



Harvey Kurzweil

Partner

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With more than 50 years of litigation experience, Harvey has been lead counsel in areas as diverse as antitrust, intellectual property, insurance coverage, securities, contested works of art, defamation, ERISA, and consumer class actions. *Chambers USA* called him a “wonderful lawyer with a wealth of trial experience.”

Harvey is a nationally known litigator who has acted as lead trial counsel in numerous major litigations for many years, in cases involving exposure in the hundreds of millions to billions of dollars. He has also argued numerous appeals throughout the country, including before the New York Court of Appeals and the Second, Third, Sixth, Seventh, Eighth, Ninth, and Federal Circuits. In addition, he has successfully obtained two *certiorari* petitions.

Key Matters

Harvey’s representative matters include:

Complex Commercial Litigation:

- Representation of Factory Mutual Insurance Company in various coverage litigations involving the defense of claims based upon alleged Covid-19 losses
- Lead counsel in successful defense of Factory Mutual Insurance Company in major litigation brought by New York University for damages suffered as a result of Superstorm Sandy
- Lead trial counsel in the representation of The Travelers in the coverage litigation arising out of the destruction of the World Trade Center
- Lead trial counsel in *Coalition for Fair Lumber Imports Executive Committee v. United States*, a constitutional challenge to the dispute resolution procedures of the North American Free Trade Agreement (NAFTA)
- In *Insurance Alliances Group, Inc. v. Mutual of New York*—obtained a jury verdict in favor of defendant in a two-week jury trial in which the plaintiff alleged that Mutual of New York breached a written agreement and an oral joint venture, committed fraud, and attempted to destroy the plaintiff’s business
- Achieved a favorable settlement after three weeks of trial in the matter of *Frank B. Hall v. Nissan Motor Acceptance Corporation*, involving placement by Hall of nationwide collateral protection coverage for all Nissan automobiles sold or leased in the United States
- *Hartigan v. Minskoff*—successfully represented an institutional lender in a multi-week jury trial a on breach of contract claim seeking damages for failure to comply with a guarantee of completion of a large office building.
- *Empire v. Timeplex*—successfully represented defendant Timeplex in a four-week trial in a complex contractual dispute relating to the sale of classified defense equipment to the Government of Israel
- *Tesoro Petroleum Corporation v. Coastal*—obtained a jury verdict for plaintiff in a three-week jury trial arising out of the sale of a large quantity of gasoline
- Lead counsel in the representation of The MONY Group in class action litigations involving sales practices for life insurance policies, known generally as the “vanishing premium” cases
- Represented a leading financial institution in major litigation against a private equity firm
- Represented a major cable TV provider in high-profile litigation against a content provider
- Represented Virginia Surety in various class actions relating to sale of accident and sickness insurance coverage

Antitrust Litigation:

- Lead trial counsel for a major pharmaceutical manufacturer in a landmark ten-week jury trial in which the court granted the defendants’ motion for judgment as a matter of law. In that case (*In re Brand Name Prescription Drugs Antitrust Litigation*), potential damages in the billions were sought along with injunctive relief, arising out of claims that various pharmaceutical manufacturers and wholesalers had conspired to deprive retail pharmacies of discounts for brand name prescription drugs
- Represented certain regulated common carriers in a six-month jury trial on charges of illegal monopolization of telephone terminal equipment
- Represented a major wholesale distributor of magazines and periodicals in an antitrust action brought by a French publishing conglomerate, alleging monopolization and restraint of trade
- Represented a major health care provider in several restraint of trade cases

Securities and Corporate Governance Litigation:

- Led the team that successfully litigated a major class action in Delaware Chancery Court, *In re MONY Group, Inc. Shareholders Litigation*, relating to the acquisition of MONY by AXA
- Successfully represented a group of institutional investors in a five-week jury trial regarding large losses of federal book entry securities. The claims were brought against Marine Midland Bank, Comark (a government securities dealer), and one of its former general partners

