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# [***Sonterra Capital Master Fund v. UBS AG***](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5R79-N901-F04F-01JR-00000-00&context=)

United States District Court for the Southern District of New York

December 7, 2017, Decided; December 7, 2017, Filed

Docket No. 15-CV-5844 (GBD)

**Reporter**

2017 U.S. Dist. LEXIS 210346 \*

SONTERRA CAPITAL MASTER FUND, LTD., HAYMAN CAPITAL MASTER FUND, L.P., JAPAN MACRO OPPORTUNITIES MASTER FUND, L.P., and CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM, on behalf of themselves and all others similarly situated, Plaintiffs, - against - UBS AG, UBS SECURITIES JAPAN CO. LTD., MIZUHO BANK, LTD., THE BANK OF TOKYO-MITSUBISHI UFJ, LTD., THE SUMITOMO TRUST AND BANKING CO., LTD., THE NORINCHUKIN BANK, MITSUBISHI UFJ TRUST AND BANKING CORPORATION, SUMITOMO MITSUI BANKING CORPORATION, RESONA BANK, LTD., J.P. MORGAN CHASE & CO., JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, J.P. MORGAN SECURITIES PLC, MIZUHO CORPORATE BANK, LTD., DEUTSCHE BANK AG, DB GROUP SERVICES UK LIMITED, MIZUHO TRUST AND BANKING CO., LTD., THE SHOKO CHUKIN BANK, LTD., SHINKIN CENTRAL BANK, THE BANK OF YOKOHAMA, LTD., SOCIÉTÉ GÉNÉRALE SA, THE ROYAL BANK OF SCOTLAND GROUP PLC, THE ROYAL BANK OF SCOTLAND PLC, RBS SECURITIES JAPAN LIMITED, RBS SECURITIES INC., BARCLAYS BANK PLC, BARCLAYS PLC, BARCLAYS CAPITAL INC., CITIBANK, NA, CITIGROUP, INC., CITIBANK, JAPAN LTD., CITIGROUP GLOBAL MARKETS JAPAN, INC., COÖPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A., HSBC HOLDINGS PLC, HSBC BANK PLC, LLOYDS BANKING GROUP PLC, LLOYDS BANK PLC, ICAP PLC, ICAP EUROPE LIMITED, R.P. MARTIN HOLDINGS LIMITED, MARTIN BROKERS (UK) LTD., TULLETT PREBON PLC, BANK OF AMERICA CORPORATION, BANK OF AMERICA, N.A., MERRILL LYNCH INTERNATIONAL, AND JOHN DOE NOS. 1-50, Defendants.

**Prior History:** [*Sonterra Capital Master Fund, Ltd. v. UBS AG, 2017 U.S. Dist. LEXIS 38252 (S.D.N.Y., Mar. 10, 2017)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5N3M-HS51-F04F-01MK-00000-00&context=)

**Counsel:** **[\*1]**For Sonterra Capital Master Fund Ltd., Plaintiff: Geoffrey Milbank Horn, LEAD ATTORNEY, Christian Levis, Lee Jason Lefkowitz, Sitso W. Bediako, Lowey Dannenberg P.C., White Plains, NY; Vincent Briganti, LEAD ATTORNEY, Lowey Dannenberg Cohen & Hart, P.C., White Plains, NY; Arthur R. Miller, New York, NY; Peter Dexter St. Phillip, Jr, Raymond Peter Girnys, Lowey Dannenberg, P.C., White Plains, NY.

For California State Teachers' Retirement System, Plaintiff: Vincent Briganti, LEAD ATTORNEY, Lowey Dannenberg Cohen & Hart, P.C., White Plains, NY; Patrick Thomas Egan, Berman DeValerio (MA), Boston, MA; Todd Seaver, PRO HAC VICE Berman Tabacco, San Francisco, CA.

For Hayman Capital Master Fund, L.P., Japan Macro Opportunities Master Fund, L.P., Plaintiffs: Vincent Briganti, LEAD ATTORNEY, Lowey Dannenberg Cohen & Hart, P.C., White Plains, NY.

