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While we have additional offices in Newark and Princeton, New Jersey, please contact your local TAGLaw [affiliate](#) if you need assistance with a New Jersey matter.

LITIGATION AND ALTERNATIVE DISPUTE RESOLUTION

Herrick, Feinstein LLP is one of New York's most prominent mid-sized law firms and we are pleased to be your New York TAGLaw affiliate. Our more than 145 New York City-based attorneys provide businesses and individuals around the world with a full range of legal services. You can rest assured that your clients will be in good hands with us.

Who We Are

Our litigation department is comprised of more than 80 litigators including:

- A former New York City District Attorney,
- Multiple former Assistant United States Attorneys,
- Some of the nation's leading class action and product liability attorneys,
- Highly respected insurance and reinsurance practitioners,
- A team of top-notch employment lawyers,
- The former chairs of three prestigious law firm litigation departments,
- Former SEC enforcement attorneys and attorneys from other federal and state agencies, and,
- A former New York State Appellate Court Presiding Justice who was also the founding member of JAMS.
- Leading national and international experts in art law and cultural property restitution

Our Practice Areas

Herrick boasts tremendous experience in state and federal courtroom litigation and alternative dispute resolution. For more information on each of our litigation practice areas, please click on the links below.

- [Art Law](#)
- [Business Divorce - Litigation](#)
- [Class Action Defense](#)
- [Commercial Litigation](#)
- [Construction Litigation](#)
- [Employment Litigation](#)
- [ERISA Litigation](#)
- [Insurance and Reinsurance: Litigation, Coverage & Commercial Disputes](#)
- [IP Litigation and Enforcement](#)
- [Product Liability Defense](#)
- [Real Estate Litigation](#)
- [Records Retention](#)
- [Restructuring and Bankruptcy](#)
- [Securities Litigation](#)
- [Title Insurance](#)
- [White Collar Defense](#)

- For a full list of our **litigation experience** please click [here](#).
- For a full list of our **ADR experience**, please click [here](#).

Representative Matters:

Below are highlights of our recent litigation and alternative dispute resolution experience. For more information on any of these matters—including biographies of the team members and press mentions—please **click on the headlines**.

[Madoff Litigation - Filings Against the SEC](#)

We represent a number of victims of Bernard Madoff's Ponzi scheme. In January of 2009, we filed notices of claim with the Securities & Exchange Commission alleging negligence under the Federal Tort Claims Act. The SEC rejected our claims six months later, and in October 2009, we filed the first known lawsuit against the SEC seeking monetary damages under the FTCA.

[Winstar Communications Trustee - Bankruptcy Appeal](#)

Representation of the Trustee for Winstar Communications in an adversarial proceeding asserting claims of insider/voidable preference, equitable subordination and breach of contract, against Lucent Technologies. After winning at the bankruptcy court level following a one month trial and an initial appeal to the US District Court, we successfully argued to the US Third Circuit Court of Appeals in a case then valued at about \$340 million. The Third Circuit affirmed the courts below and found that Lucent was an insider of Winstar. In so ruling, the court also upheld the Trustee's arguments regarding earmarking, new value, core versus non-core jurisdiction, right to jury trial and equitable subordination. The American Bankruptcy Institute Journal, in its April 2009 issue, featured the Third Circuit decision and wrote that the case "opens an entirely new and extensive arena in bankruptcy-preference litigation that may cause profound changes in both preference-risk assessments and creditor behavior."

[Bridgestone Firestone - National Counsel](#)

For over thirty years, Herrick has served as regional counsel in New York, New Jersey and Connecticut for Bridgestone Firestone North American Tire LLC and its predecessors in connection with claims involving tires, rims, roofing materials, children's car seats, retail stores and employment matters. Since the company's recall of tires equipped on Ford Explorer vehicles in 2000, Herrick has acted with a small group of attorneys as National Counsel for the company and, in that capacity, has represented the company in hundreds of litigations pending around the country. Additionally, Firestone looks to Herrick for counsel and advice in crisis management and prevention. Summing up the relationship with the firm, the company's General Counsel stated "In the two decades we've worked with them, Herrick has proven to be the rare combination of top notch trial lawyers with solid business skills who know as much about presenting evidence to a jury as they do about risk management and cost containment."

[Ultra Stores - Successful Chapter 11 Plan](#)

Representation of Ultra Stores—a 200-store jewelry chain—in its recapitalization through an expedited Chapter 11 plan, guiding the company from filing to confirmation in under four months. We negotiated first lien emergence financing with an institutional lender and a debt-for-equity swap with the second lien lender and the trade creditors. At the same time, management was able to retain 26% ownership in the company.

[Las Vegas Conference Center Investors - Arbitration](#)

Representation of one of three investor groups in an existing five million square foot conference and exhibit center in Las Vegas in a seven-week, three-panel arbitration



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over each investor group's rights and ownership in the project. The conference center cost more than \$1 billion to build and is planned to expand to 12 million square feet.

