

LANDIS RATH & COBB LLP

Jennifer Larson Cree, Partner

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Practice Areas: Corporate, Commercial and Bankruptcy Litigation

Jen concentrates her practice in the areas of Corporate, Commercial and Bankruptcy Litigation. She regularly advises clients and litigates corporate governance issues, enforcement of LLC and partnership agreements, contract and indenture enforcement, arbitration awards and enforcement, dissolutions and sales, fiduciary duty challenges, shareholder rights, advancement demands, books and records contests, bankruptcy claim enforcement and defense, preference actions and plan- and sale-related bankruptcy litigation. Jen's experience includes first chair and co-counsel representations. She practices in Delaware's state and federal courts with primary focus in the Court of Chancery, Complex Commercial Litigation Division of the Delaware Superior Court and in proceedings before the United States District Court for the District of Delaware and the United States Bankruptcy Court for the District of Delaware.

Jen has been recognized by Best Lawyers® as One to Watch in the areas of Bankruptcy and Creditor-Debtor Rights/Insolvency and Reorganization Law; Corporate Law; Litigation – Bankruptcy and by Super Lawyers as a Delaware Rising Star in the areas of Business and Corporate Law. Prior to joining Landis Rath & Cobb, Jen was an associate with a national law firm where her practice focused on Complex Commercial Litigation. Jen also served as the law clerk for The Honorable Ferris W. Wharton of the Delaware Superior Court and The Honorable Robert B. Coonin and The Honorable Arlene Minus Coppadge of the Delaware Family Court.

Jen's recent representations include:

- Defending John Douglas Rhoten, IPGL Ltd. and Fox & Trot Ltd. n/k/a IPGL No. 1 Limited in an action brought by JB Capital Partners, L.P. in the Delaware Court of Chancery for alleged breach of fiduciary duty and aiding and abetting breach of fiduciary duty arising out of a merger between StoneX Group Inc. and Gain Capital Holdings, Inc. *JB Capital Partners, L.P. v. Stevens*, C.A. No. 2022-0327-NAC (Del. Ch.).
- Representing Mosaic Aetna Springs PE, LLC in connection with litigation brought in the Delaware Court of Chancery for a declaratory judgment pursuant to 6 *Del. C.* § 18-110 to determine controlling member of a limited liability, for indemnification and alleged breach of the LLC agreement. *Mosaic Aetna Springs PE, LLC v. Alchemy Resorts, LLC*, C.A. No. 2022-0459-LWW (Del. Ch.).