For UBS AG, Defendant: Lawrence Jay Zweifach, Peter Sullivan, LEAD ATTORNEYS, Eric Jonathan Stock, Jefferson Eliot Bell, Gibson, Dunn & Crutcher, LLP (NY), New York, NY.

For UBS Securities Japan Co., Ltd., Defendant: Lawrence Jay Zweifach, Peter Sullivan, LEAD ATTORNEYS, Jefferson Eliot Bell, Gibson, Dunn & Crutcher, LLP (NY), New York, NY.

For Mizuho Bank,**[\*2]** Ltd., Defendant: Jeffrey Jason Resetarits, Jerome Steven Fortinsky, John A. Nathanson, LEAD ATTORNEYS, Shearman & Sterling LLP (NY), New York, NY.

For Bank Of Tokyo Mitsubishi UFJ LTD, Mitsubishi UFJ Trust and Banking Corporation, Defendants: Christopher Michael Viapiano, Daryl Andrew Libow, Elizabeth A Cassady, Sullivan & Cromwell LLP (Washington DC), Washington, DC.

For Sumitomo Mitsui Trust Bank Limited, f/k/a The Sumitomo Trust & Banking Co. Ltd., Defendant: Dale Christian Christensen, Jr, LEAD ATTORNEY, Michael Benjamin Weitman, Seward & Kissel LLP, New York, NY.

For The Norinchukin Bank, Defendant: Andrew W. Stern, LEAD ATTORNEY, Alan M. Unger, Nicholas Primer Crowell, Thomas Andrew Paskowitz, Sidley Austin LLP (NY), New York, NY; Kenneth Benjamin Meyer, Sidley Austin LLP(NY), New York, NY.

For Sumitomo Mitsui Banking Corporation, Defendant: Jon Randall Roellke, LEAD ATTORNEY, Morgan, Lewis & Bockius (DC), Washington, DC; Michael Llloyd Spafford, LEAD ATTORNEY, Paul Hastings LLP (DC), Washington, DC; Anthony R. Van Vuren, PRO HAC VICE, Morgan, Lewis & Bockius LLP, Washington, DC.

For Resona Bank, Ltd., Defendant: Catherine Fairley Spillman, LEAD ATTORNEY, Akin Gump Strauss Hauer &**[\*3]** Feld LLP, Washington, DC; Michael A. Asaro, Nicholas Cule Adams, LEAD ATTORNEYS, Akin Gump Strauss Hauer & Feld LLP (NYC), New York, NY; Paul Buck Hewitt, LEAD ATTORNEY, Akin, Gump, Strauss, Hauer & Feld, LLP (DC), Washington, DC.

For J.P. Morgan Chase & Co., Defendant: Paul Christopher Gluckow, LEAD ATTORNEY, Alan Craig Turner, Elizabeth Jane Shutkin, Francis John Acott, Mary Beth Forshaw, Michael Steven Carnevale, Rachel Serenity Sparks Bradley, Thomas C. Rice, Simpson Thacher & Bartlett LLP (NY), New York, NY; Abram Jeremy Ellis, Simpson Thacher & Bartlett LLP(DC), Washington, DC; Alexander Nuo Li, Jeffery Li Ding, Sarah Emily Phillips, Simpson Thacher & Bartlett LLP, New York, NY.

For JPMorgan Chase Bank, N.A., J.P. Morgan Securities PLC, Defendants: Paul Christopher Gluckow, Elizabeth Jane Shutkin, Francis John Acott, Alan Craig Turner, Mary Beth Forshaw, Michael Steven Carnevale, Rachel Serenity Sparks Bradley, Thomas C. Rice, LEAD ATTORNEY, Simpson Thacher & Bartlett LLP (NY), New York, NY; Abram Jeremy Ellis, Simpson Thacher & Bartlett LLP(DC), Washington, DC; Alexander Nuo Li, Jeffery Li Ding, Sarah Emily Phillips, Simpson Thacher & Bartlett LLP, New York, NY.

