

# LANDIS RATH & COBB LLP

**James S. Green Jr. Partner**  
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## **Practice Areas: Bankruptcy and Commercial Litigation**

Jim concentrates his practice in the area of commercial bankruptcy litigation. Jim's practice also extends to all areas of business litigation, including first-chair trial experience in the United States District Court for the District of Delaware, the United States Bankruptcy Court for the District of Delaware, the Delaware Court of Chancery and the Delaware Superior Court, Complex Commercial Litigation Division. Jim regularly serves as Delaware counsel for Hatch-Waxman patent litigation in the Delaware District Court, and he appears before other federal and state courts in Delaware representing a range of clients, including: financial institutions, bankruptcy debtors, bankruptcy trustees, bankruptcy committees, individual creditors of insolvent companies, as well as officers, directors, and shareholders involving matters of Delaware corporate jurisprudence, receiverships in the Court of Chancery, and local and national Delaware business entities. Jim has extensive experience resolving discovery issues, including promoting efficiencies of complex e-discovery and managing multi-party and third-party discovery.



Jim is a member of the Federal Bar Association, Delaware Chapter, the Delaware State Bar Association, and he actively participates in the American Bankruptcy Institute, Litigation Section; the American Bar Association, Business Litigation Section; as well as the Richard S. Rodney American Inn of Court. He holds leadership positions with the ABI Bankruptcy Litigation Section and the ABA Business Litigation Section Intellectual Property Committee.

Jim participates in Delaware's Federal Civil Panel and frequently is engaged on other pro bono litigation matters, and he currently serves as Secretary of the Board of Directors of Concord Soccer Club. Jim is recognized in Best Lawyers of America© 2019 for Commercial Litigation, and he was named to the Delaware Law Weekly's 2016 Lawyers on the Fast Track.

## **Education**

Widener University School of Law, J.D., *cum laude*, 2003

Articles Editor of The Delaware Journal of Corporate Law, Volume 28;

Judicial Externship for The Honorable Thomas L. Ambro, United States Court of Appeals for the Third Circuit

Gettysburg College, B.A., *cum laude*, Philosophy, with minor concentrations in Spanish and English, 1999

## Admissions to Practice

Delaware

United States Court of Appeals for the Third Circuit

## Recent Publications and Presentations

Panelist on ABI Webinar, *Presenting Evidence in Bankruptcy Court: Tips and Best Practices*, on June 14, 2018. On the panel, Jim explored common evidentiary issues encountered in a bankruptcy case and provided practical information for how to navigate those issues in a hearing or at trial.

Co-author of the *Quick Evidence Handbook*, second edition, published April 2018 by the American Bankruptcy Institute.

For the past few years, Jim has co-authored the chapter on corporate law developments in the American Bar Association's *Annual Review of Developments in Business and Corporate Litigation* treatise.

*A Year Later: The Impact in Delaware from the US Supreme Court's TC Heartland*, Delaware Business Court Insider, April 11, 2018. Jim looks back at the decision that upended what had been the status quo on the issue of where venue lies in patent infringement actions, and takes a look at the impact of TC Heartland.

*TC Heartland — High Court Reverses 30 Years of Patent Venue Law*, Delaware Business Court Insider, June 21, 2017. Jim Green writes on the recent U.S. Supreme Court decision in *TC Heartland LLC v. Kraft Foods Group Brands LLC* and the impact it will have in reversing 30 years of patent venue law.

*In re TC Heartland, LLC: Patent Venue Issues Come to the Fore*, Delaware Business Court Insider, June 22, 2016. Jim writes on a Federal Circuit Court of Appeals decision in *In re TC Heartland, LLC*, No. 16-105 (Fed. Cir. Apr. 29, 2016), a case that observers predicted had the potential to restrict the venue where patent infringement lawsuits may be brought.

## Experience

Jim's recent representations include:

- Co-counsel with Knobbe Martens representing defendant in ANDA patent litigation relating to febuxostat in the United States District Court for the District of Delaware. *Teijin Limited, et al. v. Lupin Limited, et al.*
- Co-counsel with Schiff Hardin LLP representing defendant in ANDA patent litigation relating to iloperidone in the United States District Court for the District of Delaware. *Fanapt Vanda Pharmaceuticals, et al. v. Lupin Limited, et al.*
- Co-counsel with Knobbe Martens representing defendant in ANDA patent litigation relating to dimethyl fumarate in the United States District Court for the District of Delaware. *Biogen International GmbH et al. v. Cipla Limited, et al.*
- Co-counsel with Knobbe Martens representing defendant in ANDA patent litigation relating to budesonide in the United States District Court for the District of Delaware. *Cosmo Technologies Limited, et al. v. Lupin Limited, et al.*