- Representing Breakout Ventures, LLC in a suit brought in the Delaware Court of Chancery against certain members of a limited liability company for alleged breach of fiduciary duties and aiding and abetting breach of fiduciary duties in connection with the sale of the LLC. *Breakout Ventures, LLC v. Sileo Management Holdings, LLC*, C.A. No. 2022-0539-JTL (Del. Ch.).
- Defending Financiere de Sociétés Techniques-First and Michel Nespoulous in a suit brought by TE Connectivity Corporation for alleged breach of a share purchase agreement and fraud. *TE Connectivity Corporation v. Financiere de Societes Techniques-First*, C.A. No. 2021-1104-JTL (Del. Ch.).
- Representing Plaintiff Clarity Software Blocker, Inc. in a suit for breach of an equity purchase agreement, fraud, unjust enrichment and a declaratory judgment regarding certain contractual performance earnouts in the Superior Court of Delaware, Complex Commercial Litigation Division. *Clarity Software Blocker, Inc. v. Cicchese*, C.A. No. N22C-01-056-AML (Del. Super. [CCLD]).
- Defending Scopus BioPharma Inc. in two Delaware Court of Chancery actions brought by an alleged stockholder, for conversion and a declaratory judgment to determine the number of shares allegedly owned by the stockholder and against Scopus BioPharma's board of directors for alleged breach of fiduciary duties, gross mismanagement, corporate waste, aiding and abetting breach of fiduciary duties and unjust enrichment. *Laster v. Scopus BioPharma Inc.*, C.A. No. 2021-0279-MTZ (Del. Ch.); *Laster v. Greenspan*, C.A. No. 2021-0924-MTZ (Del Ch.).
- Representing Twitter, Inc. in a stockholder derivative suit for breach of fiduciary duties against its board of directors in relation to a \$1 billion convertible note transaction and \$2 billion stock buyback program. *Orlando Police Pension Fund v. Dorsey*, C.A. No. 021-0041-JTL (Del. Ch.).
- Representing defendants Cloud Linux Software, Inc. and Cloud Linux Holdings, LLC in a breach of fiduciary duty suit against the boards of both entities. *Belousov v. Bauert*, C.A. No. 2021-0512-PAF (Del. Ch.).
- Defending Caremark PCS Health, LLC in a suit brought to enjoin a contract award by the Delaware State Employee Benefits Committee pursuant to the State's procurement statute regarding pharmacy benefits management for the State's health plan. *Express Scripts, Inc. v. Delaware State Employee Benefits Committee*, C.A. No. 2021-0434-KJSM (Del. Ch.).
- Defending KI Corporation and Carlyle Kft in Delaware Court of Chancery action alleging breach of fiduciary duty, aiding and abetting breach of fiduciary duty, civil conspiracy and unjust enrichment regarding the company's capitalization structure approved by the board of Nano-Retina, Inc. *Altabef v. Neugarten*, C.A. No. 2021-0117-MTZ (Del. Ch.).
- Representing amicus curiae litigants in litigation between AstraZeneca Pharmaceuticals LP and Norris Cochran, Secretary of the United States Department of Health and Human Services regarding the scope of the Medicare and Medicaid 340B Drug Discount Program under section 340B of the Public Health Services Act pending in the United States District Court for the District of Delaware. *AstraZeneca Pharmaceuticals LP v. Norris Cochran*, C.A. No. 21-00027 LPS (D. Del.).
- Representing creditor Droplets, Inc. in Delaware Court of Chancery corporate dissolution proceeding of Altaba, Inc. f/k/a Yahoo! Inc. under 8 *Del. C.* § 280 to obtain a claim reserve for an unliquidated contingent claim. *In re Altaba, Inc.*, C.A. No. 2020-0413-JTL (Del. Ch.).

- Representing Eni, S.p.A. seeking discovery pursuant to 28 U.S.C. § 1782 in an action pending before the United States District Court for the District of Delaware. *In re Ex Parte Application of Eni S.p.A. for an Order Pursuant to 28 U.S.C. § 1782*, C.A. No. 1:20-mc-00334-MN (D. Del.).
- Representing creditor Central National Gottesman, Inc. in an assignment for the benefit of creditors proceeding in the Delaware Court of Chancery for CW Direct Parent, LLC and affiliated entities. *In re CW Direct Parent, LLC, et al.*, C.A. No. 2020-016-SG (Del. Ch.).
- Representing Magellan Investment Holdings, Ltd. in a Delaware Court of Chancery action for declaratory judgment seeking to determine the parties' contractual rights and obligations. *Net 1 UEPS Technologies, Inc. v. Magellan Investment Holdings, Ltd.*, C.A. No. 2020-0328-MTZ (Del. Ch.).
- Defending Cerberus Capital Management LP in connection with a third-party complaint for alleged breach of an asset purchase agreement, fraud and tortious interference with a contract pending in an action before the Complex Commercial Litigation Division of the Delaware Superior Court. *CRE Niagara Holdings, LLC v. Resorts Group, Inc.*, C.A. No. N20C-05-157 PRW [CCLD] (Del. Super.).
- Representing GBT JerseyCo Ltd., which operates American Express Global Business Travel, in consolidated actions initiated by Carlyle Roundtrip, L.P. and Pure Magenta Investment PTE. Ltd. regarding a share purchase agreement that failed to close as a result of the Covid-19 pandemic. *In re Global Travel Share Purchase Agreement Litigation*, C.A. No. 2020-0338-JRS (Del. Ch.).
- Defending CorePower Yoga, LLC and CorePower Franchising LLC in a dispute brought in the Delaware Court of Chancery and on appeal to the Delaware Supreme Court seeking specific performance of an asset purchase agreement following failed closings during the Covid-19 pandemic. *Level 4 Yoga, LLC v. CorePower Yoga, LLC*, C.A. No. 2020-0249-JRS (Del. Ch.); *CorePower Yoga, LLC, v. Level 4 Yoga, LLC*, No. 109,2022 (Del. Supr.).
- Defending Versa Capital Management, LLC and Domus BWB Funding, LLC in an action brought by an alleged individual shareholder and GB-SP Holdings, LLC, the majority shareholder in Bridgestreet Worldwide, Inc., for alleged breach of fiduciary duty, aiding and abetting breach of fiduciary duty, and tortious interference and seeking a declaratory judgment. *GB-SP Holdings, LLC v. Walker*, C.A. No. 9413-PAF (Del. Ch.).
- Representing MGG Investment Group in a proceeding before the Delaware Court of Chancery to enforce the reissuance of stock and enforce a financing agreement pursuant to 8 *Del. C.* § 158 and in a related proceeding in the Delaware Superior Court regarding enforcement and collections of a foreign judgment. *Remark Holdings SPV, Inc. v. Sharecare, Inc.*, C.A. No. 2020-0156-AGB (Del. Ch.); *Gibson v. Remark Holdings, Inc.*, C.A. No. N19J-04581 (Del. Super.).
- Representing co-defendants Orange Health Solutions, Inc. and Great Point Partners, LLC in an alleged fraud and negligent misrepresentation action in the Delaware Superior Court challenging an asset purchase agreement. *Infomedia Group, Inc. v. Orange Health Solutions, Inc., et al.*, C.A. No. N19C-10-212 AML CCLD (Del. Super.).
- Representing international creditor 2208742 Ontario, Inc. in Delaware Court of Chancery corporate dissolution proceeding under 8 *Del. C.* § 280 to obtain a claim reserve for an unliquidated contingent claim against the dissolving corporation. *In re Swisher Hygiene, Inc.*, 2018-0080-SG (Del. Ch.).

