

# Joseph O. Larkin

Skadden

Partner, Wilmington

Complex Litigation and Trials; Corporate Restructuring



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## 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*)

## Bar Admissions

Delaware  
Pennsylvania

## Experience

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

Joe Larkin represents a broad range of clients in high-profile, bet-the-company disputes involving mergers and acquisitions, corporate control challenges, commercial contracts, antitrust matters, securities class actions and troubled-company litigation in state and federal courts throughout the country. Mr. Larkin has substantial trial experience and has obtained successful judgments for clients in the Delaware Court of Chancery, other state and federal courts throughout the country, and in AAA arbitrations. He also leads Skadden's Corporate Restructuring Practice in Delaware, focusing on litigation arising from bankruptcy.

Throughout his career, Mr. Larkin has represented companies, boards and senior executives in litigation arising from some of the largest transactions in history and advised clients in matters that are on the forefront of corporate innovation. Most recently, he successfully defended the founder and CEO of a multibillion-dollar tech company in expedited litigation in the Delaware Court of Chancery, defeating an emergency motion for a temporary restraining order days after the action was filed, which ultimately resulted in the resignation of the company's controller from the board and other significant governance changes. In recognition of his work, Mr. Larkin was named a Litigator of the Week Runner-Up by *The American Lawyer* in April 2023. He also was one of the lead litigators that represented MacAndrews & Forbes in the Delaware Supreme Court's seminal decision in *Kahn v. M&F Worldwide Corp. (MFW)*, in which the court held for the first time that the deferential business judgment standard of review applied to a controller-led merger. In addition, he was recognized by the *Financial Times* in its annual selection of Innovative Lawyers for successfully defending a mandatory arbitration bylaw under both federal and state law.

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."

In addition to his trial experience, Mr. Larkin works seamlessly across disciplines and practice groups to advise clients on Delaware law governing corporations and alternative entities. He often engages with clients at the outset of the transactional planning process to provide strategic advice and guidance from inception to closing. Mr. Larkin has been repeatedly named to *The Best Lawyers in America* for Corporate Law, and has been repeatedly recognized by *The American Lawyer* (including as Litigator of the Week in September 2020) and the *Financial Times* for litigation victories in the Delaware Court of Chancery. He also has been recognized by *Turnarounds & Workouts* magazine as one of its Outstanding Young Restructuring Lawyers, by *Chambers USA* in its Bankruptcy/Restructuring category, and by Lawdragon as one of its 500 Leading Litigators in America and 500 Leading Global Bankruptcy & Restructuring Lawyers.

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

- 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 board of directors in defeating breach of fiduciary duty claims arising from its merger with Sonesta (Washington state court)
- 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:

- 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.

### Selected Publications

"Inside the Courts," *Skadden, Arps, Slate, Meagher & Flom LLP*, Recurring publication

"An Introduction to the Unique Issues in Bank Holding Company Bankruptcies," *Skadden, Arps, Slate, Meagher & Flom LLP*, March 17, 2023

"What Exactly Is an Independent Director? (Hint: It's More Complicated Than You Think)" *Skadden, Arps, Slate, Meagher & Flom LLP*, 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

"Supreme Court Validates PR Financial Oversight Board, but Challenges Remain," *Skadden, Arps, Slate, Meagher & Flom LLP*, August 3, 2020

"A Look at 2019 Court Decisions That May Shape Restructuring Issues in the Year Ahead," *Skadden's 2020 Insights*, January 21, 2020

"Delaware Court Precludes Creditors of Limited Partnership From Pursuing Derivative Claims," *Skadden, Arps, Slate, Meagher & Flom LLP*, June 18, 2019

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“Supreme Court Clarifies Standard of Appellate Review of Creditor’s Insider Status,” *Skadden, Arps, Slate, Meagher & Flom LLP*, April 25, 2018

“Guidance on “Credible Basis” Standard for Obtaining Books,” *The Corporate & Securities Law Advisor’s Insights*, June 2017