

## Corporate Governance Litigation



### OVERVIEW

---

As part of Wilson Sonsini's multi-discipline approach, the firm's comprehensive corporate governance practice also encompasses litigation—representing companies, corporate officers, boards of directors, special board committees, and financial institutions and investors—in complex contested governance matters including M&A litigation, corporate control disputes, shareholder litigation demands, and derivative lawsuits. Wilson Sonsini also has an experienced team that represents special litigation and demand committees in conducting investigations of alleged misconduct and breaches of fiduciary duty.

### M&A Litigation

Wilson Sonsini's governance litigation team represents companies, officers, directors, and other third parties involved in mergers and acquisitions confronted by shareholder claims and other legal maneuvers aimed at preventing or enforcing transactions. Our team works closely with clients—companies (both as acquirors and targets), investors, private equity firms, hedge funds and other stakeholders—throughout the course of a transaction.

### Representation at All Deal Stages

At different stages of a given transaction, we advise clients on best practices for process-based issues that often arise in litigation, including on potential conflicts of interest, change-of-control obligations, disclosure requirements, and other key steps or milestones. The team's experience in contested matters and deal-related litigation includes, for example:

- "Busted-deal" disputes
- Corporate takeover-related disputes
- Going-private transactions
- Fiduciary duty claims
- Poison pill and other defensive-measures
- Post-deal earnout disputes
- Proxy battles

### Key Delaware Expertise

Wilson Sonsini also has a recognized and renowned team of Delaware law experts, which gives our clients an important and strategic advantage for three key reasons: (a) the sheer number of companies incorporated under Delaware law; (b) Delaware law governs the fiduciary duties of boards of directors of those companies; and (c) Delaware law influences corporate law in numerous other states in which we also represent clients involved in deal-related litigation.

Also of strategic importance to our clients is our team's proven track record of achieving favorable resolutions in M&A disputes litigated in the Delaware Court of Chancery and throughout the U.S., including both state and federal jurisdictions.

Though the majority of our experience involves publicly held corporations, Wilson Sonsini's M&A litigators also represent clients in contested matters arising out of private company deals.

### Special Litigation and Demand Committees

With the increase in derivative litigation in recent years, boards of directors are increasingly looking to independent committees formed to consider stockholder litigation demands and derivative litigation. Wilson Sonsini has deep experience advising demand review committees (formed to consider litigation demands made on the company) and special litigation committees (formed where derivative litigation has been filed and the board is deemed interested).

## The Heightened Value of our Experience

Wilson Sonsini advises demand review committees (formed to consider litigation demands made on the company) and special litigation committees (formed where derivative litigation has been filed and the board is deemed interested).

Our experienced team stays abreast of the key issues and case law related to special litigation and demand committees, which allows us to provide ongoing, immediate, and business-forward advice to clients. Also, because Delaware courts have continued to define and develop specific procedures and preferences for addressing litigation involving special committees, our team's experience positions us to represent clients where, as well as when, clients need us.

In matter after matter, our team has applied its high level of experience to quickly assess underlying facts, help clients address complicated fiduciary duty issues, and follow a process that is the best interest of the corporation—and one that can withstand rigorous judicial review. See the above tab for a list of select matters.

## A Team Anchored by Seasoned Litigators and Former Jurists

Wilson Sonsini's experienced team includes proven litigators and former jurists who have represented clients in disputes involving complicated and potentially business-threatening claims brought by shareholder activists, serial plaintiff counsel firms, and other aggressive parties. For example, our team includes [William \(Bill\) B. Chandler, III](#), the former Chancellor on the Court of Chancery, and [Joseph R. Slights III](#), the former Vice Chancellor on the Court of Chancery, who bring their wealth of knowledge from their time on the bench to these matters. The team also includes [Katherine Henderson](#) and [Brad Sorrels](#)—both of whom lead the firm's corporate governance litigation practice. To view the complete team, [click here](#).