For Mizuho Corporate**[\*4]** Bank Ltd., Mizuho Trust and Banking Co., Ltd., Defendants: Jeffrey Jason Resetarits, Jerome Steven Fortinsky, John A. Nathanson, LEAD ATTORNEYS, Shearman & Sterling LLP (NY), New York, NY.

For Deutsche Bank AG, DB Group Services UK Limited, Defendants: Aidan John Synnott, Elizabeth M. Sacksteder, LEAD ATTORNEY, Elizabeth M. Sacksteder, Paul Weiss (NY), New York, NY; Moses Silverman, LEAD ATTORNEY, Hallie Suzanne Goldblatt, Holly Alissa VanderSluis, Jacob Joseph Taber, Orton E. Ndau, Paul, Weiss, Rifkind, Wharton & Garrison LLP (NY), New York, NY; Michael Joseph Biondi, Paul, Weiss, Rifkind, Wharton & Garrison LLP, New York, NY.

For The Shoko Chukin Bank, Defendant: Kathryn L Rosenberg, Robert C. Mason, LEAD ATTORNEYS, Arnold & Porter Kaye Scholer LLP (NYC), New York, NY; James W Thomas, Jr., Arnold & Porter LLP, Washington, DC.

For Shinkin Central Bank, Defendant: Andrew C. Smith, LEAD ATTORNEY, Andrew Joseph Lauria, Pillsbury Winthrop Shaw Pittman, LLP (NY), New York, NY.

For The Bank of Yokohama, Ltd., Defendant: Erica S. Weisgerber, Debevoise & Plimpton LLP, New York, NY; Gary W. Kubek, Debevoise & Plimpton, LLP (NYC), New York, NY.

For The Royal Bank of Scotland Group PLC, The Royal**[\*5]** Bank of Scotland PLC, RBS Securities Japan Limited, Defendants: David Sapir Lesser, Fraser Lee Hunter, Jr, Jamie Stephen Dycus, Wilmer Cutler Pickering Hale & Dorr LLP (NYC), New York, NY.

For BARCLAYS BANK PLC, Barclays Capital, Inc., Barclays PLC, Defendant: Jonathan David Schiller, LEAD ATTORNEY, Leigh Mager Nathanson, Boies, Schiller & Flexner LLP, New York, NY; Amos Emory Friedland, Boies, Schiller & Flexner LLP(Westchester), Armonk, NY; David Harold Braff, Jeffrey T. Scott, Matthew Joseph Porpora, Yvonne Susan Quinn, Sullivan and Cromwell, LLP(NYC), New York, NY; Michael Brille, PRO HAC VICE, Melissa Brooke Felder Zappala, Boies, Schiller & Flexner LLP (DC), Washington, DC.

For COOPERATIEVE CENTRALE RAIFFEISEN- BOERENLEENBANK B.A., Defendant: David Robert Gelfand, Mark David Villaverde, Sean Miles Murphy, Milbank, Tweed, Hadley & McCloy LLP, New York, NY.

For Lloyds Banking Group plc, Lloyds Bank PLC, HBOS PLC, Defendants: Marc Joel Gottridge, LEAD ATTORNEY, Benjamin Andrew Fleming, Kevin Timothy Baumann, Lisa Jean Fried, Hogan Lovells US LLP (nyc), New York, NY.

For ICAP plc, ICAP Europe Limited, Defendants: Brian S. Fraser, H. Rowan Gaither, IV, Shari A. Brandt, Richards Kibbe**[\*6]** & Orbe LLP (NYC), New York, NY.

For Tullett Prebon PLC, Defendant: Brian Theodore Kohn, LEAD ATTORNEY, Schulte, Roth & Zabel LLP, New York, NY; Harry Simeon Davis, LEAD ATTORNEY, Schulte Roth & Zabel LLP (NY), New York, NY.

