

PHILLIP LANDRIGAN

Professional Biography

Phil is engaged in major and complex commercial litigation before state and federal courts as well as appearing in arbitration before regulatory agencies and other tribunals. Phil has represented corporate clients and is in contractual, financial and property disputes, as well as handling claims for restitution of Nazi looted artworks, professional and business errors and omissions, employment law, business dissolution, construction, antitrust and trade practices, intellectual property, insurance coverage, and insurance defense.

Representative Matters

- ❖ **Nazi Looted Art.** Recovery of Nazi Looted Painting, “Seated Man with a Cane,” Modigliani (1919).

Matter of Stettiner, 148 A.D.3d 184, lv. App. Den 30 N.Y. 3d 907, (2017). Phillip and the firm successfully opposed the possessor of a Nazi looted artwork’s effort to revoke ancillary letters of administration issued in aid of the Estate of the Nazi Aryanization victim, Oscar Stettiner, by New York County Surrogate, Nora S. Anderson. The Appellate Division, First Department, also held that the possessor was subject to jurisdiction of the New York Courts due to its attempted sale of the looted artwork at Sotheby’s New York showroom in 2008. The Appellate Division also held that property in New York included a “choose in action,” SCPA §103(44) and §2103(2), and that SCPA §206(1) did not require the physical presence of the painting in New York. The painting was secreted out of New York and hidden in a Swiss freeport warehouse to avoid recovery by the victim of Nazi Aryanization.

Maestracci v. Helly Nahmad Gallery, Inc., 155 A.D.3d 401 (2017). Phillip and the firm successfully argued that the evidence submitted as the heirship of plaintiff, Philippe Maestracci, the sole survivor of a Nazi Aryanization victim, had standing to bring a claim for replevin of the looted painting, “Seated Man with a Cane,” Modigliani (1919) against the Helly Nahmad Gallery and members of the Nahmad family alleged to have used a Panamanian shell company, IAC, as an alter ego to shield their dealings in Nazi loot from public scrutiny. The Court also held that the Holocaust Expropriated Art Recovery Act, signed by President Obama in December 2016, applied to the case and that the action was timely brought.

Maestracci v. Helly Nahmad Gallery, Inc., Decision denying motion to dismiss, (Bransten), N.Y. Cty. Index#: 650646/2014, NYSCEF Docket No.: 1810, www.law.com/newyorklawjournal/almID/1528357713NY650546201 June 11, 2018.

Defendants' desperate final attempt to avoid the Nazi Aryanization victim's claims in a scorched earth motion based on, inter alia, personal and subject matter jurisdiction, statute of limitations, standing, failure to state a claim, champerty, etc., etc., denied in its entirety. Defendants are left only with denial of the factual circumstances surrounding the Nazi Aryanization of Jewish property, the victim's flight from occupied Paris without a receipt for his property, denial of a past liberation French Court's order that the Modigliani portrait of a man be restituted to Stettiner and claims of a lack of diligence by the victim's family, despite the post war hiding of the painting and its post war and current possessor for 70 years.

- ❖ **Commercial Instruments.** Coudert v. Richard N. Hokin, U.S.D.C., S.D.N.Y., 1:12-cv-00110-ALC 2018 WL 2561073 (4/30/18). Decision granting client's claim for recovery of \$4,770,461.69 on promissory notes and rejecting defense that the notes were not intended to be enforced and were part of a tax avoidance scheme claimed by client's ex-spouse.
- ❖ **Corporate Dissolution.** Phil most recently obtained a "zero" valuation and denial of dissolution on behalf of a client electing to purchase the disgruntled shareholder's interest in the corporation Paul Derderian v. NLNY, Inc., Index#: 607662/2015, NYSCEF, Docket No.: 93, decision dated March 28, 2018.
- ❖ **Venezuelan Warrant Recovery.** Phil was litigation counsel for several hedge funds recovering warrants that failed to settle as part of a market operations "daisy chain" failure dating back to the 1990s when the warrants were first attached to bonds issued in connection with the South American debt restructuring (so-called Brady Bonds). In addition to obtaining delivery of the warrants, the client recovered payments due on those warrants. (See e.g., Ellington v. HSBC, USDC, SDNY, Dkt No. 1:06-cv-2353).
- ❖ **Corporate Dissolution.** Phil obtained an award before the AAA establishing client's claim for 50% interest in corporation, also defeating respondent's counterclaim for an interest in client's separate real estate investments alleged to have been a "verbal partnership." (Denslow v. Wood-Smith, AAA Case No. 19-180-00222-04).
- ❖ **Environmental Defense.** After protracted litigation, Phil negotiated with the Attorney General's office convincing it that municipality's relative culpability in operation of and dumping at the site would lead to an equitable contribution by municipality well in excess of EPA guidelines for it to avoid liability, reducing all PRP's and client's share of response costs from approximately \$4,000,000 to \$151,250.00 (NYS v. Ametek, USDC, SDNY, Docket No. 7:05-cv-02186 (SCR) (LS)).

- ❖ **Wireless Warranty Settlement.** Phil was lead trial counsel in a major retailer's multi-million-dollar dispute with a wireless phone warranty provider. His efforts were instrumental in a confidential settlement of the case the day before jury selection in federal court.

- ❖ **Catastrophic Personal Injury Defense.** In addition to other defense verdicts and pre-verdict settlements, Phil obtained a defense verdict in a notable catastrophic injury case. Testimony from defense witnesses shown to be admissible as excited utterances, expert testimony that the mechanism of injury was inconsistent with plaintiff's and another eye witness's account, and Phil's arguments were all credited by the jury. Pre-closing demand \$1,500,000. {Kassim v. NYCTA, NYSup.Ct., Queens, Index No. 18874/93 - NY Jury Verdict Reporter XIX/35-18, March 4, 2002}

- ❖ **Employment Law.** Appearing after a plaintiff's verdict of \$250,000 on a race discrimination claim, Phil obtained reversal of that verdict on the grounds that admissions offered at trial violated New York's speaking agent hearsay rule. Phil was then retained for the retrial of the matter and negotiated a settlement at a fraction of the prior verdict largely based on plaintiff's counsel's out of pocket expenses. See Simpson v. NY.C. Transit Authority, 283 A.D.2d 419, 724 N.Y.S. 2d 196, 2001 Slip Op. 04131 (2d Dept. 2001).

- ❖ **Antitrust.** Phil obtained summary judgment dismissing Price Fixing, Group Boycott and Business Tort claims against multiple defendants, with the exception of a single breach of fiduciary duty claim. To avoid a costly trial and possible retrial after any appeal on that weak claim, plaintiff sought dismissal of the remaining claim subject to reinstatement, if plaintiff were successful on any other claim on appeal. Phil convinced the 9th Circuit Court of Appeals that there was no "final" appealable judgment and that there was no jurisdiction over such a non-final dismissal. Plaintiff was left with no right to appeal or reinstate any claim Wine Markets International, Inc. et al. v. Bass, et. al., USDC, NDCA, Dkt. No. 3:98-cv-03807.

- ❖ **Construction Trial.** Phil obtained dismissal of a multi-million-dollar construction claim against BJ's which took over construction after the developer missed a turn key lease deadline. The developer claimed that the cost of completion was below a contract trigger requiring additional payment by BJ's for the project. After a three-week bench trial before the Commercial Division of the Westchester Supreme Court, all claims against BJ's were dismissed.