

# MORRIS NICHOLS ARSHT & TUNNELL



**R. JUDSON SCAGGS, JR.**  
PARTNER

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## PRACTICE AREAS

Alternative Dispute Resolution  
Alternative Entities  
Appraisals & Business Valuations  
Business & Contract Litigation  
Class & Derivative Actions  
Contests for Corporate Control  
Corporate & Business Litigation  
Mergers, Acquisitions & Divestitures  
Special Committees  
Statutory Proceedings under  
Delaware's Business Statutes  
Stockholder Activism  
Environmental & Tort Litigation

## EDUCATION

J.D., class valedictorian and Order of the Coif, 1988, College of William and Mary Marshall-Wythe School of Law  
Member, *William and Mary Law Review*

B.A., Philosophy, 1981, Washington and Lee University  
Artillery Officer, Attained Rank of Captain, 1981-1985, U.S. Marine Corp.

## ADMISSIONS

Delaware, 1989  
U.S. District Court for the District of Delaware, 1989  
U.S. Court of Appeals for the Third Circuit, 1989  
U.S. Court of Appeals for the Federal Circuit, 1993

For 25 years, R.J. has concentrated his practice on the litigation of corporate law issues and business disputes. He defends corporate directors against breach of fiduciary duty claims and litigates challenges to mergers, acquisitions, recapitalizations and other strategic corporate transactions.

His case load is heavily focused on class and derivative matters. R.J.'s work also includes a variety of corporate and alternative entity (partnerships, limited liability companies, limited liability partnerships) disputes, including actions seeking inspection of books and records, indemnification of officers and directors, challenges to the election of directors, dissolution, liquidation, appointment of trustees and many others.

He served as lead counsel in *Malone v. Brincat*. He argued the appeal addressing the disclosure duties of Delaware directors. This case was included in the Delaware Supreme Court Golden Anniversary volume as one of the twenty most important corporate law cases in the history of the Court.

R.J. has extensive experience in litigation concerning technology and license agreements, trade secrets, interference with contractual relations and other business torts. He also has successful experience in administrative litigation related to regulatory matters, such as utility rate-making and environmental permitting.

He is coauthor of the Bloomberg BNA Corporate Practice Series Portfolio, *Derivative Lawsuits*. He also has been an adjunct faculty member of the Villanova University School of Law, where he taught advanced contract drafting, merger agreements and related topics.

R.J. is chairman of the Delaware State Bar Association's Lawyer Assistance Committee, which assists Delaware lawyers affected by substance abuse, mental illness or other life issues. He provides pro bono legal services through the Delaware Volunteer Legal Services Program and is on the Firm's pro bono committee. R.J. also is a volunteer and former chairman for Good Neighbors Home Repair, a Christian charity working to make the homes of the needy warmer, safer and drier.

## Honors

- *Chambers USA: Guide to America's Leading Lawyers*, Ranked for Chancery in Delaware (2015-2018)
- *The Legal 500 US*, Mentioned in for mergers and acquisitions litigation defense work (2016, 2018)
- *The Best Lawyers in America*, Listed as a leading Delaware commercial litigation attorney (2009-2018)
- *Delaware Super Lawyers*, Selected for inclusion in business litigation (2013-2018)
- *Corporate Counsel*, Selected as one of its Top Lawyers in "Bet-The-Company"

litigation (2009)

## Professional Activities

- American Bar Association
- Delaware State Bar Association
  - Corporation Law Section
  - Litigation Section
  - Lawyer Assistance Committee (Chairman)

## Community Activities

- Delaware Volunteer Legal Services Program
- Good Neighbors Home Repair (Volunteer and Former Chairman)

