

# Marion R. Harris

Partner



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Partner Marion R. Harris is a member of Pryor Cashman’s Litigation, Investment Management, Intellectual Property, and Media + Entertainment Groups.

He represents individuals as well as private and multinational public companies on a broad range of commercial and securities matters before state and federal courts. On the financial side, he skillfully counsels clients from hedge funds to lending institutions through the various stages of regulatory investigations, criminal prosecutions, and arbitration proceedings.

## Media + Entertainment

- National Music Publishers’ Association (“NMPA”), the largest trade association for the music publishing industry in the US, and Nashville Songwriters Association International (“NSAI”), the world’s largest nonprofit trade organization for songwriters, in the Phonorecords III and IV proceedings before the Copyright Royalty Board (“CRB”) to set the national rates for the compulsory mechanical license (under Section 115 of the Copyright Act) for the terms of both 2018-2022 and 2023-2027. We obtained a landmark increase in royalty rates payable by digital music services including Spotify, Apple, Amazon, Google, and Pandora for the 2018-2022 term, which is currently on remand to the CRB.
- TuneSat, an online audio recognition service powered by AI technology, in connection with a copyright infringement lawsuit against Zee Entertainment, an Indian media conglomerate, DirectTV and Slings.

## Commercial Litigation

- Wilmington Savings Fund Society, FSB (WSFS), as indenture trustee and notes collateral agent of various bond indentures issued by Incora. In an adversary proceeding alleging claims for breach of bond indentures and related contract claims, successfully obtained summary judgment in favor of WSFS on all counts. *Wesco Aircraft Holdings, Inc., et al. v. SSD Investments Ltd., et al.*, Adv. Proc. No. 23-03091 (Bankr. S.D. Tex.).
- Bellwether Consulting LLC, an institutional investment consulting firm, in obtaining the dismissal of a proposed class action lawsuit in the case *Young Cho v. Prudential Insurance Co. of America et al.*, case number 2:19-cv-19886, in which Prudential Insurance Co. of America was accused of mismanaging employee retirement plan investments.
- Lexington Avenue Hotel, L.P., as the owner of the Marriott East Side in New York City, in connection with the assertion of rights and remedies under a Hotel Management Agreement between owner and Marriott, as the manager; we also assisted in the negotiation of the temporary closure of hotel during COVID-19 pandemic as well as resolution of issues with Marriott (including termination of HMA).
- A major hotel group in obtaining the dismissal of a lawsuit that alleged a breach of contract by failing to develop an effective sales and marketing strategy, thus impacting the hotel's occupancy.

- Rafael Llopiz, the former owner of Quik Park which was eventually acquired by Icon Parking and its affiliates, in connection with numerous disputes involving lease guarantees for commercial parking garages adversely affected by the COVID-19 pandemic.
- A co-preliminary executor in an action alleging fraud and elder abuse by another co-preliminary executor, in which we obtained revocation of temporary letters testamentary.
- Warren Cole and Second Avenue Owner LLC in obtaining the reimbursement of costs and attorneys' fees that resulted from responding to a third-party subpoena in a New York State Surrogate's Court, in relation to disputes involving Louise Khagan and Liora Elghanayan as Trustees of the Marital Trust U/A Sixth of the Last Will and Testament of Aghadjan Elghanayan a/k/a John Elghanayan (deceased). Matter of Khagan, 2019 NY Slip. Op. 29352 (Sur. Ct. Queens County Sept. 18, 2019).
- Société Générale in obtaining the denial of a petition for an injunction under the All Writs Act in the case Reserve Int'l Liquidity Fund, Ltd. v. Caxton Int'l Limited, 721 F. Supp. 2d 253 (S.D.N.Y. 2010).

## **White Collar and Securities Litigation + Enforcement**

- Elias "Bert" Hafen, former Morgan Stanley investment advisor, in negotiating a plea deal for fraud-related criminal charges following an investigation by the U.S. Attorney's Office in the Southern District of New York.
- A major national financial institution in connection with an investigation by the U.S. Attorney's Office concerning Anti-Money Laundering compliance.
- A major financial institution and mortgage lender in connection with an internal investigation, subsequent qui tam action concerning correspondent lending practices, and a FIRREA investigation.
- First Landing Fund LLC and Vantage Consulting Group, Inc., a Virginia-based SEC-registered investment adviser, in connection with an ongoing litigation alleging securities fraud in the Southern District of New York.
- First Landing Fund LLC and Indie Asset Partners LLC in connection with successfully representing investors in expedited books and records action in Delaware Chancery Court concerning a multimillion-dollar investigation.

Additionally, Marion has also represented various regulated persons and entities in examinations and investigations before state and federal regulators, including the Securities and Exchange Commission (SEC), state securities regulators, the Department of Justice (DOJ), the Financial Industry Regulatory Authority (FINRA), and the Commodity Futures Trading Commission (CFTC).

## **Pro Bono**

- Ted Herring, an intellectually disabled individual facing the death penalty for murder in Florida, in obtaining a reduced sentence to life imprisonment based on constitutional grounds. [*Herring v. Florida*, Case No. SC15-1562 (Mar. 31, 2017)]

## **Academic Achievements**

Marion is a 2009 graduate of Boston University School of Law where he was the Note Development Editor of the *Boston University International Law Journal* and a member of the Jessup International Moot Court Team.

## **Services**

- Financial Institutions
- Intellectual Property
- Investment Management
- Media + Entertainment
- Litigation
- Hotel + Hospitality
- White Collar + Regulatory Enforcement

## Education

- Boston University School of Law (J.D., 2009)
- College of William & Mary (A.B., *honors*, 2006)

## Recognition

- Named a "Rising Star" on the *Super Lawyers – New York Metro* list in Business Litigation (2020-25)

## Admissions

- New York
- New Jersey

## Languages

- French
- Italian

## Publications

November 29, 2020

**Everything Old is New Again: Hospitality Industry Financing and the Pandemic**  
*Hotel Business Review - Hotel Executive*

May 18, 2020

**Sherman and Harris Write Force Majeure Considerations Article for WWD**

February 14, 2019

**Navigating the Risks of Blockchain Technology in Commercial Real Estate**

September 6, 2018

**Sherman and Mohler Discuss Multifamily Rent Roll Income**

October 5, 2017

**SEC Targets Digital Token Issuer in First-Ever ICO-Related Enforcement Action**

June 28, 2017

**Constitutionality of In-House SEC Judges Expected to Face Supreme Court Review**

June 7, 2017

**In Unanimous Opinion, SCOTUS Curbs SEC Disgorgement**