

# FisherBroyles

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**Practice Areas:** Appellate; Arbitration and Mediation; Bankruptcy & Restructuring; Commercial Litigation; Intellectual Property

**Bar Admissions:** Delaware; New Jersey; New York

**Education:** William and Mary Law School, 2005; Georgetown University, 2002

**Experience:** Fox Rothschild LLP

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Carl is a Delaware licensed attorney, whose practice focuses in the areas of corporate and commercial litigation before the Delaware state courts and the United States District Court for the District of Delaware.

Carl represents national and regional clients in a variety of areas, including high-stakes shareholder disputes, books and records demands, dissolution proceedings, matters involving fiduciary duties and corporate governance, summary proceedings under the Delaware General Corporation Law, and matters in which injunctive or equitable relief is sought. Carl also represents parties as Delaware counsel in intellectual property disputes before the District of Delaware.

Carl is a "business divorce" attorney, having represented various companies, stockholders, directors and officers in a multitude of corporate governance disputes. Carl is known for strategizing on a high level and litigating in a smart and effective way in order to effectuate an optimal outcome for his clients.

In addition to his extensive litigation background, Carl regularly handles matters before the United States Bankruptcy Court for the District of Delaware and has represented commercial landlords, utility companies, debtors, creditors, creditors' committees and litigation trusts in various bankruptcy proceedings. He also has significant experience litigating preference and avoidance action disputes.

Carl has mediated numerous disputes. Carl is a Delaware Superior Court Certified Mediator, and is also a volunteer mediator with the Delaware Justice of the Peace Court.

Before FisherBroyles, LLP, Carl was a partner in Fox Rothschild LLP's Wilmington, Delaware office, and was a member of that firm's Litigation, Financial Restructuring and Bankruptcy, and Directors and Officers Liability and Corporate Governance practice groups.

Prior to practicing law, Carl served as a law clerk for the Honorable E. Norman Veasey, former Chief Justice of the Delaware Supreme Court.

### Representative Litigation

#### Representative Corporate and Commercial Litigation Matters

- Obtained an order from the Delaware Supreme Court ordering general partner to produce requested books and records of Delaware limited partnerships. *Murfey, et al. v. WHC Ventures, LLC, et al.*, No. 294,2019 (Del. 2020)
- Obtained summary judgment ruling from the Delaware Court of Chancery holding general partner in contempt of Court Order, resulting in hundreds of thousands of dollars in distributions and legal fees to be awarded to plaintiffs, and granting plaintiffs' interpretation of limited partnership agreement. *Murfey, et al. v. WHC Ventures, LLC, et al.*, C.A. No. 2020-0704-MTZ (Del. Ch.).
- Obtained dismissal of defendants' claims in a \$60 million lawsuit brought by a Russian national bank under the doctrine of forum non conveniens. *VTB Bank v. Navitron Projects Corp.*, C.A. No. 8514-VCN (Del. Ch.)
- Successfully opposed plaintiff's Motion for Judgment on the Pleadings in contested receivership action, which resulted in negotiated settlement. *Houston v. Salem*, C.A. No. 2020-1023-PAF (Del. Ch.).
- Obtained a full discharge on behalf of co-trustees along with attorneys' fees in amount of approximately \$1 million. *In re Hawk Mountain Trust*, C.A. No. 7334-VCP (Del. Ch.)
- Obtained an order granting petition for the appointment of a trustee in dissolution to a dissolved Delaware limited liability company. *In re Zoom Flume, LLC*, C.A. No. 2020-0293-SG (Del. Ch.)
- Successfully petitioned the Delaware Court of Chancery to appoint a trustee over a deadlocked Delaware limited liability company and Delaware corporation under Section 18-802 of the Delaware LLC Act and Section 273 of the DGCL, respectively. *Steelcom Ltd., et al. v. PilePro, LLC, et al.*, C.A. No. 12178-VCS (Del. Ch.)
- Obtained a writ of mandamus from the Third Circuit Court of Appeals vacating the District of Delaware's order transferring venue of action to the Western District of Louisiana and remanding action to the District of Delaware. *In re Advanced Reimbursement Management, LLC*, No. 17-3187 (3d Cir. July 31, 2018)
- Successfully opposed motion to expedite filed in Court of Chancery dissolution proceeding in light of forum selection clause requiring dissolution claim to be brought in arbitration. *In re North American Payroll Holdings, LLC and Associated Human Capital Management, LLC*, C.A. No. 2018-0881-KSJM (Del. Ch.)