- Represented the Fiduciary Trust Company, an alleged tippee defendant, in major insider trading cases
- Represented MedImmune, a biotech company, in a major 10b-5 case
- Represented numerous other defendants in other securities cases and cases involving breach of fiduciary duty claims; Defended Investcorp in an important breach of fiduciary duty case arising out of the failure of Color Tile, one of its portfolio companies
- Represented Omnicare in a number of securities class actions
- Tried a challenge to a recapitalization of a public company in Delaware Chancery Court

Intellectual Property Litigation:

- Represented United States Surgical Corporation in a landmark three-week patent trial (*Ethicon v. U.S.S.C.*) in which U.S. Surgical sought to have an unnamed co-inventor added as an inventor of a patent covering an endoscopic surgical instrument known as a safety trocar; Potential damages in the case were in excess of US\$1 billion dollars
- Represented U.S. Surgical in a complex patent case tried to a jury involving issues of infringement and patent invalidity (*Applied v. U.S.S.C.*)
- Represented MedImmune as lead trial counsel several patent cases involving monoclonal antibodies
- Worked alongside UK barristers and solicitors in the successful trial of a biotech case in the UK

Defamation Litigation:

- Successfully represented Eli Lilly in the defense of a major defamation case brought by the Church of Scientology relating to the prescription drug Prozac; Successfully represented a major telecommunications carrier in two major defamation/invasion of privacy cases

Financial Services Litigation:

- Represented the Resolution Trust Corporation (RTC) in proceedings brought in the Southern District of Florida against former officers, directors, and outside professionals, arising out of the failure of a Florida savings and loan
- Represented the RTC in the Eastern District of New York as receiver in numerous suits against former officers and directors
- Represented the RTC in the Southern District of New York as receiver in an action by the former 100 percent shareholder of a failed savings and loan association who alleged that the government's abrogation of the use of supervisory goodwill to meet federal regulatory capital requirements caused there to be a failure of consideration under certain assistance agreements entered into between plaintiffs and the government
- Represented a major bank in litigation brought by hedge funds. Represented Flushing Federal Savings and Loan Association in a trial in which a permanent injunction was obtained against Michael Rapp, the so-called "Wall Street Swindler," and Carl Cardascia, formerly the president of Flushing Federal, in connection with a series of fraudulent loans which Rapp had obtained from the institution

ERISA Litigation:

- Successfully represented Travelers in a major class action with significant public relations aspects brought by all salaried retirees whose health insurance benefits had been curtailed. The case was settled on terms favorable to defendants after a three-week trial

Recent Experience

Prevailed before Supreme Court for Omnicare in Landmark Securities Act Case

Recognitions

Harvey has been selected for inclusion in *Euromoney's Guide to the World's Leading Litigation Lawyers*, *The International Who's Who of Commercial Litigators*, *Chambers USA*, *The Best Lawyers in America*® for Commercial Litigation, *Institutional Investor*, *New York Super Lawyers*, and *Lawdragon 500*. He was also recognized in *Benchmark Litigation US* as a "New York Litigation Star" and "National Practice Area Star" for Insurance in 2023 and 2024.

- Super Lawyers: NY Metro
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Activities

Harvey is a Fellow of the International Academy of Trial Lawyers (membership by invitation only and limited to 500), a Fellow of the American Bar Foundation, and a Fellow of the New York State Bar Foundation. He is a member of the Federal Bar Council, the New York State Bar Association, the Antitrust and Litigation Sections of the American Bar Association, the Association of the Bar of the City of New York, the Committee on Trade Regulation (1982–1985), and the District of Columbia Bar Association.

He has served on the Board of Trustees of the Menninger Foundation from 1997 to the present and is currently a Vice Chairman of the Board of Trustees for the Menninger Clinic. He has also served on the Board of Visitors of Columbia Law School from 2000 to the present. Harvey was on the Board of Directors for the Volunteer Lawyers for the Arts from 1994–1999. He has been a board member of the Kenworthy-Swift Foundation since 2010 and is currently Treasurer responsible for investment of the foundation's endowment.