- Represent defendant in Superior Court in international litigation against Italian financial advisory firm. *Ethica Corporate Finance v. Dana Incorporated*.
- Represented intervening directors and managers in connection with Section 225 control dispute. *GEL v. Webspectator Corporation*.
- Represented comptroller in Superior Court action for breach of fiduciary duties and for an accounting. *Brooks, Sr. v. Brooks, Jr. et al.*
- Represented special committee in response to a subpoena in connection with Court of Chancery appraisal action. *In re Dell, Inc.*
- Represented specialty aircraft firm in international multi-jurisdiction litigation relating to breach of contract. *PATS Aircraft v. Vedder Munich GmbH*.
- Represented plaintiff general contractor in Federal District Court in breach of contract and breach of warranty matter against subcontractor. *PATS Aircraft v. Robinson Aircraft Interiors*.
- Represented plaintiff in action to enforce stock purchase agreement in Delaware Court of Chancery and Superior Court. *Steinberg v. Winklevoss Capital Fund, LLC*.
- Delaware counsel to a number of generic pharmaceutical companies in ANDA patent litigation in the United States District Court for the District of Delaware.
- Trial counsel in Delaware Court of Chancery to petitioner for receivership over biotechnology company under 8 Del. C. § 291. *In re Geneius Biotechnology, Inc.*
- Litigation counsel in United States Bankruptcy Court for the District of Delaware to debtor Saladworks concerning plan-related disputes. *In re SW Liquidation, LLC*.
- Represent plaintiff post-confirmation general unsecured creditors trust, asserting D&O liability claims, including breach of fiduciary duty, fraudulent transfer, breach of contract, among other claims, relating to the demise of debtor. *Lipscomb as Special Trustee of the LMI GUC Trust v. Clairvest et al.*
- Litigation counsel to Official Committee of Equity Security Holders relating to sale and plan-related disputes. *In re Tuscany Int'l Holdings*.
- Co-counsel to Official Committee of Unsecured Creditors and Litigation Trustee in prosecuting one of the United States' largest failed leverage buyouts. Lead discovery efforts to trace over \$8 billion in prepetition transfers. *In re Tribune Company*.
- Bankruptcy trial counsel for bank lender group, leading to favorable settlement during Third Circuit appeal. *In re W.R. Grace & Co.*
- Co-counsel to defendants in Delaware District Court stockholder class action suit, achieving favorable settlement. *Tuttle vs. Agile Sky Alliance Fund, et al.*
- Successfully moving to stay advancement action brought by former manager of a Delaware limited liability company in favor of arbitration pursuant to arbitration clauses in separate agreements with the manager. *Anshan (Andy) Li v. Standard Fiber, LLC*, 2013 Del. Ch. LEXIS 83 (Del. Ch. Mar. 28, 2013).
- Representation of stockholder, securing a novel contempt order in the Delaware Court of Chancery permitting client, a significant investor in defendant Delaware corporation, to "put" his shares in the company, followed by the appointment and representation of a receiver to seize company assets in the British Virgin Islands, Hong Kong, China, and New York to obtain payment for the client's shares. *Deutsch v. ZST Digital Networks, Inc.*, C.A. No. 8014-VCL (Del. Ch. Mar. 20, 2013) (Order).
- Co-counsel to defendants Japanese parent of Delaware debtor and its directors and officers, achieving settlement of bankruptcy claims and multi-million dollar adversary proceeding after successful mediation. *In re Autobacs Strauss Inc.*, Case No. 09-10358 (CSS), Doc. Index 1817 (April 23, 2013) (Order).

## **Selected Bankruptcy Representations**

### *Chapter 11 Debtors:*

AES Thames L.L.C.  
ALC Holding, Inc. (American Laser Centers)  
LTAP US, LLP  
M.P.C. Computers, LLC (Special Counsel)  
Pecus ARG Enterprises, Inc. (Black Angus Steakhouse)  
Rouge Industries, Inc. (Special Counsel)  
SW Liquidation, LLC (Saladworks)  
Skybus Airlines, Inc.  
SweetskinZ Holdings, Inc.

### *Official and Unofficial Committees:*

AstroPower, Inc.  
Global Power Equipment Group, Inc.  
Landauer Healthcare  
Stone & Webster, Inc.  
Tribune Company  
Tuscany International

### *Major Creditors and Other Parties in Interest:*

American Home Mortgage Holdings, Inc. (Warehouse Lender)  
Just For Feet (Secured Lender)  
Autobacs Strauss (Major Creditor)  
Bethny, LLC (Secured Creditor)  
Bi-Lo LLC (Major Creditor)  
Bruno's Supermarkets, LLC (Major Creditor)  
DVI, Inc. (Major Creditor)  
Hawker Beechcraft (Secured Creditor)  
Just For Feet (Major Creditor)  
Qimonda (Major Creditor)  
Refco (Major Creditor)  
VeraSun Energy (Major Creditor)  
WCI Communities (Major Creditor)  
Winstar Communications (Major Creditor)  
W.R. Grace (Major Creditors)  
Bruno's Supermarkets (Major Creditor and Asset Purchaser)  
Fleming Companies (Major Creditor)

## **Recent Representative Opinions:**

*PATS Aircraft, LLC v. Vedder Munich GmbH*,  
2016 U.S. Dist. LEXIS 91436 (D. Del. July 14, 2016).

*Lipscomb v. Clairvest Equity Partners L.P. (In re LMI Legacy Holdings, Inc.)*,  
2016 Bankr. LEXIS 2216 (Bankr. D. Del. June 3, 2016).

*ReCor Medical, Inc. v. Warnking*,  
2013 Del. Ch. Lexis 142 (Del. Ch. May 31, 2013), *aff'd*,

85 A.3d 89 (Del. 2014) (Table).

*RBC Capital Markets, LLC v. Educ. Loan Trust IV*,  
2011 Del. Ch. LEXIS 185 (Del. Ch. Dec. 6, 2011).  
2013 Del. Super. Lexis 262 (Del. Super. May, 31, 2013), *rev'd*,  
87 A.3d 632 (Del. 2014).

*Li v. Standard Fiber, LLC*,  
2013 Del. Ch. Lexis 83 (Del. Ch. Mar. 28, 2013).

*In re Tribune Co.*,  
476 B.R. 843 (Bankr. D. Del. 2012).

*American International Group, Inc. v. Greenberg*,  
965 A.2d 763 (Del. Ch. 2009).

*US Bank, N.A. v. US Timberlands Klamath Falls, LLC*,  
864 A.2d 930 (Del. Ch. 2004).