

Accountants' Liability Experience

Dailey LLP regularly represents accounting firms in litigation, arbitrations, and other disputes, as well as regulatory enforcement proceedings. Examples of matters our attorneys have handled include:

- Represented a Big 4 accounting firm in an action brought in the S.D.N.Y. by the Liquidating Trustee of a specialty finance company seeking in excess of \$300 million related to claims for professional malpractice, breach of contract, negligent misrepresentation, fraud, aiding and abetting fraud, aiding and abetting breach of fiduciary duty and deepening insolvency. The fraud, aiding and abetting, and deepening insolvency claims were dismissed at the motion to dismiss stage. Summary judgment was granted on all remaining claims. The Second Circuit affirmed.
- Represented a Top 20 accounting firm in a Madoff-related suit in the S.D.N.Y. brought by limited partners in a sub-feeder fund. The motion to dismiss was granted on all claims.
- Represented a Big 4 accounting firm in litigation in Dauphin County Court of Common Pleas, Pa., brought by a limited partner in a real estate limited partnership who alleged fraud. The motion to dismiss was granted on all claims.
- Represented a Big 4 accounting firm in a fraud suit filed in the Philadelphia Court of Common Pleas, Pa., by the purchaser of an entity for whom the firm had performed due diligence services. Plaintiff claimed that the accounting firm had made fraudulent misrepresentations in its report and in discussions that helped the majority shareholders fraudulently obscure the acquisition company's true financial condition. All claims were dismissed.
- Represented a Top 20 accounting firm in the Chester County Court of Common Pleas, Pa., in a lawsuit brought by a non-profit client over the theft of funds by an employee of the non-profit over a three-year period. All claims were dismissed.
- Represented a Big 4 accounting firm in a series of consolidated securities class actions in the E.D.Pa. that claimed the accounting firm committed securities violations during its audits of an international manufacturer. All claims were dismissed on the grounds of international comity.
- Represented a Top 20 accounting firm in a case brought in New York County Supreme Court by a bank client and certain of its shareholders, who alleged negligence and gross negligence. After the court granted defendants' initial motion to dismiss in its entirety, plaintiffs filed an amended complaint. The trial court dismissed two of the three new claims brought by plaintiffs, including the entirety of the shareholders' claim. The sole remaining claim was settled on favorable terms at mediation required under the terms of the engagement letter.
- Represented a Big 4 accounting firm in an action in Maryland State Court by the bankruptcy trustee of a failed airline on behalf of several creditors alleging claims for fraud and negligence. After several motions in limine were granted in favor of the accounting firm, the bankruptcy trustee settled the matter on the eve of trial for less than two percent of the amount sought.
- Represented a Big 4 accounting firm in more than a dozen class and individual lawsuits in Multidistrict Litigation in the S.D. Tex., asserting Section 10(b) and Section 11 claims. The Section 11 claim was dismissed on statute of limitations grounds. The case ultimately settled for less than one third the national average for cases of this size.
- Represented a Big 4 accounting firm in Suffolk County, Massachusetts Business Litigation Session, in an action by one of the world's largest banks on behalf of a syndicate of lenders seeking over \$50 million for alleged negligent misrepresentation related to the bankruptcy of a borrower, and subsequent discovery that the borrower's CFO had submitted false borrowing base reports to the lenders. Case settled on favorable terms.



- Represented a Big 4 accounting firm in consolidated shareholder and bondholder class actions in the E.D.Pa. arising out of the bankruptcy of a specialty finance company that lent money to health care providers. The class actions asserted claims for securities fraud under Section 10(b) of the Securities and Exchange Act. Obtained a favorable settlement prior to trial that was less than the anticipated costs of trial.
- Represented a Top 20 accounting firm in consolidated lawsuits in the Philadelphia Court of Common Pleas by former tax services clients who asserted gross negligence, breach of contract and misrepresentation claims. Case settled on favorable terms.
- Represented an accounting firm with respect to its response to a PCAOB Comment Letter regarding the firm's internal and quality controls.
- Represented an individual audit partner in a PCAOB enforcement action and negotiated a settlement on his behalf.
- Represented a Top 20 accounting firm in connection with an SEC investigation of a lender and potential accounting issues related to securitizations and allowance for loss on receivables.
- Represented a Big 4 accounting firm in connection with an SEC investigation of a hospital system and various potential accounting issues related to its issuance of bonds.
- Represented a Top 20 accounting firm in an SEC investigation of a publicly traded bank holding company related to revenue recognition and its accounting for allowance for loss on receivables.
- Represented a Top 20 accounting firm in an SEC investigation of a publicly traded bank related to revenue recognition issues.
- Represented a Top 20 accounting firm in an SEC investigation of an energy company and its accounting for various acquisitions.
- Represented a Top 20 accounting firm in an FDIC investigation into the causes of a bank client's failure.

Our Accountants' Liability Team:



Alfred Anthony Brown
abrown@DaileyLLP.com
215-282-5180
Admitted in PA and NJ

Began his career at one of the "Big 6" accounting firms (as they were then known).



Jeffery A. Dailey
jdailey@DaileyLLP.com
215-282-5172
Admitted in NY and PA

Continuous representation of accounting firms since 2000.



Gay Parks Rainville
grainville@DaileyLLP.com
215-282-5176
Admitted in PA

Previously co-chair of Securities and Shareholder Litigation Section at AmLaw 100 Firm. Prior in-house counsel experience.

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