

People



Andrew S. Dupre

Office Managing Partner

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Serving as office managing partner of Akerman's Wilmington office, Andrew Dupre guides clients in navigating the complexity of Delaware corporate law and the Delaware Court of Chancery. A corporate litigator with national and international experience representing limited partnerships, limited liability companies, and other alternative business entities and investment vehicles, Andrew is known for his innovative strategizing in high-stakes Delaware business entity and investor disputes. Clients value his ability to craft creative solutions from challenging positions, resulting in a track record of securing victories in shareholder class actions and derivative suits, breach of contract, supply agreement, corporate governance, fiduciary duty, and M&A disputes.

Dual qualified in Delaware and England and Wales and educated in Singapore, Andrew is frequently tapped by Delaware affiliates of UK and Commonwealth entities and their directors to handle investment disputes. Outside of the courtroom, Andrew advises board special committees on litigation risk and compliance in M&A transactions and special litigation committees on investigations of shareholder claims.

In addition to his Delaware and English corporate law work, Andrew focuses a significant amount of his practice on commercial arbitrations, often involving high-value supply agreements. Much of this work is rooted in Andrew's earlier career as a management consultant in the chemicals and pharmachem sectors, where he principally worked on acquisitions, divestments, and strategic planning.

Notable Work

The Police & Fire Retirement System of the City of Detroit v. Elon Musk et. al.: As Delaware counsel, attained the then-largest shareholder derivative case settlement in US history, for total value of \$933 million. The settlement requires the Board of Directors of Tesla, Inc. to disgorge \$735 million of past compensation, waive an additional \$198 million in future compensation grants, and change

Areas of Experience

Litigation
 Commercial Disputes
 Commercial Loan Enforcement and Secured Financing Litigation
 Construction Litigation and Dispute Resolution
 Directors and Officers (D&O) Liability
 Distressed Transactions and Corporate Restructuring
 International Litigation and Arbitration
 M&A and Private Equity
 PFAS Litigation and Regulatory Counseling
 Private Equity Litigation
 Securities Litigation
 Trade Secrets, Restrictive Covenants, and Unfair Competition
 Transactional Risk
 Venture Capital and Emerging Growth Companies

Education

M.B.A., IE Business School (Madrid) and National University of Singapore Business School, 2011, with honors
 J.D., Widener University Delaware Law School, 2004, magna cum laude
 B.A., University of Delaware, 2001

Admissions

Bars

Delaware
 England & Wales

Courts

Delaware Supreme Court
 Delaware Court of Chancery
 Superior Court of Delaware
 U.S. District Court, District of Delaware
 U.S. Court of Appeals, Third Circuit
 Solicitor of England & Wales

the go-forward board compensation grant structure. Argued a \$230 million fee petition to the Delaware Court of Chancery on October 13, 2023. (Delaware Chancery C.A. 2020-0477-KJSM)

Stream TV Networks, Inc. v. SeeCubic, Inc.: In this case of first impression, the Supreme Court of Delaware *en banc* granted our client reversal of a decision of the Delaware Court of Chancery, to hold that Section 271 of the Delaware General Corporation Law does not deprive preferred shareholders during an insolvency event of their blocking rights to veto a transfer of substantially all assets of the corporation to a creditor in a private foreclosure or workout. (279 A.3d 323 (Del. 2021))

Geronta Funding v. Brighthouse Life Insurance Co.: The Supreme Court of Delaware *en banc* granted our client reversal of a decision of the Superior Court of Delaware. The Supreme Court in this case of first impression established the “*Seck Test*” requiring restitution of premiums paid on insurance policies void *ab initio*, including for STOLI policy schemes. (207 A.3d 579 (Del. 2019))

Verition Partners Master Fund, Ltd. v. Aruba Networks, Inc.: Case of first impression by which the Delaware Supreme Court established that the trading market price of a widely traded public company is sufficiently indicative of fair value minus synergies for a post-merger appraisal claim absent proof of atypical market events. (210 A.3d 128 (Del. 2019))

In re: Aruba Networks, Inc. Stockholder Litig.: One of a trio of cases by which the Delaware Court of Chancery eliminated “disclosure only” settlements for shareholder plaintiff derivative claims, by ruling that plaintiff was ineffective counsel and therefore an inadequate representative of a shareholder class. (C.A. No. 10765-VCL (Del. Ch. Oct. 9, 2015))

In re Oracle Corp. Derivative Litig.: As Delaware counsel, defended the CEO of Netsuite against claims of abetting breaches of fiduciary duty by the board of directors of Oracle, Inc. during its \$9.8 billion acquisition. Attained dismissal of novel fiduciary claims that sell-side directors owe fiduciary duties to buy-side shareholders regarding fair pricing. (2020 Del. Ch. LEXIS 218 (Del. Ch. Jun. 22, 2020))

International Rail Partners, LLC v. American Rail Partners, LLC: The Delaware Court of Chancery awarded advancement and indemnification to managers of a private equity portfolio railroad company, rejecting novel arguments that the Delaware LLC Act bars advancement rights for first-party claims by dissatisfied investors, as opposed to third party claims. (C.A. 2020-0177-PAF (Del Ch. Nov. 20, 2020); *aff’d* 245 A.3d 517 (Del. 2021))

Feely v. NHAOCG, LLC: Case of first impression by which the Delaware Court of Chancery determined that managers of Delaware LLCs owe default fiduciary duties of care and loyalty, rejecting the *contractarian* approach to the Delaware LLC Act. (62 A.3d 649 (Del. Ch. 2012))

