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"They have to prove that the agency's decision was arbitrary and capricious, and that's very hard to do."

—Marc Kasowitz of Kasowitz, Benson, Torres & Friedman, on why he's not worried about a bank challenge to state approval of MBIA Inc.'s restructuring.

LITIGATOR IN THE SPOTLIGHT

They brought the wrong cause of action. That was the defense **Marc Kasowitz** of **Kasowitz, Benson, Torres & Friedman** argued for monoline insurer MBIA Inc. in a suit filed by 18 banks, including Citigroup Inc. and Bank of America Corporation. Challenging the 2009 split between MBIA's municipal bond and structured finance businesses, the banks sued for fraudulent conveyance, citing concerns that MBIA could not pay out their insurance claims. Kasowitz, however, contended that the proper challenge was a separate suit against New York's state insurance department for approving the plan—a more difficult route to relief. On January 11 the New York State appellate division agreed, dismissing the suit against MBIA. The plaintiffs plan to appeal.

—VICTOR LI