



## Aaron H. Marks

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### RELATED PRACTICES

Antitrust Litigation  
Commercial Litigation  
Complex Financial Products  
Litigation  
Entertainment Law  
Financing Litigation  
Intellectual Property Litigation  
Mass Tort, Toxic Tort and  
Product Liability Litigation  
Plaintiffs' Litigation  
Real Estate and Hotel  
Litigation  
Securities Litigation  
State Attorneys General  
Practice

### EDUCATION

- Emory Law School (J.D., 1993)  
Editor, *Emory Law Journal*
- University of Pennsylvania (B.A., B.S., 1990)

### BAR ADMISSIONS

- 1994, New York

Aaron H. Marks is an accomplished trial lawyer focusing on complex commercial litigation. He is widely recognized as one of the top litigators in the country, including in the most recent editions of *Chambers USA: America's Leading Lawyers for Business* ("brilliant and analytical – a real star at the firm," "excellent tactician," "very effective and well prepared," "very understanding and sensitive to the needs of in-house counsel"); *Legal 500* (recognized as one of the 45 Leading Trial Lawyers in the U.S.; a leading Trade Secrets attorney); *Euromoney*, *Benchmark Litigation: The Definitive Guide to America's Leading Firms and Attorneys*; and *New York Super Lawyers 2008-2016*. Aaron was profiled as one of the nation's most accomplished litigators under the age of 45 by *The American Lawyer* magazine. He was also one of the firm's attorneys featured in *The American Lawyer* cover story chronicling the firm's "Fast Rise to the Top."

Aaron's practice focuses on disputes relating to securities, financial products, real estate, entertainment, mass torts and trade secrets. He represents corporations, private equity and other investment firms, multi-national financial institutions and individuals in state and federal courts throughout the country, before arbitration panels, and in proceedings involving the Securities and Exchange Commission, the U.S. Department of Justice and various states' attorneys general.

Aaron has extensive trial experience, including having served as first chair representing companies in several significant cases. For example, he led cigarette manufacturer Liggett Group's defense of the nine-month trial of the Department of Justice's RICO lawsuit against the tobacco industry. Federal District Judge Kessler issued a lengthy decision awarding judgment in favor of Liggett (whereas substantial relief was ordered against all of the other major cigarette manufacturers). Aaron, together with other firm partners, also defended The Port Authority of New York and New Jersey in the trial concerning the Port Authority's liability for the 1993 World Trade Center bombing.

## COURT ADMISSIONS

- 1993, U.S. District Court, District of New Jersey
- 1996, U.S. Court of Appeals, Fifth Circuit
- 1997, U.S. Court of Appeals, Fourth Circuit
- 1998, U.S. District Court, Eastern District of New York
- 1998, U.S. District Court, Southern District of New York

## MEMBERSHIPS

- Faculty Member, Emory University Law School Trial Techniques Program
- Board Member, New York American Inn of Court
- Board Member, Legal Aid Society of New York
- Board Member, Project Morry