## Representative Matters

- Represented View Inc. in litigation challenging the validity of the venture-capital-backed start-up's capital structure. The case involved an application of the relatively new Delaware corporate law statute (Section 204) allowing for the ratification of past defects in authorization for corporate acts. *Paul Nguyen v. View, Inc.*, C.A. No. 11138-VCN and *In re View, Inc. Litigation*, Del. Ch., C.A. No. 2017-0762
- Successfully represented The HC Companies in post-closing indemnification dispute, securing Motion for Partial Summary Judgment in case involving breaches of representations and warranties arising from the sale of equipment and machinery via an asset purchase agreement. *The HC Companies, Inc. v. Myers Industries, Inc.*, C.A. No. 12671-VCS
- Prosecuting claims for breach of releases seeking recovery of more than \$100 million in legal fees expended to defend unsuccessful litigation brought in Guernsey. *Carlyle Investment Management LLC v. Moonmouth Company S.A.*, CA No. 7841-VCMR
- As lead counsel, argued and prevailed in seminal case before the Delaware Supreme Court (en banc) addressing disclosure duties of directors under Delaware law. *Malone v. Brincat*, 722 A.2d 5 (Del. 1998)
- Counsel for directors of a global biopharmaceutical company with \$90 billion market capitalization in successful defense of derivative claims. *Fernicola v. Hugin*, C.A. No. 11748-VCMR (2016)
- As lead counsel, argued, prevailed and made new law in case before the Delaware Supreme Court concerning the distinction between corporate derivative claims and direct class action claims. *Gatz v. Ponsoldt*, 925 A.2d, 1265 (Del. 2007)
- Lead counsel prosecuting claims on behalf of Accredited Home Lenders, a sub-prime mortgage lender, to require Lone Star Fund to consummate a merger agreement. Case settlement included closing of the merger. *Accredited Home Lenders Holding Co. v. Lone Star Fund V (U.S.), L.P.*, C.A. No. 3160-VCL
- Counsel in successful defense of action seeking to force closing of merger transaction. *Alliance Data Systems Corp. v. Blackstone Capital Partners V, L.P., et al.*, C.A. No. 3796-VCS
- Lead counsel in obtaining jury verdict in Delaware Superior Court enforcing complex financial obligations of company in favor of venture capital investor. *Athenian Venture Partners I, et al. v. GMG Capital Investments, LLC*, C.A. No. 08C-04-084-DCS (Del. Super. March 25, 2013)
- Counsel in precedent-setting case related to the duties of directors in tender offer transactions. *In re Siliconix Shareholders Litigation*, 2001 WL 716787 (Del. Ch. June 19, 2001)
- Trial and appellate (argued) counsel in expedited, precedent-setting action seeking determination of proper members of board of directors. *Klaassen v. Allegro Development Corp.*, C.A. No. 8626-VCL

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- Lead trial and appellate counsel in dispute regarding demand for a list of partners of limited partnership. *Parkcentral Global LP v. Brown Investment Management LP*, No. 288, 2010
- Obtained injunction against proceeding in Georgia state court based on Delaware forum selection provision in asset acquisition agreement. *Weiner v. Milliken Design, Inc.*, C.A. No. 9671-VCP
- Lead litigation counsel in obtaining first order granting correction of corporate irregularities under new Delaware statute, which facilitated an initial public stock offering. *In re Trupanion, Inc.*, C.A. No. 9496-VCP
- Lead counsel in successful defense of motion for temporary restraining order seeking to halt marketing and sales of pharmaceutical based on alleged breaches of license agreement. Case settled after TRO decision. *Glenmark Generics, Inc. USA, et al. v. Astellas Pharma Europe B.V., et al.*, C.A. No. 8984-VCP
- Acted as counsel to Carlyle investment management in obtaining injunction against a proceeding in Kuwait based on forum selection provision in investment agreement, which was affirmed on appeal. *Carlyle*
- *Investment Management, LLC v. National Industries Group*, C.A. No. 8580-VCN (Del. Supr. Ct., en banc, May 29, 2013)  
Lead counsel in successful defense of claims seeking dissolution of a limited liability company. *Lalonde v. PBM Capital Investments LLC*, C.A. No. 8580-VCN
- Counsel to defendant in defeating motion for temporary restraining order that would have required continuation of services under acquisition agreement. Plaintiff abandoned all claims after TRO decision. *Eurofins Botanical Testing US, Inc. v. Chromadex Corp.*, C.A. 2018-0592-CB (2018)
- Lead counsel in obtaining favorable post-trial decision on claims for alleged breaches of a technology licensing agreement. *eCommerce Industries v. MWA Intelligence Inc.*, C.A. No. 7471-VCP (Del. Ch. Oct. 4, 2013)
- Acted as lead counsel in defending multiple post-merger appraisal proceedings. *Kettleton Multi-Year Holdings v. Sourcefire LLC*, C.A. No. 9157-VCL; *Quadre Investments, L.P. v. LCA-Vision Inc.*, C.A. No. 9646-VCP; *Kettleton Multi-Year Holdings LLC vs Sourcefire LLC*, C.A. No. 9157-VCL
- Counsel as part of team that prevailed in trial over post-closing tax adjustments in corporate acquisition. *Cyber Holding LLC v. CyberCore Holding, Inc.*, C.A. No. 7369-VCN
- Lead counsel in successful enforcement of environmental indemnity provision in an asset acquisition agreement. *Lucite International, Inc. v. E.I. du Pont de Nemours and Company*, C.A. No. 2.09-CV-02279 (W.D. Tenn. May 5, 2011)

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