



## Elizabeth Plowman

*Counsel*

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Elizabeth Plowman is counsel in Herrick's Finance Litigation & Restructuring Department. She focuses her practice on complex commercial litigation, bankruptcy and financial restructuring, as well as other litigation matters.

Prior to joining Herrick, Elizabeth was an associate at Phillips Lytle LLP.

### Services

- Litigation
- Restructuring & Finance Litigation
- Distressed Real Estate

### Education

- William & Mary Law School (J.D., *summa cum laude*, 2017)
  - Order of the Coif
  - Law Review
- Rensselaer Polytechnic Institute (B.S., *summa cum laude*, 2014)

### Publications

#### February 15, 2023

Considering the Allowability of "Make-Whole Payments" in Bankruptcy  
Herrick Restructuring Review

#### July 27, 2021

Paragon Offshore, plc: US Trustee Denied Quarterly Fees Based on Litigation Trust's Payments to Its Beneficiaries  
Herrick Restructuring Review

#### July 8, 2021

The Hertz Restructuring: A Rare Win for Public Stockholders  
Herrick Restructuring Review

#### February 25, 2021

Navient's Expedited Motion to Dismiss Student Loan Borrowers' Involuntary Chapter 11 Petition  
Herrick Restructuring Review

#### November 18, 2020

Herrick's Restructuring & Finance Litigation: 2019-2020 In Review

July 29, 2020

S.D.N.Y. Bankruptcy Court Holds that Allegedly Fraudulent Conveyances are Safe Harbored Under Section 546(e) and Provides a New Avenue of Defense  
Herrick Restructuring Review

## Matters

### Sears Holdings Corporation, et al. v. Lampert, et al. (Bankr. S.D.N.Y.)

Serving as Co-Counsel to the Official Committee of Unsecured Creditors, on behalf of Debtors' estates, in lawsuit asserting fraudulent transfer, breach of fiduciary duty, and related claims in connection with prepetition transactions totaling billions of dollars.

### International Arbitration Dispute

Successfully defended an international manufacturer against a complex, multi-million-dollar breach of contract claim brought by a U.S. trading company involving the sale of petrochemicals, including an award of attorneys' fees, expenses and costs. The representation included a seven-day trial involving multiple fact and expert witnesses.

### SunEdison, Inc.

Counsel to Reorganized SunEdison, Inc. concerning indemnity claims asserted by the syndication agent and lead arranger for a pre-petition second lien loan facility.

### BlueBay Total Return Credit Fund, et al. v. Fontana, et al. (NY Sup. Ct.)

Representing minority LLC member in derivative action against majority LLC members serving on board and their affiliated lender funds asserting claims for breaches of fiduciary duty and aiding and abetting such breaches.

### National Financial Partners, Corp. (NFP)

Herrick regularly represents NFP, a national insurance brokerage and consulting firm, in connection with a pre-litigation disputes and litigation.

### In re: Charge Enterprises Inc. (D. Del.)

Represented Kenneth Orr and certain KORR entities, significant shareholders and creditors of the debtor in the *In re Charge Enterprises, Inc.* Chapter 11 case in the Bankruptcy Court for the District of Delaware. The Debtor commenced its Chapter 11 case with a prepackaged plan negotiated with its prepetition secured lender and sought confirmation of that plan – which provided for the Lender to receive 100% of the equity in post-reorganization Charge – within 48 days of the bankruptcy filing. Prior to the Chapter 11 case, Charge had described in its SEC filings certain aggressive acts by the Lender that hindered Charge's ability to refinance its debt to the Lender and increased the size of the debt purportedly owed by Charge, which led to the Charge's inability to repay the notes at maturity. But, in its first-day Chapter 11 filings, the Debtor looked to blame KORR for its predicament, claiming that a separate dispute with KORR over illiquid investments Charge made with KORR left Charge with insufficient liquidity to repay the Lender notes. That dispute was the subject of a separate New York State Court litigation commenced by Charge while negotiating its restructuring with the Lender. In the limited time available in the Chapter 11 case, Herrick engaged in a strategy of attacking the Debtor and its Lender's proposed restructuring on several fronts. Ultimately, KORR reached a settlement of all its disputes with Charge and the Lender, which was a positive result for Herrick's client as well as for the Debtor and its estate. The plan and disclosure statement were approved pursuant to the Confirmation Order.

### In re City of Chester, PA (E.D. Pa.)

Representing the Official Retiree Committee in the Chapter 9 bankruptcy of Chester, Pennsylvania.