- Representing Sterling Jewelers in a class action suit brought in the United States District Court for the District of Delaware asserting alleged deceptive credit practices and violation of the Fair Credit Reporting Act, Truth in Lending Act and Delaware Consumer Fraud Act, among others. *Lodge v. Sterling Jewelers, Inc., et al.*, C.A. No. 19-cv-0866 LPS (D. Del.).
- Representing certain members of the board of directors of PDV Holding, Inc., CITGO Holding, Inc. and CITGO Petroleum, Inc. in a contest over control of the boards of directors of the three U.S.-based subsidiaries of Petroleos de Venezuela, S.A., the state-owned petroleum company for the Bolivarian Republic of Venezuela, in the Delaware Court of Chancery and the Supreme Court of the State of Delaware. *Jiménez v. Palacios*, C.A. No. 2019-0490-KSJM (Del. Ch.); No. 399,2019 (Del. Supr.).
- Representing former Chief Administrative Officer for Symantec Corporation in actions pending in the Delaware Court of Chancery and the United States District Court for the District of Delaware related to Symantec's alleged accounting and financial irregularities. *Boninsegni v. Clark*, C.A. No. 2019-0224-JTL (Del. Ch.); *Milliken v. Clark*, C.A. No. 18-01848-RGA (D. Del.).
- Representing GSS Data Services, Inc., Administrator for certain National Collegiate Student Loan Trusts, in a consolidated action in the Delaware Court of Chancery related to the ownership and operation of the Trusts and in an action in the United States Court of Appeals for the Third Circuit arising from an action brought by the Consumer Financial Protection Bureau against the Trusts in the United States District Court for the District of Delaware for alleged violations of the Consumer Financial Protection Act. *In re National Collegiate Student Loan Trusts Litigation*, C.A. No. 12111-VCS (Del. Ch.); *CFPB v. The National Collegiate Student Loan Trusts Litigation, et al.*, C.A. No. 1:17-cv-01323-MN (D. Del.); No. 22-1864 (3d. Cir.).
- Defending Victor F. Trahan, an investor in a Delaware limited liability company, in a declaratory judgment suit seeking to limit Mr. Trahan's ability to bring certain claims arising from his investment. *CA Recovery Master Fund LLC v. CARMS, LLC, et al.*, C.A. No. 2018-0005-AGB (Del. Ch.).
- Defending CVS Health Corporation along with Zuckerman Spaeder LLP in litigation initiated by the Attorney General for the State of Delaware asserting tort claims arising from purportedly negligent practices related to filling opioid prescriptions. *State of Delaware v. Purdue Pharma L.P., et al.*, C.A. No. 1:18-cv-00383-RGA (D. Del.).
- Delaware counsel to a number of generic pharmaceutical companies in ANDA patent litigation in the United States District Court for the District of Delaware. *Biogen International GmbH et al. v. Cipla Limited et al.*, *Cosmo Technologies Limited et al. v. Lupin Ltd. et al.*, *Vanda Pharmaceuticals Inc. v. Lupin Limited et al.*, *Teijin Limited et al. v. Lupin Limited et al.*, C.A. No. 17-823-LPS (D. Del.)
- Representing 2 separate entities regarding an issue of first impression: whether a private commercial arbitration qualifies as a proceeding before a foreign or international tribunal for purposes of 28 U.S.C. § 1782. In two separate actions, the United States District Court for the District of Delaware granted each company's ex parte application seeking discovery for use in a foreign private commercial arbitration pursuant to 28 U.S.C. § 1782. In re: Application of Storag Etzel GmbH for an Order, Pursuant to 28 U.S.C. § 1782, to Obtain Discovery for Use in a Foreign Proceeding, Case No.: 19-mc-00209-CFC (D. Del.), In re: Application of Storag Etzel GmbH, C.A. No. 20-1833 (3d Cir.); In re: Application of EWE GASSPEICHER GmbH for an Order, Pursuant to 28 U.S.C. § 1782, to Obtain Discovery for Use in a Foreign Proceeding, Case No.: 19-mc-109-RGA (D. Del.); In re: Application of Storag Etzel GmbH for

