

Litigator of the Week Runners-Up and Shout Outs

By Ross Todd

September 15, 2023

► Shout out to teams at Quinn Emanuel Urquhart & Sullivan representing Acis Capital Management LP and **Latham & Watkins** representing Brigade Capital Management LP for getting an appellate win in a case with major implications for asset managers. The Second Circuit last week upheld the dismissal of claims brought under the Investment Advisers Act of 1940 by NexPoint Diversified Real Estate Trust, a noteholder in a collateralized loan obligation, or CLO, where Acis served as portfolio manager and Brigade as subadvisor providing asset management and back- and middle-office functions. The court upheld a ruling denying NexPoint's bid to rescind the underlying contracts, finding that the contracts didn't require any party to engage in conduct prohibited by the IAA. Acis Capital was represented by Quinn Emanuel's Jonathan Pickhardt, William Adams and Blair Adams, who argued at the Second Circuit. Brigade was represented by **Latham** partner **Jason Hegt**, who argued the motion to dismiss at the district court, partner **Samir Deger-Sen**, who argued before the Second Circuit, and associates **Alexis Kellert Godfrey**, **Marissa Marandola** and **Denver Dunn**. A team at Akin intervened as a defendant on behalf of Highland CLO Funding Ltd., the holder of a supermajority of the outstanding notes in the CLO. Akin partner Uri Itkin argued on behalf of Highland with help from counsel Shanna Miles, and associates Michael Chen and Darren James.