Credentials

EDUCATION

Harvey received a J.D. from the Columbia Law School in 1969, where he graduated as a Harlan Fiske Stone Scholar and received the Milton Handler Prize in Trade Regulation. He received an A.B., *cum laude*, from Columbia University in 1966.

ADMISSIONS

- District of Columbia
- New York

Related Insights & News

Publications

- "Twombly: Another Swing of the Pleading Pendulum," *Sedona Conference Journal*, Fall 2008
- Chapter on "The Trial of the Sevso Treasure, What a Nation Will Do in the Name of Its Heritage," *Who Owns the Past? Cultural Policy, Cultural Property, and The Law*, Co-author, 2005
- "Suing or Representing Foreign Companies in New York State Courts," Chapter 17 of *Commercial Litigation in New York State Courts*, Second Edition 2004
- "Assessing Risk Through Preparation and Honesty," Chapter in *Leading Litigators*, 2002

- Report for Trade Regulation Committee of City Bar Proposed Amendment to the Tunney Act, Jul. 1985
- Chapter on “Objections,” *Federal Evidence Practice Guide* by the Honorable Joseph M. McLaughlin, 1988

Speeches/Programs

- Sedona Conference on Antitrust Law and Litigation, Faculty Member on Current Developments in Antitrust Law & Litigation, 2007
- Sedona Conference on Antitrust Law and Litigation, Faculty Member on Current Developments in Antitrust Law & Litigation, Nov. 2006
- “What Every Licensing Lawyer Needs to Know: *MedImmune v. Genentech* and Related Cases”, New York Intellectual Property Law Association, Apr. 2006
- Sedona Conference on Antitrust Law and Litigation, Faculty Member on Current Developments in Antitrust Law & Litigation, Nov. 2005
- Panel on the Class Action Fairness Act, Association of the Bar of the City of New York, Oct. 2005
- Panel on Winning Commercial Cases in Federal Courts, Association of the Bar of the City of New York, Oct. 2004
- Panel Discussion on Trial of Cases in Commercial Part, New York State Supreme Court Association of the Bar of the City of New York, May 1998
- Cultural Property Round Table, Association of the Bar of the City of New York, Nov. 1996

RECOGNITIONS

Winston & Strawn Recognized in 2024 *Benchmark Litigation*
OCTOBER 6, 2023

RECOGNITIONS

Winston Attorneys Recognized in *The Best Lawyers in America*® 2024
AUGUST 17, 2023

RECOGNITIONS

Winston & Strawn Recognized in 2023 *Benchmark Litigation*
OCTOBER 14, 2022

RECOGNITIONS

Winston & Strawn Attorneys Recognized in *The Best Lawyers in America*® 2023
AUGUST 18, 2022

RECOGNITIONS

Winston & Strawn Attorneys Recognized in *The Best Lawyers in America*® 2022
AUGUST 19, 2021

RECOGNITIONS

Winston & Strawn Attorneys Recognized in *The Best Lawyers in America*© 2021

AUGUST 20, 2020

PRO BONO IN ACTION

Winston Secures Rare Bail Pending Appeal for Incarcerated Client

JULY 31, 2020

RECOGNITIONS

Winston & Strawn Lawyers Recognized in *The Best Lawyers in America*® 2020

AUGUST 15, 2019

RECOGNITIONS

Winston & Strawn Recognized in *The Legal 500 U.S.* 2019

MAY 30, 2019

RECOGNITIONS

Jeffrey Kessler Receives The Legal Aid Society's 2019 Servant of Justice Award

MAY 9, 2019

PRO BONO IN ACTION

Pro Bono Reporter – Fall 2018

FALL 2018

RECOGNITIONS

101 Winston Lawyers Listed in *The Best Lawyers in America*® 2019

AUGUST 15, 2018

Capabilities