an Order, Pursuant to 28 U.S.C. § 1782, to Obtain Discovery for Use in a Foreign Proceeding, C.A. No. 20-1830 (3d Cir.).

- Selected Bankruptcy Representations:

Chapter 11 Debtors:

Bertucci's Holdings, Inc., *et al.*

Destination Maternity Corporation

Orexigen Therapeutics, Inc. (Special Counsel)

Pernix Sleep, Inc.

Welded Construction, L.P. (Special Counsel)

Official and Unofficial Committees:

Samuels Jewelers, Inc. (John J. Carney, as Examiner)

Significant Creditors, Lender and Other Parties in Interest:

Essar Steel Minnesota LLC and ESML Holdings, Inc. (Lender/ Litigation Party)

Mattress Firm, Inc. (Creditor)

Patriot National, Inc. (Lender)

TK Holdings, Inc. (Significant Creditor)

TPOP, LLC (Lender/Litigation Party)

Education

Widener University School of Law, J.D., *cum laude*, 2013

University of Notre Dame, B.B.A., 2007

Admissions to Practice

Delaware

Pennsylvania

United States District Court for the District of Delaware

United States Court of Appeals for the Third Circuit

Memberships & Associations

American Bar Association

- *Chair of the Young Lawyers Division Parents in Practice Initiative*
- *Past District Representative of the Young Lawyers Division*
- *Past Chair of the Young Lawyers Division Business Law Committee*
- *Past Chair of the Young Lawyers Division Law Practice Committee*
- *Past Member of the Young Lawyers Division Member Service Committee*

Delaware Bankruptcy Inn of Court

Delaware State Bar Association

International Women's Insolvency and Restructuring Confederation

Rodney Inn of Court

Awards

Best Lawyers® Ones to Watch 2022-23 (*Bankruptcy and Creditor-Debtor Rights/Insolvency and Reorganization Law; Corporate Law; Litigation – Bankruptcy*)

Super Lawyers – Delaware Rising Stars 2022 (*Business/Corporate Law*)

Publications and Presentations

Third Circuit Confirms No Triangular Setoff Under 553 Exception: “Mutual” Means Mutual, Delaware Business Court Insider, July 21, 2021, Co-Author

Plan Your Work and Work Your Plan, American Bar Association – Law Practice Today, April 2019, Author

A Recap of Bankruptcy Decisions for 2018, Delaware Bankruptcy American Inn of Court, January 2019, Panelist