

# MORRIS NICHOLS ARSHT & TUNNELL



**CURTIS S. MILLER**  
PARTNER

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## PRACTICE AREAS

Business Reorganization &  
Restructuring  
Bankruptcy/Insolvency Litigation  
Business & Contract Litigation  
Creditor Representation  
Cross-Border Insolvency  
Distressed Enterprise Representation  
Financings  
Mergers, Acquisitions & Divestitures

## EDUCATION

J.D., Order of the Coif, 2003, College  
of William and Mary Marshall-Wythe  
School of Law

Notes Editor, *William & Mary Law  
Review*

B.S., economics, 2000, University of  
Utah

## CLERKSHIPS

Law Clerk to The Honorable Joseph J.  
Farnan, Jr., U.S. District Court for the  
District of Delaware, 2003-2004

## ADMISSIONS

Delaware, 2004  
U.S. District Court for the District of  
Delaware, 2004

Curtis focuses on corporate restructuring, bankruptcy and litigation. He has been involved in bankruptcy proceedings and litigation on behalf of a variety of national and regional clients, including debtors, creditors and official committees, private equity firms, hedge funds, and lenders.

Curtis currently represents publicly-held and privately-held companies in their efforts to restructure. He also acts as counsel for both plaintiffs and defendants in various bankruptcy-related litigation matters, including preference, fraudulent transfer, turnover actions, and breach of contract actions.

Curtis also advises clients in out-of-court restructurings, including assignments for the benefit of creditors, Article 9 foreclosures, and state law dissolutions. These representations have involved debtor and creditor representations in a wide range of industries, including the food, manufacturing, waste water treatment, retail, construction and manufacturing industries.

A frequent speaker, Curtis has spoken on numerous panels about bankruptcy issues, including:

- ABA Section of Litigation's Bankruptcy & Insolvency Litigation Committee, roundtable discussion on bankruptcy litigation trends with co-panelists The Hon. Robert E. Gerber and The Hon. Rosemary Gambardella. Session examined recent valuation decisions, the limits of fraudulent transfer actions, and the status of non-consensual, third-party releases in plans of reorganization (2018)
- Delaware Federal Bar Association Bench & Bar Conference, moderated a discussion on bankruptcy DIP financing trends, with panel including Delaware Chief Bankruptcy Judge Brendan L. Shannon and Judge Laurier Selber Silverstein (2018)
- National Conference of Bankruptcy Judges, panelist on case developments in equitable mootness (2017)
- 12th Annual Mid Atlantic ABI Workshop, spoke in a panel discussion on the standards for Chapter 11 trustee appointments (2016)
- Delaware Federal Bar Association Bench & Bar Conference, moderated a discussion on oil & gas issues in bankruptcy law with panel including Delaware Bankruptcy Judge Kevin J. Carey and Judge Laurier Selber Silverstein (2016)
- [View More.](#)

Curtis devotes a portion of his time to pro bono matters, serving as volunteer counsel in protection from abuse proceedings before the Family Court for the State of Delaware. He also serves as a member of the Morris Nichols Diversity Committee.

## Honors

- *The Best Lawyers in America*, Listed as a leading Delaware attorney for bankruptcy litigation (2019)
- *Delaware Super Lawyers*, Recognized as a Rising Star (2013-2017)

- *Benchmark Litigation*, Featured on “Under 40 Hotlist” (2017)
- *The M&A Advisor*, Named as a “40 Under 40 Emerging Leader” in the legal advisor category (2015)

## Professional Activities

- American Bankruptcy Institute
- American Bar Association (Section of Litigation)
  - Bankruptcy & Insolvency Litigation Committee (Co-Chair 2016-2018)
  - Leadership Fellow (Diversity Fellowship 2012)
  - Sound Advice Committee (Past Member)
  - Corporate Counsel Committee (Past Subcommittee Chair)
- Delaware Board of Bar Examiners (Former Assistant Secretary, appointed by Delaware Supreme Court)
- Delaware State Bar Association
- Federal Bar Association (Delaware Chapter)
  - Bankruptcy Section (At Large Member 2012-present; Co-chair 2011)
  - Bench & Bar Conference Planning Committee (2016, 2018)
  - Trial Practice Forum (2018)

