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# Hughes Hubbard & Reed

## Hughes Hubbard Wins Champerty Dismissal of Fraud Suit Brought By Litigation Funder

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One Battery Park Plaza • New York, New York 10004-1482 • +1 (212) 837-6000

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Hughes Hubbard & Reed scored a historic victory for Portigon AG, formerly WestLB, when a New York appeals court dismissed a case on champerty grounds for the first time in more than 20 years.

On May 21, 2015, New York's Appellate Division, First Department unanimously affirmed Manhattan Supreme Court Justice Shirley Kornreich's decision to throw out an approximately \$300 million fraud and breach of contract suit brought by Justinian Capital against Portigon and one of its subsidiaries.

In February 2014, Justice Kornreich ruled that Justinian Capital, a Cayman Islands litigation funder controlled by an English barrister, violated New York's champerty statute by bringing a lawsuit as proxy for a German bank which held notes in two failed Collateralized Debt Obligations managed by Portigon. New York's champerty statute prohibits individuals or companies from purchasing an interest in a debt or claim for the sole purpose of launching litigation.

The Appellate Division agreed with Justice Kornreich's finding that the German bank noteholder had merely subcontracted its litigation to Justinian and that Justinian was pursuing the noteholder's rights, not its own, for a contingent fee. "The purported sale of the notes is champertous since [the German bank] maintained significant rights in the notes and expected the lion's share of any recovery from defendants," the appeals court said in today's ruling.

Chris Paparella led the Hughes Hubbard team, which included Marc Weinstein, George Davidson, Andrea Engels and Seth Schulman-Marcus.

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**Marc A. Weinstein**

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