

MORRIS NICHOLS ARSHT & TUNNELL



DEREK C. ABBOTT
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., with honors, 1995, University of
North Carolina School of Law
North Carolina Law Review (Staff
Member, 1993-1994 and Publication
Editor, 1994-1995)
B.S., human factors psychology, 1987,
United States Military Academy

ADMISSIONS

Delaware, 1995
U.S. District Court for the District of
Delaware
U.S. Court of Appeals for the Third
Circuit

Derek represents Fortune 1000, local, international and other organizations as lead or Delaware counsel in bankruptcy proceedings and litigation on behalf of debtors, creditors, official and ad hoc committees and transactional case constituents.

Derek regularly works with debtors-in-possession (“DIP”) and exit financing lenders, as well as outside and inside counsel, turnaround professionals, crisis management firms, and investment and non-investment bank professionals. His recent client representations include AT&T Inc., General Motors Corporation, Quality Care Properties, Philips International, Viacom Inc., TD Bank, and Nortel Networks.

Derek is a graduate of the United States Military Academy at West Point, receiving a B.S. in 1987. He has made the honor, leadership, and discipline that are the hallmarks of that institution the cornerstones of his professional career. In 2016, he was invited to join the 28th Class of Fellows of the American College of Bankruptcy. In 2018, he was presented the Delaware State Bar Association’s Access to Justice Commitment Award, recognizing his sterling commitment to pro bono work throughout his career. In 2011, he was the recipient of the Caleb R. Layton III Service Award, given by the judges of the U.S. District and Bankruptcy Courts for the District of Delaware to an attorney who personifies the qualities of a federal practitioner: legal acumen, professional decorum, and public service. Derek’s Delaware community activities are frequent and diverse ranging from assisting the Delaware Legal Services Community with fundraising activities, to serving as legal counsel for a variety of indigent clients through Delaware Volunteer Legal Services. He chairs the Morris Nichols pro bono committee and sits on the Firm’s recruiting committee.

He frequently presents before national and Delaware bar associations, bankruptcy organizations and other business and professional audiences. His client and peer recommendations are numerous and have resulted in his recognition by *Chambers USA: Guide to America’s Leading Lawyers for Business*.

Honors

- *Chambers USA: America’s Leading Lawyers for Business*, Ranked Band 1 in Delaware for bankruptcy/restructuring (2012-2020), with sources describing him as “very skilled, careful, charismatic and an excellent choice to run a complicated Chapter 11 case.”
- *IFLR1000 United States*, Selected as a leading Delaware lawyer in the guide to financial and corporate law firms (2018-2019)
- *The Best Lawyers in America*, Listed in the bankruptcy and creditor debtor rights / insolvency and reorganization category (2007-2021); Designated “Lawyer of the Year” in various Delaware categories (2010, 2017-2021)
- *Delaware Super Lawyers*, Selected by his peers for inclusion for work in bankruptcy: business (2008-2020)

- *Lawdragon 500*, Selected to inaugural guide of leading U.S. bankruptcy and restructuring lawyers (2020)
- *Who's Who Legal*, Listed among top restructuring and insolvency practitioners (2014-2019)

Professional Activities

- American Bankruptcy Institute
- American Bar Association
 - Business Law Section (Committee on Business Bankruptcy)
 - Litigation Section
- American College of Bankruptcy (Fellow)
- Delaware State Bar Association
 - Bankruptcy Section (Chapter 11 Committee)
 - Veterans Committee
- National Association of Corporate Directors
- Turnaround Management Association

Community Activities

- New Castle County Combined Campaign for Justice (Former General Chair)

Representative Matters

- Liquidating trustee to drug developer, Inspirion Delivery Sciences LLC. Successfully obtained approval to sell all assets for \$4 million in cash, and up to \$10 million in future payments for royalties on abuse-deterrent opioids.
- Lead counsel to THG Holdings LLC and its affiliated debtors in Delaware chapter 11 proceedings, defeating opposition's demand for a \$5.2 million return in post-petition reimbursement payments and achieving confirmation of the chapter 11 plans.
- Lead counsel to New England-based restaurateur Papa Gino's, Inc., and certain of its affiliates, guiding the company through the chapter 11 process and asset sale.
- Co-counsel to discount retailer, Fred's Inc., in Delaware chapter 11 proceedings. On the first day of the case, successfully achieved approval of a \$35 million chapter 11 loan as well as permission to complete millions worth of asset sales as part of Fred's Inc.'s liquidation efforts.
- Represented a group of major auto manufacturers in TK Holdings' chapter 11 bankruptcy proceeding, involving the largest auto safety recall in U.S. history.
- Represented fashion start up Tamara Mellon Brand, LLC as debtors' counsel in a pre-packaged plan of reorganization to achieve a new capital infusion from a large venture capital fund. Prevailed in contested confirmation hearing against old equity owners.
- Co-counsel to Nortel Networks Inc. and certain U.S. affiliates in complex cross-border chapter 11 bankruptcy case. Successfully achieved confirmation of a plan to implement a global settlement that included allocating the unprecedented \$7.3 billion of escrowed sale proceeds generated from the Nortel asset and IP sales between Nortel entities in the United States, Canada and Europe, which allocation was the subject of a 21-day joint trial in U.S. and Canadian courts.
- Co-counsel to certain equity sponsors and various affiliates of Texas power company, Energy Future Holdings Corp., in complex contested reorganization and substantial discovery matters.

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 Wilmington, DE 19899-1347

- Co-counsel to the official committee of unsecured creditors in bankruptcy proceedings for Boomerang Tube LLC. The committee successfully opposed the debtors' and secured lenders' proposed plan of reorganization that contemplated an unreasonably low valuation that would have left creditors with zero recovery. Based on the committee's opposition, the bankruptcy court rejected the debtors' and lenders' valuation, ultimately resulting in a distribution to creditors as part of a plan settlement.
- Represented Fifth Street Finance Corp. as pre-petition and debtor-in-possession lender in bankruptcy proceedings for software services company AmCad Holdings, LLC.
- Co-counsel to oil tanker Overseas Shipholding Group, Inc. (OSG) in Delaware chapter 11 proceedings. Successfully reached a \$1.5 billion rights offering to pay creditors in full.

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