore Inc. and Shell Gulf of Mexico Inc.** in a decision denying petitions for review challenging the Bureau of Ocean Energy Management’s approval of Shell Offshore Inc.’s Revised Camden Bay Exploration Plan under the Outer Continental Shelf Lands Act and holding that the agency was entitled to significant deference when interpreting the Act, interpreting its own regulations, and making certain technical and scientific assessments. (This was our second win for Shell on such a petition; we obtained a similar win as to an earlier exploration plan in 2010. The Court also issued an unpublished memorandum opinion denying petitions for review of the agency’s approval of Shell Gulf of Mexico Inc.’s Revised Chukchi Sea Exploration Plan.)
- We represented **Shell Oil** in an antitrust case brought by California gas station dealers alleging price discrimination in setting wholesale price zones (“zone abuse”). After a month-long trial, and following plaintiffs’ rebuttal case, Shell renewed various dispositive motions, including motions for Judgment as a Matter of Law, and to strike expert testimony. The court granted both motions, dismissing the case in its entirety.
- We represented a **large energy trading company** in a variety of litigation arising from the California energy crisis. We obtained an injunction preventing the California Power Exchange from allocating losses to the client based on the defaults of other energy companies. We also obtained an emergency stay of an injunction from the Ninth Circuit allowing the client to exercise its contractual right to terminate the energy contract.
- In a case the *New York Times* called “the most ambitious environmental lawsuit ever,” we helped secure a complete dismissal with prejudice. The headline-making complaint named our clients **Koch Industries, Inc. and Koch Exploration Company, LLC**, and nearly a hundred other oil and gas companies, and claimed that oil and gas activities destroyed Louisiana’s coastline. The Board alleged that, as a result, it faced increasing storm surge risk and flood protection costs, and sought damages from the defendants to pay for the restoration of the coastline, an effort it claimed would cost approximately \$50 billion. The case was the subject of



extensive national and local press coverage as it touched on national issues like the Keystone Pipeline debate and the federal government's role in encouraging oil and gas exploration, and hot button local issues such as wetland loss and hurricane protection.

## OTHER ENERGY SECTOR DISPUTES

- We represent Mammoth Energy Services and certain directors/officers in several actions arising from the indictment of the officer of a subsidiary, who is accused of providing items of value to a FEMA official in order to obtain restoration/repair work in Puerto Rico in the wake of Hurricane Maria. Mammoth has been sued by: (i) a putative class of plaintiffs in the Western District of Oklahoma alleging that the disclosures in the indictment caused Mammoth's stock price to fall; (ii) a stockholder in a derivative action pending in the District of Delaware; (iii) two individual infrastructure contractors asserting claims in the Southern District of Florida, Florida State Court, and Oklahoma State Court, who claim that they would have had the opportunity to do the same work in Puerto Rico absent the alleged misconduct; and (iv) a sub-contractor for the contractor suing in Oklahoma State Court, which has brought suit in the district of Puerto Rico on similar grounds. We settled the securities class action (after significant narrowing the case at the motion stage), derivative action, and one of the contractor actions on favorable terms; and limited the claims in the other contractor action and the sub-contractor actions at the pleading stage. We intend to move to dismiss the newly filed claims in Florida State Court.
- We obtained an important appellate victory in the United States Court of Appeals for the Fifth Circuit for **Amplify Energy Corporation**, against three other energy companies—Aera Energy, Noble Energy, and SWEPI—that were challenging the chapter 11 reorganization plan of Amplify's wholly-owned subsidiary, Beta Operating Company. The challengers, third-party beneficiaries of a \$160 million trust that Beta established for the benefit of the federal government to secure certain plugging and abandonment obligations in connection with offshore oil and drilling platforms, argued that Beta's chapter 11 plan impaired their rights in the trust because it would allow Beta to substitute the cash in the trust with bonds. After successfully defending against the companies' challenges in both the bankruptcy court and district court in the Southern District of Texas, Quinn Emanuel prevailed in the companies' further appeal to the Fifth Circuit, which unanimously ruled in favor of Beta.
- We navigated Benefit Street through the chapter 11 case for **Berry Petroleum** pursuant to which it became Berry's largest shareholder and appointed the chairman of the board. Thereafter, we were lead counsel for Berry Petroleum in successfully opposing its reserve-based lenders' claims for default interest accruing during the pendency of its chapter 11 case.
- In a case *The New York Times* called “the most important business decision” of the October 2012 Term, we won a landmark 9-0 victory for **Shell Oil** in the U.S. Supreme Court in *Kiobel v. Royal Dutch Petroleum*, which held that the Alien Tort Statute (ATS), enacted by the First Congress in 1789, does not provide a cause of action in U.S. courts for alleged violations of international human rights law that take place in foreign countries. Applying the presumption against the extraterritorial application of U.S. law, the Court upheld the dismissal of a suit by Nigerian plaintiffs

against Dutch and English companies for alleged conduct in Nigeria. The decision greatly curtails the availability of the ATS as a vehicle to sue corporations in U.S. courts for supposedly aiding and abetting foreign governments' human rights violations.

- We represented **Allegheny Energy** in the Second Circuit in a case arising from Allegheny's purchase (from Merrill Lynch) of an energy trading business for \$490 million in cash, stock in a newly formed energy trading company, and a \$115 million repurchase option on the stock. The district court granted Merrill's motion for summary judgment on its contract claim, dismissed Allegheny's counterclaims after a bench trial, and awarded Merrill over \$158 million in damages. Taking over the case on appeal, we persuaded the Second Circuit to overturn the District Court's key rulings in their entirety. The Second Circuit vacated the \$158 million verdict for Merrill and reinstated Allegheny's counterclaims, which were worth over \$300 million.