- Represented limited partners of a family limited partnership and asserted claims against general partner for failing to properly amortize goodwill to limited partners, defeated motion to dismiss and obtained settlement of dispute. JHJ Limited Partnership v. United Trust Fund Limited Partnership, et al., C.A. No. 2017-0723-JRS (Del. Ch.)
- Represented 50% stockholder in action filed under Section 273 of the DGCL to dissolve a Delaware joint venture corporation, obtained resolution of dispute. Ronda Craft Maines v. Kevin Ron Craft and B.G. Craft Enterprises, Inc., 2018-0069-SG (Del. Ch.)
- Represented respondent opposing dissolution of joint venture entity pursuant to Section 273 of the DGCL and obtained settlement. In re Seaway Biltmore Inc., C.A. No. 11192-CB (Del. Ch.)
- Obtained sanctions and attorneys' fees against investors for filing derivative suit in violation of release contained in settlement agreement. In re China Integrated Energy, Inc. Stockholder Litig., Consol. C.A. No. 6625-VCL (Del. Ch.)
- Represented board members seeking advancement and indemnification of claims, obtained settlement. Fanzilli, et al. v. GFI Group, Inc., C.A. No. 11740-VCL (Del. Ch.)
- Represented estate executor to recover value of shares deceased owned in Delaware corporation, and obtained settlement. Fritzel v. Track Tech, Inc., C.A. No. 2017-0172-JRS (Del. Ch.)
- Represented secured creditor in action to appoint receiver to insolvent corporation under Section 291 of the DGCL, obtained settlement. In re Day1 Solutions, Inc., C.A. No. 12878-VCL (Del. Ch.)
- Represented group of LLC managers in defense of fiduciary duty claims, obtained settlement. CMS Investment Holdings, LLC v. Castle, et al., C.A. No. 9468-VCMR (Del. Ch.)
- Represented plaintiff in earnout litigation dispute and obtained settlement through mediation. Penn Venture Partners, L.P. v. Nuance Communications, Inc., C.A. No. 11810-VCS (Del. Ch.)
- Represented company seeking determination of adequate security pursuant to Section 281 of the DGCL, obtained order from the Court requiring \$0 to be set aside for adequate security. In re Reading Powder Coatings Inc., C.A. No. 11470-VCG (Del. Ch.)
- Represented various companies seeking determination of adequate security pursuant to Section 281 of the DGCL, obtained order from the Court requiring \$0 to be set aside for adequate security. In re Mint Technologies, Inc., C.A. No. 12035-VCL (Del. Ch.); In re Reading Powder Coatings, Inc., C.A. No. 11470-VCG (Del. Ch.)
- Represented plaintiff in a Section 225 action and Section 220 books and records action, obtained settlement. Schlitz v. BigVisible Solutions Inc., C.A. Nos. 8935-VCP, 9213-VCP (Del. Ch.)

- Represented directors and officers in breach of fiduciary duty litigation through mediation. Szostak v. Parabel Inc., et al., C.A. No. 9867-VCL (Del. Ch.)
- Represented client in power of attorney dispute, obtained settlement through mediation. In the Matter of Paulina Du Pont Dean; C.A. No. 7430-MZ (Del. Ch.)
- Obtained ex-parte TRO on behalf of judgment creditor against defendant. Arsenal Inc. v. Philip Spitzer, et al.; C.A. No. 10074-VCP (Del. Ch.)
- Represented defendants in trade secret litigation against former employer through mediation. mindSHIFT Technologies, Inc. v. Joel Altobello, et al.; C.A. No. 9537-VCP (Del. Ch.)
- Represented petitioner seeking dissolution of joint venture Delaware corporation under Section 273 of the DGCL, obtained resolution. In the Matter of Telfez, Inc.; C.A. No. 9233-VCP (Del. Ch.)

### **Representative Bankruptcy Matters**

- Successfully represented North Dakota utility company in the Emerald Oil, Inc., Triangle USA Petroleum and Enduro Resource Partners, LLC bankruptcy proceedings before the Delaware Bankruptcy Court, and in the Whiting Petroleum Corporation bankruptcy proceeding before the Southern District of Texas in connection with disputes concerning adequate assurance under Section 366 of the Bankruptcy Code.
- Successfully obtained relief from the automatic stay on behalf of numerous personal injury claimants in order to liquidate their claims, including most recently in the Forever 21, Inc., Celadon Group, Inc., and Hygea Holdings Corp. bankruptcy proceedings before the Delaware Bankruptcy Court.
- Represented a litigation trust in the Chem Rx Corporation bankruptcy action which commenced numerous avoidance actions on behalf of the estate and successfully obtained a substantial recovery for the litigation trust.
- Successfully defended numerous defendants that were sued for the recovery of preferential transfers under Section 547 of the Bankruptcy Code, along with defendants sued for the recovery of fraudulent conveyances under Section 548 of the Bankruptcy Code.
- Defeated a motion for summary judgment filed against a defendant sued for the recovery of hundreds of thousands of dollars of alleged preferential transfer.
- Successfully represented a multitude of creditors in various bankruptcy proceedings, including claimants seeking administrative claims under Section 503(b)(9) of the Bankruptcy Code for goods and services provided in the 20 day period prior to the bankruptcy filing, claimants seeking the reclamation of goods provided to debtors in the 45 day period prior to the bankruptcy filing, and various other secured and unsecured creditors.

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- Obtained an order from the Delaware Bankruptcy Court granting a motion to transfer venue on behalf of defendant sued for the recovery of allegedly fraudulent transfers in the DBSI, Inc. bankruptcy action.
- Represented various commercial landlords seeking to compel payment of rent during the pendency of the bankruptcy proceeding.
- Represented party opposing the debtors' assumption and assignment of unexpired lease on basis that debtors failed to provide adequate assurance of future performance.
- Represented various parties seeking to bid on assets of debtors' estates.

### Publications

- Delaware Business Dispute Blog - [www.businessdisputeblog.com](http://www.businessdisputeblog.com)
- Delaware Bankruptcy Blog - [www.delawarebankruptcyblog.com](http://www.delawarebankruptcyblog.com)
- Director Obligations to Implement and Monitor Oversight Systems, Wiley Online Library, Nov. 2019
- Delaware Supreme Court Addresses the Implied Covenant of Good Faith And Fair Dealing, The M&A Lawyer, Feb. 2017
- Fee-Shifting Ban May Put Delaware's Corporation-Friendly Status in Question, The Legal Intelligencer, Feb. 2016

### Certifications

- Delaware Superior Court Certified Mediator

### Clerkship Experience

- Delaware Supreme Court, Chief Justice E. Norman Veasey, 2003

### Memberships

- Delaware State Bar Association
- American Bankruptcy Institute
- Richard S. Rodney American Inn of Court