

# Mark Cuccaro

## Partner

+1212 202 2628  
mcuccaro@shertremonte.com

### Education

University of Chicago, J.D., 2006, with Honors; Editor, *Chicago Journal of International Law*; Bell, Boyd and Lloyd Best Advocate Award  
Dartmouth College, B.A., 2003, cum laude

### Admissions

New York  
U.S. District Courts for the Eastern and Southern Districts of New York



Mark guides clients through their most complex contractual disputes, securities litigation, intellectual property matters, and FINRA arbitrations. A thorough and efficient advocate, he brings a combination of big-firm training, in-house experience, and a deep knowledge of relevant case law to his work.

Mark's clients include corporations, investors, funds, mid-size companies, startups, and individuals from across a broad spectrum of industries. Clients regard him as responsive and pragmatic, noting the exceptional degree of attention and care he devotes to their disputes.

Before joining Sher Tremonte, Mark served as vice president and associate general counsel for the brokerage firm Penson Worldwide Inc., where he oversaw all of the public company's litigation. Previously, he worked as an associate for Mayer Brown LLP.

Mark also serves as a FINRA arbitrator, giving him a deep understanding of how arbitrations are conducted as well as the legal arguments and presentation styles most likely to lead to positive outcomes.

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## Experience

**Secured full dismissal, at both trial and on appeal, of a \$100 million case brought against a former trader at a health care industry hedge fund:** The hedge fund initiated a breach of fiduciary duty action based on the trader's alleged insider trading and sought disgorgement of all compensation paid to him over a decade. Both the Commercial Division and the First Department Appellate Division of the New York Supreme Court were persuaded that the plaintiff's claims were barred by a three-year statute of limitations accruing from the date of the alleged insider trading. The appellate decision was particularly significant in that it clarified the answer to a recurring question on the statute of limitations for disgorgement claims.

**Represented an internet advertising firm against a media giant that failed to make timely payments:** Convincing both the trial and appellate courts to reject Newsweek Media Group's argument that the lateness of settlement payments was immaterial, Mark secured a judgment for the larger payment obligation triggered by Newsweek's failure to adhere to the letter of the settlement agreement. (Read the opinion [here](#).)

**Prevailed for a private equity firm facing an \$8 million breach of contract claim:** After purchasing a New York City-based organic food business in which Sher Tremonte's client owned a majority share, the plaintiff claimed that the firm failed to provide good title to all ownership interests in the business. The trial court dismissed the case, and the appellate court confirmed that decision in its entirety. The early-stage dismissal protected the client from incurring significant costs.

**Successfully defended a corporate travel firm and its director:** The plaintiff, a competing travel agency, sued for misappropriation of trade secrets, unfair competition, and tortious interference, alleging that our clients had wrongfully taken client lists and had tampered with its email system for the purpose of diverting business. Sher Tremonte argued that the client lists in question could not be classified as trade secrets, obtaining a complete victory on all claims.

**Won summary judgment for a hedge fund/investment advisor and its principal:** The plaintiff, represented by Quinn Emanuel Urquhart & Sullivan LLP, alleged that Sher Tremonte's client had breached a partnership agreement and asserted claims of fraud, breach of contract, and breach of fiduciary duty. The Commercial Division of the New York Supreme Court dismissed all of the plaintiff's claims based on its core finding that no partnership agreement existed because the "parties were merely discussing an investment plan that was never launched."

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### Other notable work includes:

- Prevailed on a motion to dismiss claims in the Lehman Brothers bankruptcy, resulting in a \$10 million court-approved settlement for Sher Tremonte's client, a financial services firm based in Argentina.
- Secured a vacatur of default judgment and then a rare dismissal of action to confirm an arbitration award against a real estate investor at both trial and appellate levels.
- Secured a full dismissal of an Australian technology company CEO's claims against Sher Tremonte's clients, the company's other co-founders, on the grounds that the case should not be subject to the jurisdiction of New York courts.

## Recognitions

Named as a Top-Rated Attorney in Business Litigation, Thomson Reuters' *Super Lawyers* (2020-2021)

Selected to the Rising Stars in Business Litigation list, Thomson Reuters' *Super Lawyers* (2014-2017)

## News and Publications

"Criminal Liability for Theft of Trade Secrets Under the Economic Espionage Act," *Corporate LiveWire Expert Guide - Fraud & White Collar Crime* (2014)

Contributing author, "Information Management Policies and Procedure," *Electronic Discovery Deskbook*, Practising Law Institute (2009)