Arbor Realty - Foreclosure on Crane Collapse Site

Representation of Arbor Realty in its foreclosure of 303 East 51st Street—what would have been a 46-story building by developer James P. Kennelly. The property was the site of the collapse of a construction crane, which killed seven people in March, 2008. After the developer's revised construction plans were rejected and his building permit was revoked by the city officials, Arbor Realty began a foreclosure action in New York State Supreme Court for failure to repay \$70.4 million in overdue project loans.

Fred Leighton - Jeweler to the Stars

Debtors' counsel for Fred Leighton LLC, famous "Jeweler to the Stars," and related companies in their Chapter 11 bankruptcy cases. Fred Leighton's collection is widely recognized as the world's most prestigious collection of rare and historic jewels.

Robert W. Seavey - Victory in \$500 Million RICO Case

Representation of Robert W. Seavey, real estate developer and owner, in obtaining a U.S. District Court summary judgment dismissing a \$500 million RICO case. The suit also named members of his family, the management company and accounting firm. The court found that the plaintiffs and their forensic accounting firm had failed to find any evidence supporting their claims. The decision appears to be the first New York decision that found that the federal bank fraud statute cannot serve as a predicate act in a RICO case when the plaintiff is not a financial institution. All state court claims were dismissed.

Marei von Saher - Goudstikker Collection - Dutch Restitution

Representation of Marei von Saher in her successful efforts to recover 200 artworks looted from her father-in-law, the renowned Dutch art dealer, Jacques Goudstikker, during the Second World War. The works had been held by the Dutch Government for over 50 years.

"Duprees"—Trademark Protection

Representation of the heirs of the co-founder of the famous 1960s group The Duprees in enforcing their registered and common law trademark rights to the "Duprees" name and preserving the legacy of the group.

Real Estate Company - Management Agreement Litigation

Representation of a real estate services company in a \$20 million lawsuit brought by former customers. The former customers, owners of two large NYC office buildings, claimed that our client, which managed the buildings, had committed numerous acts of wrongdoing over several years, including breaching the contracts, fraud, and breaching fiduciary duties. The customers sought to recover all the fees they'd paid our client over the years under New York's "faithless servant" doctrine. The District Court granted our summary judgment motion, dismissing all of the higher-damage tort and equity claims, and we then settled the remaining breach of contract claim. The former customers lost their appeal to the Second Circuit Court of Appeals, bringing the case to a successful conclusion for our client.

Costume Jewelry Manufacturer - Copyright Infringement

Representation of a major costume jewelry manufacturer in defending claims for copyright infringement and misappropriation of trade secrets, successfully negotiating a settlement that had no economic impact on our client.

Life Insurance Premium Finance Joint Venture - Asset Dispute

Representation of a partner in a joint venture in the life insurance premium finance business in a dispute with its minority partner. The business generated profits well in excess of \$150 million, and the two partners—parting company—dispute the disposition of assets. We arbitrated the matter before an AAA panel.

Witness - SEC Investigation

Representation of a key witness in an SEC investigation of alleged kickbacks, failures to disclose and overvaluing assets involving the owners of a Midwest registered investment advisor, which claims to have over \$130 million in assets under management.

Financial Services Firm - FINRA Arbitration

Representation of a major financial services firm and one of its brokers in an arbitration brought by three customers seeking over \$20 million in damages. Following 16 days of hearings before a FINRA panel, the customers received an award (less amounts awarded on our client's counterclaim) of just \$28,430. The panel granted the broker's request for an expungement of the matter from his CRD record.

Title Insurance Company - Agent's Fraud Imputed to Lender

Representation of a title insurance company against a lender whose agent committed a fraud that caused the loss of the insured mortgage. Our client successfully argued that since the agent acted on behalf of the bank, the fraud could be attributed to the bank and therefore fell under the policy's exclusion for "acts of the insured." The court's ruling will have ramifications in the title insurance and mortgage lending industry since many sub-prime lenders relied upon unscrupulous agents to close their loans, and to the extent any frauds committed by those agents lead to a title loss, the lenders cannot look to the title insurers for indemnification.

Anglo Irish Bank - Foreclosure

Representation of Anglo Irish Bank Limited in the foreclosure of a \$165 million mortgage loan on 225 Rector Place, a 23-story, 304-unit residential condominium in Battery Park City.

Arch Specialty Insurance - Sub-Prime Auto Loan Coverage Dispute

Representation of Arch Specialty Insurance Company in a dispute with a former general agent over the agent's handling of a financial product. The product provided limited insurance coverage for banks and credit unions extending sub-prime automobile loans throughout the United States. Questions arose over the placement of certain coverage, the terms of the coverage and the actions of the agent which required Arch to take positions it would not otherwise have taken. Arch sought compensation from the agent, which we achieved during a week long arbitral hearing in Virginia.

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