Buch v. Filo (In re: Yahoo, Inc. Shareholder Lit’g): Representing the Special Committee of the Board of Directors of Yahoo, Inc. investigating public shareholder challenges to executive compensation for senior executives Marissa Mayer and Henrique de Castro. The Delaware Court of Chancery accepted the recommendation of the Special Committee and dismissed the shareholder complaints. (Del. Ch. C.A. 10933-VCL)

Related Content

Akerman Establishes Wilmington, Delaware, Office
July 01, 2024

City of Monroe Empls.' Ret. Sys. v. Murdoch: As Delaware counsel, settled claims alleging lack of board and officer oversight of a sexual harassment scandal at Fox News, employing a novel structure for what was then one of the top ten largest derivative litigation settlements in the Delaware Court of Chancery. (C.A. No. 2017-0833-AGB (Del. Ch. Nov. 20, 2017))

Merck & Co., Inc. Special Committee Investigation/Acquisition of Cubist Pharmaceuticals: Represented an investigative committee of the Board of Directors of Merck & Co., Inc., investigating shareholder claims for breach of the fiduciary duty of care based upon alleged overpayment for an acquisition target that subsequently had a key patent ruled invalid.

Lyons Ins. Agency Inc. v. Wilson: Trial win before the Delaware Court of Chancery enforcing a covenant not-to-compete that prevented transfer of clients and prospects. In awarding fee shifting, the Court of Chancery held: “Lyons’ counsel made perhaps the most cogent, and certainly the briefest, argument for fee shifting under the bad faith exception I have been privileged to hear.” (2021 Del. Ch. LEXIS 83 (Del. Ch. Apr. 29, 2021))

Leistner v. Red Mud Enters. LLC: Trial victory attaining a rare defense verdict against a books and records inspection demand by a member of a Delaware LLC by proving the improper purpose of pretext to use as leverage for parallel litigations against related parties. (2023 Del. Ch. LEXIS 634 (Del. Ch. Dec. 8, 2023))

Confidential Commercial Arbitration for Major Chemicals Firm: Represented U.S. and Finnish chemicals firms arbitrating supply agreement claims following closure and divestment of a manufacturing plant, resulting in a defense award for our client supplier and a denial of the customer’s eight-figure breach claims.

Confidential Commercial Arbitration for Major Chemicals Firm: French, American, and UK chemicals firms disputed breach of contract claims related to the sale of a chemical plant and subsequent supply agreements. The key issues included performance duties required by “best efforts” clauses under Delaware and English law, validity of a series of force majeure declarations, whether the duty of good faith and fair dealing required expenditure to reach industry performance benchmarks, and requirements to retain key employees during a control transfer. Resulted in eight-figure award for our client, including attorneys’ fees and costs.

Related Professional Experience

- Judicial Law Clerk to the Honorable Peggy Ableman, Superior Court of Delaware, 2004–2005
- Judicial Law Clerk to the Honorable Vice Chancellor Stephen P. Lamb, Delaware Court of Chancery, 2003–2004

Published Work and Lectures

- *Law360*, Referenced, “Del. Judge Won’t Reorder Priority Scheme For Citgo Auction,” February 15, 2024
- *Law360*, Referenced, “Matterport Stockholders Claim ‘Unlawful’ \$220M Share Issue,” February 2, 2024
- *Law360*, Referenced, “Pa Judge Oks Stream TV Ch. 11 Trustee, Del. Debt Action,” January 26, 2024
- *Law360*, Referenced, “Seven Creditors Move Closer to Participating in Citgo Sale,” November 1, 2023

- *Bloomberg Law*, Quoted, “Tesla Balks at \$919 Million Board Pay Deal’s Hefty Lawyer Fee,” October 13, 2023
- *Law360*, Quoted, “Del. Justices Reverse Stockholder Snub in 3D-TV Co. Row,” June 16, 2022
- *Law360*, Referenced, “Rail Road Operator’s Fees Must Be Covered, Chancery Says” – November 24, 2020
- *Law360*, Referenced, “GE Escapes Claims It Duped Baker Hughes Into Bad Merger,” October 27, 2020
- *Law360*, Referenced, “CEO Must Testify In Chancery On Firm’s ‘Reprehensible’ Acts,” April 2, 2020
- *Law360*, Referenced, “Sirius XM to Settle Chancery Stock Buyback Suit for \$8.3M,” October 22, 2019
- *Law360*, Referenced, “Cancer Center Says It’s Done Paying Ex-CEO’s Legal Bills,” June 6, 2019
- *Law360*, Referenced, “Patriot Nat’l CEO Still Looting Despite Order, Investors Say,” August 4, 2017
- *Law360*, Referenced, “Patriot Nat’l Investors Seek TRO On \$107M In Stock Deals,” December 8, 2016
- *Law360*, Referenced, “CEO Hurting Patriot National To Keep Control, Investor Says,” December 1, 2016
- *Law360*, Referenced, “Drug Firms Battle In Del., Calif. Over Shared LLC, \$60M IP,” April 29, 2016
- *Mealey’s International Arbitration Report*, Author, “Delaware Courts Hold Jurisdiction to Determine Whether Second Arbitration Is Untimely Collateral Attack on First Arbitration Award,” May 4, 2021
- *Mealey’s*, Referenced, Magistrate Recommends Dismissing Fraud Defendants’ Counterclaims Against Insurers,” May 19, 2021
- *Mealey’s*, Referenced, “Jury Finds That Competitor Misappropriated Drug Company’s Trade Secrets,” November 2018
- *Law360*, Quoted, “Shareholders Fight Hemispherx’s Fee-Shifting In Del. Chancery,” July 22, 2014

Affiliations

- American Bar Association, Litigation Committee and Pharmaceutical Litigation Subcommittee
- Delaware State Bar Association, Corporate & Litigation Sections
- Law Society of England & Wales
- Sedona Conference on Electronic Discovery