Joseph O. Larkin

Skadden

Partner, Wilmington

Complex Litigation and Trials; Corporate Restructuring



T: 302.651.3124
joseph.larkin@skadden.com

Education

J.D., Villanova University School of Law (*magna cum laude*; Order of the Coif; Associate Editor, *Villanova Law Review*)

B.A., University of Richmond (*magna cum laude*; Presidential Student-Athlete Award)

Bar Admissions

Delaware
Pennsylvania

Experience

Law Clerk, Hon. R. Barclay Surrick, U.S. District Court for the Eastern District of Pennsylvania

Joe Larkin is head of Skadden's Delaware Litigation Group. He is a nationally recognized litigator and trial lawyer with an impressive track record of success in bet-the-company disputes in the Delaware Court of Chancery and federal and state courts throughout the country.

In recent years, Mr. Larkin has successfully represented clients in expedited trials and evidentiary hearings arising from mergers and acquisitions, corporate control battles, commercial contracts, antitrust claims, securities class actions and bankruptcy litigation. Most recently, Mr. Larkin was recognized by *The American Lawyer* as a Litigator of the Week for his outstanding work on behalf of TTAM Research Institute and Anne Wojcicki, the founder and former CEO of 23andMe, relating to 23andMe's bankruptcy sale. He led a team that successfully defeated three emergency motions filed by the state of California to block the sale of 23andMe. These victories, secured within just five days, culminated in the U.S. Court of Appeals for the Eighth Circuit's decision denying California's request for a stay pending appeal.

In addition to his courtroom success, Mr. Larkin is a trusted adviser and strategist to directors, C-suite executives and in-house counsel on many of their most important matters. He works seamlessly across Skadden's global platform to advise clients on Delaware law and other strategic issues. He routinely engages with his partners and clients at the outset of the transactional planning process to advise from inception to closing.

Clients have routinely praised Mr. Larkin for his sound guidance and commercial approach to litigation, repeatedly turning to him for their most complex matters. Throughout his career, Mr. Larkin has played a leading role in some of the most significant corporate litigation matters in history and has been at the forefront of corporate innovation. He was one of the lead litigators that represented MacAndrews & Forbes in the Delaware Supreme Court's seminal *MFW* decision that established a new legal regime for reviewing controlling stockholder transactions.

He has been on recognized numerous occasions by *The American Lawyer* as a finalist for its Litigator of the Week honors and repeatedly ranked by *Chambers USA* in its Chancery and Bankruptcy/Restructuring categories, in which clients praise him as a "terrific litigator" who brings "extreme clarity of thought to the table." He has also been honored by *Lawdragon* as one of its 500 Leading Lawyers in America, 500 Leading Global Litigators, 500 Leading Litigators in America and 500 Leading Global Bankruptcy & Restructuring Lawyers, as well as by *Turnarounds & Workouts* magazine as one of its Outstanding Young Restructuring Lawyers and by *The Best Lawyers in America* for his work in Corporate Law. In addition, under his leadership, the firm's Delaware Litigation Group has been repeatedly ranked in Band 1 of *Chambers USA*'s Chancery category and named a Delaware Powerhouse by *Law360*.

In recent years, Mr. Larkin has successfully tried cases and arbitrations to judgment for SeeCubic, Inc., Sabre Corporation, CommonWealth REIT, Service Properties Trust, TravelCenters of America LLC and the founder and CEO of EPCO Carbon Dioxide Products, Inc. In this capacity, Mr. Larkin successfully defeated a motion for preliminary injunction on behalf of Sabre Corporation after trial in Texas state court. In addition, he was one of the lead litigators for Sabre in its trial victory in Delaware federal court against the Department of Justice's effort to enjoin Sabre's proposed acquisition of FareLogix, which was dubbed by one major media outlet as a "stunning court victory in the U.S."

Some of Mr. Larkin's other recent corporate litigation matters include representing:

