

THE
AM LAW LITIGATION DAILYLitigators of the Week:
Boies Schiller Lands \$290M Settlement From
JPMorgan for Epstein Victims

By Ross Todd

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Follow the money.

Late last year lawyers at **Boies Schiller Flexner**, led by **David Boies** and **Sigrid McCawley**, and their co-counsel at **Edwards Henderson Lehrman** sued JPMorgan Chase and Deutsche Bank on behalf victims sexually abused by Jeffrey Epstein. They claimed the banks ignored red flags and should have known their services sustained Epstein's sex-trafficking ring.

This week, after an expedited schedule set out by Senior U.S. District Judge Jed Rakoff in Manhattan saw the cases survive a motion to dismiss and race through discovery, JPMorgan agreed to pay \$290 million to settle the case. News of the proposed deal hit Monday, the same day Rakoff granted class certification. The proposed deal, which still needs sign-off from Rakoff, comes a little less than a month after the announcement of a tentative \$75 million settlement in the case against Deutsche Bank.



Credit: Fred Conrad/Josh Ritchie

(L-R)David Boies and Sigrid McCawley of Boies Schiller Flexner.

Lit Daily: Suing banks on behalf of sex-trafficking victims—there really is no roadmap for this kind of thing. How did these cases come about?

David Boies: We started representing Epstein's survivors nine years ago this month; our co-counsel **Brad Edwards** and **Brittany Henderson** started several years before that. Given the failure of prosecutors to timely

pursue Epstein and his collaborators, we believed private cases were necessary to vindicate our clients and hold wrongdoers accountable. We sued Ghislaine Maxwell in 2015, Epstein and others in 2016, and Prince Andrew in 2021. We looked at possible claims against the banks from time to time (after all, as someone once said, it's where the money is), and in 2021 Brad proposed we get serious and try to prepare a case. We spent the better part of the next two years researching the legal and factual basis for our claims, as well as our ability to bring a class action.

Who was on the team and how did you divide the work?

Sigrd McCawley: One of the things I am most proud of is the incredible team David and I had working on this matter. My outstanding partner **Andrew Villacastin** worked day and night to make sure we fought hard against the banks, and he handled a number of critical hearings successfully with the court. Andrew was joined by a group of brilliant colleagues at Boies Schiller including **Alex Boies, Sabina Mariella, Daniel Crispino, Alexander Law, Virginia Su, Thomas McCawley, Joshua Kolb** and **Olivia McKenzie**. We also had the gift of our talented co-counsel Brad Edwards and Brittany Henderson who worked steadfastly with us and former federal judge **Paul Cassell** who is an incredibly creative legal mind.

You just filed this case in late November, and you've already survived a motion to dismiss, gone through discovery, and gotten a

class certified? What has it been like to litigate a case of this magnitude at this pace?

Boies: Great! I wish every judge would set this kind of schedule. Particularly in a case like this, justice delayed really can be justice denied. And nothing concentrates a defendant's mind for purposes of settlement like the prospect of a trial.

The firm previously handled work for individual Epstein victims for about a decade on a pro bono basis but plans to seek attorneys' fees in the class action settlements with the banks. What's the thinking behind that approach?

McCawley: Boies Schiller has spent many millions of dollars in pro bono attorney's fees and hard costs in our battle against what we termed the "Epstein machine" and his related co-conspirators over the past almost decade. I am so proud of the firm's commitment to this work. These cases against the financial institutions involved significant risk and required a substantial financial investment and an excessively large team if we were going to be able to prevail which required us to structure it in a way that if we took on that risk and we were successful we could seek the fees and costs related to that investment.

Mr. Boies, after you deposed JPMorgan CEO Jamie Dimon a couple of weeks ago you told the New York Times: "If, as he claims, Mr. Dimon was the only person in New York who never heard of Epstein before July 2019, that is an indictment, not a

defense.” What from that deposition stands out to you?

Boies: First, how absolute he was that he had never heard of Epstein before Epstein was arrested. Even if this were thought to be useful it set up potential, and potentially unnecessary, conflicts between Dimon and other witnesses and documents. Second, he was quite forthright in agreeing that if the bank knew then the facts he now knows, Epstein should have been terminated—and those facts were clearly known at the time to other high bank officers like Staley, for whose acts the bank is responsible. Third, and perhaps most striking, I was impressed as I went through the facts with him at the deposition with his genuine regret that the bank had allowed itself to be used by Epstein and his concern for Epstein’s survivors.

Why settle? And why now? Judge Rakoff, after all, certified a class in the JPMorgan case the day the settlement was announced, and you had a trial date teed up.

Boies: Settle when you are strong; the amount of the settlement is not only historic but unlike a judgment, it does not require a set off of what the survivors have already received from Epstein’s estate, and a settlement now gets money to our clients immediately without the delay and uncertainties of appeals.

What is the administration and claims process for these class settlements going to

look like? What are class members going to have to do to be eligible for payments?

McCawley: The court has set a hearing for June 26, 2023, where Judge Rakoff will review the parties proposed claims administration process which we are going to work to make very streamlined for these survivors.

What do you hope the banks take away from this litigation?

McCawley: This case has brought about a reckoning for Wall Street. Going forward, financial institutions will be responsible for actively working to identify sex trafficking and related criminal activity in their customer accounts. This is a major move forward in the fight against sex trafficking.

What will you remember most about your work on these cases against the banks?

Boies: The economic security and renewed faith in our justice system for our clients, the pride that they feel in standing up for themselves and others and winning, and our own pride in a challenging job well done. This has been a long road for us, and a much longer, and much, much more difficult road for our clients.

McCawley: The ability to change the lives of these survivors by putting significant dollars in their pockets and the ability to change the landscape of the law in the fight for sex trafficking victims.