## NOTABLE REPRESENTATIONS

- AMC Networks Inc. and affiliates in the defense of a lawsuit claiming that AMC engaged in “self-dealing” and other alleged improper accounting practices to the detriment of profit participants on the television series, *The Walking Dead*.
- TSL (USA), Inc., an affiliate of National Australia Bank, and Royal Park Investments SA/NV, an entity created in connection with the Belgian State’s sale of Fortis Bank SA/NV to BNP Paribas S.A. for the purpose of purchasing and managing certain of Fortis Bank’s structured credit risks, in three separate actions against Oppenheimer and its affiliates relating to defendants’ misconduct as administrators of three structured finance vehicles, alleging damages of more than \$2.5 billion.
- Hilton Worldwide in an action alleging trade secret misappropriation brought by Hilton’s competitor, Starwood Hotels & Resorts, and in a grand jury investigation conducted by the United States Attorney’s Office (S.D.N.Y.), relating to the same underlying facts.
- MBIA Inc., the world’s largest monoline insurer, in defense of four separate state and federal actions brought by 19 of the world’s largest financial institutions, bondholders and a putative nationwide class represented by several hedge funds – all arising from MBIA’s \$5 billion corporate restructuring in 2009. On May 9, 2013, MBIA reached a settlement with Société Générale S.A., the last plaintiff remaining in the suit. The settlement came two days after MBIA announced settlement with the only other plaintiff remaining in the litigation, Bank of America.
- Purolite International, a specialty chemical manufacturer, in an action against competitor Thermax Ltd. (India) for misappropriation of trade secrets relating to formulae and production processes for ion-exchange resin. The case settled on the eve of trial with a \$38 million payment by Thermax.
- Freescale Semiconductor in an expedited action by senior term lenders challenging Freescale’s issuance of \$1 billion of incremental term loans as barred by an occurrence of a material adverse change.
- Apollo Management L.P. and its portfolio company, Hexion Specialty Chemicals, in prosecuting an expedited proceeding against Credit Suisse and Deutsche Bank to compel specific performance of their commitment to provide \$15 billion in financing for Hexion’s proposed merger with Huntsman Chemical, and negotiating a settlement with Huntsman that major media outlets, including *The Wall Street Journal*, lauded as a “sweet deal” for Hexion and Apollo.
- Ernst & Young LLP in a successful appeal and settlement of an accounting malpractice action brought by the creditors of CBI Holdings.
- Several of the nation’s largest private-equity firms (Apollo Management L.P., Bain Capital, Carlyle Group, Centerbridge Capital

Partners, L.P., Clayton, Dubilier and Rice, Fortress Investment Group and TPG Capital) in disputes over acquisitions and acquisition financings for several large leveraged buyout transactions. These disputes involved the applicability of material adverse change clauses, post-merger insolvency, and specific performance of debt financing commitments. Most of these buyouts, including Home Depot Supply (\$9 billion) and Harrah's Entertainment (\$30 billion), funded and closed.

- BankUnited, Florida's largest bank, with respect to non-compete and trade secret lawsuits brought by Capital One, N.A.
- Safra National Bank in four arbitrations brought by clients alleging unsuitability and other claims regarding investment portfolios, and in an action brought by Bank of America.
- Cigarette manufacturer Liggett Group Inc. in ten jury trials, including several in which Liggett was the sole defendant. A March 2006 verdict in favor of Liggett (returned in 90 minutes) is believed to be the fastest rendered jury verdict in the 50-year history of litigation against cigarette manufacturers.
- Interstate Bakeries to litigate against certain lenders that balked on their commitment to provide financing to facilitate the company's exit from Chapter 11 bankruptcy.
- A foreign battery manufacturer in an action brought by a large manufacturer of touch control panels over responsibility for alleged product defects and recall costs.
- One of the nation's largest hotel companies (owners) in attorney general and putative class actions arising out of alleged consumer fraud, as well as ADA lawsuits as to certain of the owner's hotel properties.
- Real estate developers in litigation concerning ownership, financing disputes, and eminent domain.
- Professional athletes in disputes concerning promotional contracts, endorsement deals and use of performance-enhancing drugs.
- Video-game maker Take-Two Interactive Software in shareholder derivative actions arising out of alleged insider trading.
- Cigarette manufacturer Liggett in state and federal class action cases alleging price fixing by all major cigarette companies.
- Armstrong World Industries, a leading manufacturer of floor tiling, in defending claims of a purported nationwide class of millions of residential and commercial property owners. The court denied plaintiffs' motion to certify the proposed class.

## PUBLICATIONS

- “Rainmaker Q&A: Kasowitz Benson’s Aaron Marks,” *Law360*, September 7, 2016.
- “Defend Trade Secrets Act: Planning Ahead and Strategic Choices,” *Corporate Counsel*, May 17, 2016.
- “The Application of Foreign Law When Litigating a Forum Selection Clause,” *New York Law Journal*, June 1, 2015.