- a commercial stage biotech company in expedited litigation that resulted in the extraordinary remedy of a permanent injunction against a hostile bidder for intentional breach of a "standstill" agreement (Delaware Court of Chancery)
- Squarespace and its board of directors in defeating a motion for preliminary injunction that sought to enjoin the $6.6 billion merger between Squarespace and Permira on the eve of closing (New York state court)
- the special committee of EngageSmart in the successful resolution of preclosing injunction claims arising from its multibillion merger with Vista Equity Partners (Delaware Court of Chancery)
- John C. Malone in the successful resolution of litigation arising from the exercise of a call agreement with Qurate Retail, Inc. (Delaware Court of Chancery)
- IVERIC and its board of directors in successfully enforcing its forum selection bylaw against shareholder plaintiffs (New Jersey state court)
- the board of control for Cricket in India in defeating a motion for a temporary restraining order and anti-suit injunction filed against it arising from a parallel proceeding pending in India (Delaware Bankruptcy Court)
- the special litigation committee of Clovis Oncology Inc. in an 18-month internal investigation and successful resolution of high-profile Caremark claims (Delaware Court of Chancery)
- Red Lion Hotels and its acquirer The RMR Group in the dismissal of all claims – including fraud – and subsequent affirmance, which resulted in new precedent under Washington state law for takeover litigation (Washington state court and Washington Court of Appeals)
- Luxor Capital and certain of its principals in multijurisdictional litigation arising from its investment in RCAP (Delaware Court of Chancery and New York State Supreme Court)
- Bottomline Corporation and its board of directors in litigation arising from its merger with Thoma Bravo (Delaware Court of Chancery and various federal district courts)
- GCI Liberty, Inc. and certain of its directors and officers in litigation arising from GCI's multibillion-dollar merger with Liberty Broadband, Inc. (Delaware Court of Chancery)
- Ionis Pharmaceuticals, Inc. in the successful resolution of claims arising from its merger with its subsidiary Akcea Therapeutics, Inc. (Delaware Court of Chancery)
- Stemline Therapeutics, Inc. in litigation arising from its acquisition by Menarini Group (New York and Delaware federal court)
- Melinta Pharmaceuticals, Inc. in shareholder litigation and its subsequent comprehensive financial restructuring (Delaware Court of Chancery and Delaware Bankruptcy Court)
- Array BioPharma in shareholder litigation arising from its $11.4 billion acquisition by Pfizer (Delaware Court of Chancery)
- Alder Biopharmaceuticals, Inc. in its sale to Lundbeck for up to $1.95 billion (New York, California and Delaware federal court)
- Merrimack Pharmaceuticals, Inc. in litigation against its convertible noteholders arising from Merrimack's sale of certain assets to Ipsen S.A (Delaware Court of Chancery)
- the defense of a significant shareholder in the successful resolution of litigation arising from Lions Gate's acquisition of STARZ, Inc. (Delaware Court of Chancery and California Superior Court)
- the special committee of Wesco Financial Corporation in its merger with its controlling shareholder Berkshire Hathaway, Inc. (Delaware Court of Chancery)

In the bankruptcy and troubled-company arena, Mr. Larkin has substantial experience representing debtors, committees and creditors in litigation related to bankruptcies. He recently served as lead trial counsel to SeeCubic, Inc. in securing the dismissal of Stream TV Networks Inc.'s Chapter 11 filing (D. Del. Bankruptcy); the official equity committee of VIVUS, Inc. in obtaining significantly greater value for equity holders than initially contemplated under the debtor's initial plan of reorganization (D. Del. Bankruptcy); and a stalking horse bidder in the successful defense of "bid-rigging" allegations arising from bankruptcy auction (S.D.N.Y. Bankruptcy). His recent debtor representations include:

- True Value in connection with its Chapter 11 filing and the sale of substantially all of its assets to Do it Best Corp. pursuant to a Section 363 sale process in the (D. Del Bankruptcy)
- Clear Blue Specialty Insurance Company and its affiliates in connection with the Chapter 11 cases of Vesttoo Ltd. (D. Del Bankruptcy)
- Endo International PLC and certain of its affiliates in their Chapter 11 cases (S.D.N.Y. Bankruptcy)
- Armstrong Flooring and certain of its affiliates in their Chapter 11 cases (D. Del. Bankruptcy)
- Melinta Therapeutics in its comprehensive financial restructuring in Chapter 11 (D. Del. Bankruptcy)
- Stearns Holding and certain of its affiliates in their Chapter 11 reorganization (S.D.N.Y. Bankruptcy)

Mr. Larkin has published numerous articles on bankruptcy and Delaware law issues. He was appointed twice by the Delaware Supreme Court to serve on the Delaware Board of Bar Examiners.

Joseph O. Larkin

Continued

Selected Publications

"Inside the Courts," *Skadden Publication*, Recurring publication

"Delaware Supreme Court Clarifies Standards Applicable To Advance Notice Bylaws," *The M&A Lawyer*, July-August 2024, *Harvard Law School Forum on Corporate Governance*, July 25, 2024, and *Skadden Publication*, July 15, 2024

"Delaware Court Denies Dismissal of Claims Based on Controller and Financial Advisor Conflicts," *Harvard Law School Forum on Corporate Governance*, June 23, 2024

"Court of Chancery Issues First Decision Dismissing MultiPlan Claims," *Skadden Publication*, June 7, 2024

"Delaware Court Denies Dismissal of Claims Based on Controller and Financial Advisor Conflicts," *Skadden Publication*, June 6, 2024

"An Introduction to the Unique Issues in Bank Holding Company Bankruptcies," *Skadden Publication*, March 17, 2023

"What Exactly Is an Independent Director? (Hint: It's More Complicated Than You Think)," *Skadden Publication*, February 22, 2022

"Treatment of Midstream Agreements in Bankruptcy Remains Unsettled, but Limited Consensus May Be Emerging," *Reuters Legal*, February 4, 2022

"Treatment of Midstream Agreements in Bankruptcy Remains Unsettled, but Limited Consensus May Be Emerging," *Skadden's 2022 Insights*, January 19, 2022