

Delaware Powerhouse: Morris Nichols

By **Matt Perez**

Law360 (August 21, 2023, 2:02 PM EDT) -- Coming up on nearly a century of service, Morris Nichols Arsht & Tunnell LLP remained a titan in the Delaware business community over the past year, whether advising the Boy Scouts of America on its Chapter 11 reorganization, representing companies like Atlas Corp. in billion-dollar acquisitions or fighting patent litigation on behalf of clients such as Irving Consumer Products.

Founded in 1930, the Wilmington-based firm — featured in Law360's annual Regional Powerhouses series — has kept steady the past years as a 90-person operation out of a single office in Delaware, bolstered by its four main prongs of corporate litigation, transactional matters, intellectual property litigation and bankruptcy.

"We've kind of kept the partnership at the size that it is, and it is a tight group of partners and good people who are driven ... and really take a team approach," corporate counseling partner Patricia O. Vella told Law360.

As illustrated by the fact that the firm is involved in one out of every 10 cases within the Chancery Court — an internationally important corporate law venue — and that it currently handles around 40% of the active patent cases in the state, Morris Nichols once again justifies its placement on Law360's list of Delaware Powerhouse firms.

"It's been a very strong year for the firm," said executive chairman Bill Lafferty, who joined Morris Nichols in 1990. "Both in respects of outcomes for the clients, but [also] in terms of, what I think a lot of people predicted in the legal market as being effectively a down year on legal work, we haven't seen any real downturn on that front."

Regardless of the uptick or downturn in bankruptcies, acquisitions or patent cases, Morris Nichols maintains itself as one of the frontline firms in the Delaware business community — and it takes pride in being a centralized force in the state.

"Even in the midst of what folks are seeing as a downturn in the legal market, we've not really quite felt that, and we're sort of firing on all cylinders," Vella said.



Morris Nichols insiders say the continued success of the firm can be attributed both to its collaborative spirit and its extensive experience within the Delaware market. Its attorneys are both intimately familiar with the state's statutes and its legal and business community.

"You're in a fairly small fishbowl of lawyers who practice in this space," Lafferty said. "It's a very tight bar, you have friends on the other side of your cases, and you can agree to disagree in a particular case and still be friends with them. And I think it raises the bar, and frankly, it helps the courts, too, when you're not always at each other's throat, but you can litigate things in a professional way."

The Boy Scouts of America reorganization — stemming from decades of sexual abuse claims — was among the most extensive that Morris Nichols worked on the past year. Following a weeklong trial, the bankruptcy court issued a 200-page opinion that subsequently led to 17 appeals in the district court. After a two-day hearing, the court issued a 150-page opinion affirming the Boy Scouts' bankruptcy plan.

"I think the length of those opinions just highlights the complexity of the issues that we faced," said partner Andrew R. Remming, who has been with Morris Nichols for 15 years.

The Chapter 11 plan, filed in February 2022 and going into effect April 19 of this year, included a \$2.7 billion sexual abuse compensation fund, which the firm cites as one of the largest in U.S. history.

"I'm really proud of the team we have in the bankruptcy group," Remming said. "We continue to have a very experienced and deep bench, and we're before the judges here on a daily basis."

Morris Nichols' transactional group notched several lucrative wins the past year, including Open Text Corp.'s \$6 billion agreement to acquire Micro Focus International PLC; the firm acted as Delaware counsel in connection with the financing. In particular, its attorneys were fairly involved in take-private deals.

Among them, Morris Nichols backed a special committee for EVO Payments Inc. in a \$4 billion equity sale to Global Payments Inc.; a special committee for Radius Global Infrastructure Inc. concerning a \$3 billion sale to EQT Active Core Infrastructure and PSP Investments; and a special committee representing Atlas Corp. in a \$10.9 billion sale of all its outstanding common shares to Poseidon Acquisition Corp.

"One of the things that's certainly kept me here is the diversity of work," said Tarik J. Haskins, a transactional partner who initially joined the firm in 2006. "For commercial counseling, we do everything from mergers and acquisitions to loan transactions to counseling for the use of Delaware entities."

"Each day is different," he added.

Morris Nichols also boasts several wins on the litigation front. Under the umbrella of corporate disputes, the firm successfully represented the special committee chairwoman who oversaw and approved Oracle's \$9.3 billion NetSuite acquisition, besting shareholder accusations that she was beholden to Oracle's billionaire founder, Larry Ellison.

A market leader in patent litigation, its intellectual property group achieved favorable results in March in a case that affirmed Irving Consumer Products Ltd. did not infringe rival First Quality Tissue LLC with its bath tissue product. Additionally, Morris Nichols represented Precision Planting and its parent Agco Corp. in its jury trial win against Deere & Co., and further beat a bid by Deere to redo the trial.

"From an IP perspective, the sheer breadth of the cases that we see gives us an advantage in that we see the same issues come up over and over again," said IP litigation partner Michael J. Flynn, who joined Morris Nichols in 2009 after a summer stint at the firm.

"I think what really keeps me going day to day is the environment here at Morris Nichols and knowing that I can rely on any of my colleagues to pitch in at any time."

--Editing by Dave Trumbore.

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