

Granite Partners, et al. v. Merrill Lynch Pierce Fenner & Smith Inc.

THE CLIENT: [Sidley Austin Brown & Wood, LLP](#)

THE CASE: This breach of contract case revolved around margin calls by Merrill Lynch for debts owed by Granite Partners and two affiliated hedge funds, as well as Merrill Lynch's subsequent liquidation of the hedge funds' collateral when the margin calls were not met. The estates of the defunct hedge funds filed suit claiming that Merrill Lynch breached a contract when making their margin calls and acted in bad faith and in a commercially unreasonable manner when liquidating the collateral.

THE TRIAL: Sidley Austin Brown & Wood, LLP engaged DOAR Litigation Consulting for [jury research](#) and electronic evidence to gain an advantage in the courtroom when presenting the case on behalf of Merrill Lynch. The research proved that the trial team needed to overcome the jurors' lack of knowledge about the bond market, and specifically about the collateral mortgage obligations (CMOs) the case was based on.

- DOAR provided [pre-trial research](#) findings that made it clear that potential [damages](#) were likely to be no more than the value of a proposed settlement — and could be significantly less, which led to the decision to go to trial.
- Jury Research showed that highly educated jurors were more likely to have a basic understanding of this industry.

The DOAR team crafted questions for jury selection, in keeping with the confines of the federal [voir dire](#), that identified jurors with secondary and post-secondary degrees. The defense team successfully retained several jurors, from various professions, with first-hand knowledge and experience with financial markets.



- The intricacies of the bond market and of the case itself required expertly crafted [demonstratives](#) by DOAR, that compared Merrill Lynch's practices with those of other brokerage firms helping to communicate that Merrill's valuation of the bonds and its margin requirements were standard in the industry. This treatment of the facts supported testimony by valuation experts that Merrill's margin request was not in conflict with industry practices was key in forming the argument for the jury.
- [Electronic evidence](#) was developed to substantiate Merrill Lynch's position that the brokerage house acted reasonably and within accepted industry standards. DOAR digitized evidentiary materials and developed trial exhibits to visually present important evidence to the court. The original 25-count complaint was reduced to three causes of action.

THE OUTCOME: After two days of deliberation, the jury returned a unanimous verdict on behalf of the defendant. However, six months later the judge reversed the decision, finding in favor of the plaintiffs. Soon after, Merrill Lynch settled the case for an undisclosed amount.