For Bank Of America Corporation, Bank of America N.A., Defendants: Arthur J. Burke, LEAD ATTORNEY Davis Polk & Wardwell, New York, NY; Paul Steel Mishkin, LEAD ATTORNEY, Adam Gabor Mehes, Davis Polk & Wardwell LLP, New York, NY.

For Societe Generale, Defendant: Steven Wolowitz, LEAD ATTORNEY, Andrew Jonathan Calica, Henninger Simons Bullock, Mayer Brown LLP (NY), New York, NY.

For RBS Securities Inc., Defendant: David Sapir Lesser, Fraser Lee Hunter, Jr, Jamie Stephen Dycus, Wilmer Cutler Pickering Hale & Dorr LLP (NYC), New York, NY.

**Judges:** Honorable George B. Daniels, United States District Judge.

**Opinion by:** George B. Daniels

**Opinion**

**FINAL JUDGMENT AND ORDER OF DISMISSAL WITH PREJUDICE OF DEUTSCHE BANK AG AND DB GROUP SERVICE (UK) LTD., JPMORGAN CHASE & CO., JPMORGAN CASE BANK, NATION ASSOCIATION, AND J.P. MORGAN SECURITIES PLC**

This matter came for a duly-noticed hearing on December 7, 2017 (the "Fairness Hearing"), upon the Plaintiffs'[[1]](#footnote-0)1 Motion for Final Approval of Settlements with Deutsche Bank**[\*7]** AG and DB Group Services (UK) Ltd. (collectively, "Deutsche Bank") and JPMorgan Chase & Co., JPMorgan Chase Bank, National Association, and J.P. Morgan Securities plc (collectively, "JPMorgan," and together with Deutsche Bank, the "Settling Defendants") in the related actions captioned *Laydon v. Mizuho Bank, Ltd., et al.*, No. 12-cv-3419 (GBD) (S.D.N.Y.) (*"Laydon"*) and *Sonterra Capital Master Fund Ltd., et al. v. UBS AG, et al.*, No. 15-cv-5844 (GBD) (S.D.N.Y.) ("*Sonterra*") (collectively, the "Actions"), which was joined and consented to by the Settling Defendants (together with Plaintiffs, the "Parties"). The Court having considered all papers filed and proceedings had herein and otherwise being fully informed in the premises and good cause appearing therefore,

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED**:

1. This Final Judgment hereby incorporates by reference the definitions in the Stipulation and Agreement of Settlement with Deutsche Bank entered into on July 21, 2017 (the "Deutsche Bank Settlement Agreement") and the Stipulation and Agreement of Settlement with JPMorgan entered into on July 21, 2017 (the "JPMorgan Settlement Agreement," and together with the Deutsche Bank Settlement**[\*8]** Agreement, the "Settlement Agreements"), and all terms used herein, except as otherwise expressly defined herein, shall have the same meanings as set forth in the Settlement Agreements. For purposes of this Final Judgment, the "Released Parties" shall mean all Persons that are Released Parties under either of the Settlement Agreements.

2. The Court finds that it has subject matter jurisdiction under *28 U.S.C. § 1331* to enter this Final Judgment and that it Has personal jurisdiction over the Parties and all members of the Settlement Class. To the extent that one or both of the Actions has been dismissed, the Court has retained subject matter jurisdiction to enter this Final Judgment in both of the Actions. *See* [*Ehrheart v. Verizon Wireless, 609 F.3d 590 (3d Cir. 2010)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:7YPS-K601-652R-1002-00000-00&context=).

3. The Actions, including each claim in the Actions, are hereby dismissed with prejudice on the merits as to Deutsche Bank and JPMorgan and without fees or costs.