## Representative Matters

- Successfully prosecuted the sale of debtor Hobbico’s assets in a 363 sale as debtor’s co-counsel to large hobby toy manufacturer.
- Co-counsel to The Boston Herald, Inc., assisting in successfully prosecuting the sale of historic newspaper’s assets in a 363 sale, more than doubling the initial bid at a competitive auction. Assisted in prosecuting the confirmation of a plan that resulted in material distributions to creditors.
- Co-counsel to affiliates of Sun Capital in the bankruptcy filing of Marsh Supermarkets, a large regional supermarket. Assisted in obtaining payment in a tranche of a Sun Capital affiliate’s loan to Marsh Supermarkets and ultimately a settlement of claims alleged by the Official Committee of Unsecured Creditors.
- Co-counsel to DAK Americas in the bankruptcy case of M&G, an international conglomerate of plastic manufacturing companies. Assisted in obtaining court approval of an \$800M acquisition of a Corpus Christi Texas manufacturing facility.
- Co-counsel to Bank of America in the Chapter 11 bankruptcy filing of Enduro Resources, Inc., a large exploration and production oil company. Curtis assisted in obtaining court approval of the sale of the majority of Enduro Resource’s assets in 363 sales and the prosecution of a Chapter 11 plan of liquidation.
- Co-counsel to Arlon, the equity sponsor of HMR Foods, in defending (a) a lawsuit filed by the Chapter 7 trustee asserting claims of breach of fiduciary duty and fraudulent transfers, and (b) a class action lawsuit brought by former employees seeking damages for alleged violations of the Federal and California WARN acts.
- Lead counsel to various landlords in the retail bankruptcy filings of Sears, Payless Shoes, Toys R Us, hhGregg, Golfsmith, The Bon Ton Stores, and Hancock Fabrics.
- Served as first chair in defending an affiliate of Panton Equity Partners in numerous lawsuits filed by creditors following the insolvency of a portfolio company related to Panton Equity Partners. Successfully prosecuted motions to dismiss in unrelated lawsuits pending in the United States District Courts in Florida and Georgia.
- Served as first chair to the Foreign Representative of Toshiba Samsung

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Storage Technology Korea Corporation (“TSST-K”) in its cross-border Chapter 15 bankruptcy filing in the United States. TSST-K was a Korean joint venture between Toshiba and Samsung that manufactured and sold optical disc devices (e.g., CD-ROM/DVD). At its high point, TSST-K had revenue of approximately \$1.8 billion.

- Co-counsel to an affiliate of H.I.G. Capital in the bankruptcy cases of Xtera Communications Inc. H.I.G. provided the debtor with DIP financing and ultimately acquired substantially all of the assets of Xtera Communications Inc. in a section 363 sale.
- Counsel to Monogram Foods in a competitive auction and successful acquisition of substantially all of the assets of Golden County Foods, a large processor of meat products in a section 363 sale.
- Co-counsel to the receiver of the assets of Skybridge Spectrum Foundation and certain of its affiliated entities in the bankruptcy filing by the displaced CEO of Skybridge. The receiver was appointed to safeguard approximately 5,500 FCC spectrum licenses that were in danger of being forfeited as a consequence of an adverse ruling against the CEO of Skybridge by an FCC administrative law judge. The receiver prevailed on a motion to dismiss the improper bankruptcy filing by the displaced CEO.
- Counsel to M&M Management Vennootschap BVBA, creator of the Tomorrowland electronic dance music festivals in Belgium and Brazil, in the bankruptcy cases of SFX Entertainment. Curtis is advising M&M Management Vennootschap BVBA in connection with the negotiation of numerous agreements that will govern the reorganization of the Tomorrowland and TomorrowWorld festivals, which are some of the largest EMD festivals in the world.
- Co-counsel to Tennenbaum Capital Partners in the Fuhu bankruptcy cases.
- Co-counsel to the Export Import Bank of China in the Baha Mar bankruptcy cases. The Export Import Bank of China prevailed on a motion to dismiss Baha Mar’s bankruptcy cases.
- Counsel to the debtor in Seegrid Corporation’s bankruptcy, successfully advising the debtor and prosecuting a plan of reorganization over the objection of a group of equity and noteholders. This litigation included obtaining an unprecedented ruling from the court limiting objecting parties’ ability to force a valuation trial as part of the confirmation proceedings. (See Curtis’s article, “[Delaware Bankruptcy Court Reins in Hold-Out Leverage](#),” ABI Journal (May 2015) for more on the significance of the case.)
- Co-counsel to the Official Committee of Equity Security Holders in Syms Corp. in the bankruptcy of Syms Corp. and Filene’s Basement and, following confirmation, represented the Reorganized Debtors of Syms Corp. and Filene’s Basement in numerous multimillion dollar asset sales and litigated numerous matters reducing the claims against the Reorganized Debtors by multiple millions of dollars.
- Counsel to Wilmington Trust Company, as indenture trustee, in the Catholic Diocese of Wilmington bankruptcy. The indenture trustee was successful in its efforts to obtain full payment for bondholders and negotiated a favorable settlement for the Indenture Trustee under the terms of the plan of reorganization that was confirmed at the end of 2011.
- Counsel to Fifth Third Bank as DIP lender to Carl’s Patio and its affiliated debtors during their bankruptcy cases.

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