4. Upon the Settlements becoming final in accordance with their terms, all of the following claims shall be released. Specifically:

(A) The Releasing Parties finally and forever release and discharge from and covenant not to sue the Released Parties for any and all manner of claims, including unknown claims, causes of Action, cross-claims,**[\*9]** counter-claims, charges, liabilities, demands, judgments, suits, obligations, debts, setoffs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class, derivative, or individual, in law or equity or arising under constitution, statute, ***regulation***, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, attorneys' fees, and damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several), known or unknown, suspected or unsuspected, asserted or unasserted, which Settling Class Members or any of them ever had, now has, or hereafter can, shall, or may have, representatively, derivatively, or in any other capacity, against the Released Parties arising from or relating in any way to conduct alleged in the Actions or which could have been alleged in the Actions against the Released Parties concerning any Euroyen-Based Derivatives or any similar financial instruments priced, benchmarked, or settled to Yen LIBOR or Euroyen TIBOR purchased, sold, and/or held by the Representative Plaintiffs, Class Members, and/or Settling Class Members (to the extent such similar**[\*10]** financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.), including, but not limited to, any alleged manipulation of Euroyen TIBOR and/or Yen LIBOR under the Commodity Exchange Act, [*7 U.S.C. § 1 et seq.*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GRC1-NRF4-427C-00000-00&context=), or any other statute, ***regulation***, or common law, or any purported conspiracy, collusion, racketeering activity, or other improper conduct relating to Euroyen TIBOR and/or Yen LIBOR (including, but not limited to, all claims under [*Section 1*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GRC1-NRF4-427C-00000-00&context=) of the Sherman ***Antitrust*** Act, *15 U.S.C. § 1 et seq.*, the Racketeer Influenced and Corrupt Organizations Act, [*18 U.S.C. §§ 1961-1968*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GTW1-NRF4-40PD-00000-00&context=), and any other federal or state statute, ***regulation***, or common law). The following claims shall not be released by these Settlements: (i) any claims against former Deutsche Bank or JPMorgan employees arising solely from those former employees' conduct that occurred while not employed by Deutsche Bank or JPMorgan; (ii) any claims against the named Defendants in these Actions other than Deutsche Bank or JPMorgan; (iii) any claims against inter-dealer brokers or their employees or agents when and solely to the extent they were engaged as employees or agents of the other Defendants or of inter-dealer brokers; or (iv) any claims against**[\*11]** any Defendant who may be subsequently added in these Actions, other than any Released Party. For the avoidance of doubt, Released Claims does not include claims arising under foreign law based solely on transactions executed entirely outside the United States by Settling Class Members domiciled outside she United States.

(B) Although the foregoing release is not a general release, such release constitutes a waiver of *Section 1542 of the California Civil Code* (to the extent it applies to the Actions), which provides as fallows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

This release also constitutes a waiver of any and all provisions, rights, and benefits of any federal, state or foreign law, rule, ***regulation***, or principle of law or equity that is similar, comparable, equivalent to, or which has the effect of, *Section 1542 of the California Civil Code*. The Settling Class Members acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true with respect to the subject**[\*12]** matter of the Settlement Agreements, but that it is their intention to release fully, finally, and forever all of the Released Claims, and in furtherance of such intention, the release shall be irrevocable and remain in effect notwithstanding the discovery or existence of any such additional or different facts. In entering and making the Deutsche Bank Settlement Agreement and the JPMorgan Settlement Agreement, the Parties assume the risk of any mistake of fact or law, and the release shall be irrevocable and remain in effect notwithstanding any mistake of fact or law.

5. The Court, finding no just reason for delay, directs pursuant to [*Rule 54(b) of the Federal Rules of Civil Procedure*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5GYC-2421-6N19-F161-00000-00&context=) that the judgment of dismissal as to Deutsche Bank and JPMorgan shall be final and entered forthwith.

**IT IS SO ORDERED**.

Signed this 7th day of December, 2017.

/s/ George B. Daniels

Honorable George B. Daniels

United States District Judge

**End of Document**

1. 1The Plaintiffs are Jeffrey Laydon, Sonterra Capital Master Fund, Ltd., Hayman Capital Master Fund, L.P., Japan Macro Opportunities Master Fund, L.P., and the California State Teachers' Retirement System ("CalSTRS"). [↑](#footnote-ref-0)