## SELECT MERGER-RELATED LITIGATION MATTERS

---

- *Tornetta v. Maffei, et al* (Delaware Court of Chancery) — represented independent directors of **Pandora** in shareholder litigation seeking post-closing damages for alleged breaches of fiduciary duty
- *Colmenares v. ESI, Inc. et al* (Oregon) — represented **ESI** and its directors in shareholder litigation
- *City of Daytona Beach Police and Fire Pension Fund v. ExamWorks Group, Inc., et al* (Delaware Court of Chancery) — represented **ExamWorks** and its directors and officers in shareholder litigation seeking post-closing damages for alleged breaches of fiduciary duty
- *Barracuda merger litigation* (Northern District of California) — represented **Barracuda** and its directors in shareholder litigation
- *Gandlemen re Rofin et al* (Michigan Circuit Court) — represented **Coherent** in litigation concerning its acquisition of Rofin
- *In re Advanced Analogic Technologies, Inc.* (Arbitration in the Delaware Court of Chancery) — represented **Advanced Analogic Technologies** in busted deal litigation
- *Polycom, Inc. v. Sun Capital Partners V, L.P., et al.* (Delaware Court of Chancery) — represented **Polycom** in busted deal litigation
- *In re Tibco Software, Inc. Stockholders Litigation* (Delaware Court of Chancery) — represented **TIBCO Software** and its directors in shareholder litigation
- *In re Riverbed Technology, Inc. Stockholders Litigation* (Delaware Court of Chancery, Northern District of California, San Francisco Superior Court) — represented **Riverbed Technology** and its directors in shareholder litigation
- *In re Informatica Stockholder Litigation* (Delaware Court of Chancery) — represented **Informatica** and its directors in shareholder litigation
- *In re Audience, Inc. Shareholder Litigation* (Santa Clara Superior Court) — represented **Audience** and its directors in shareholder litigation
- *Hyer, et al. v. Rally Software Development Corp., et al.,* (Delaware Court of Chancery) — represented **CA Technologies** in shareholder litigation
- *In re Genentech/Roche Shareholder Litigation* (San Mateo Superior Court, Delaware Court of Chancery) — represented **Genentech** and its directors in shareholder litigation
- *Carrigan v. Solectron Corporation, et al.* (Santa Clara Superior Court) — represented **Solectron** and its directors in shareholder litigation
- *Burns v. Sosnoff, et al.* (Illinois Chancery Court) — represented **TD Ameritrade** in shareholder litigation
- *Staehr v. Cash Systems, Inc., et al.* (Nevada District Court) — represented **Cash Systems** and its directors in shareholder litigation
- *In re Pervasive Software Inc. Shareholder Litigation* (Travis County, Texas District Court, Delaware Court of Chancery) — represented **Pervasive** and its directors in shareholder litigation
- *Simon, et al. v. Stang, et al.* (Santa Clara Superior Court) — represented **Solta Medical** and its former directors in shareholder litigation
- *Vivint Solar, Inc. v. SunEdison, Inc.,* C.A. No. 12088-VCL (Del. Ch.) — representing **Vivint Solar** and its directors in shareholder litigation and related litigation seeking damages for breaches of a merger agreement
- *In re Aruba Networks Inc. Stockholders Litigation, Consol.* C.A. No. 10765-VCL (Del. Ch.) — representing **Aruba Networks** and its directors in shareholder litigation

## SELECT SPECIAL LITIGATION AND DEMAND COMMITTEE MATTERS

---

- Representing Special Litigation Committee of the Board of Directors of **Expedia** in connection with its investigation into claims surrounding Expedia's merger with Liberty Expedia Holdings and related transactions.
- Represented evaluation committee of the Board of Directors of **E.I. du Pont de Nemours and Company**. Board's decision to reject shareholder demand on the basis of Wilson Sonsini's investigation was upheld by the Delaware Supreme Court following stockholder challenge.
- Represented subcommittee of the Board of Directors of **Simon Property Group** in connection with stockholder demand related to CEO's compensation. Board rejected demand based on Wilson Sonsini's investigation and stockholders did not challenge decision to reject demand.
- Represented the Special Committee of **McKesson** after \$150 million settlement with DEA. Board rejected stockholder demand based upon Wilson Sonsini's investigation. Stockholder did not file litigation.
- Representing Special Litigation Committee of the **Insys** Board of Directors in connection with claims related to the Company's marketing of opioids.
- Represented **Hewlett-Packard** in a variety of corporate governance issues; including representing HP and individual members of management in connection with multiple derivative actions in which the Board of Directors had appointed a demand review committee; represented company in a Section 220 books and records action where plaintiffs sought access to a report in connection with a previous investigation and which had been relied upon by the demand review committee.
- Represented Board of Directors of **Starbucks Corporation** in connection with shareholder litigation demand alleging directors and officers breached their fiduciary duties with respect to the company's alleged underpayment of taxes in the European Union. Wilson Sonsini also successfully defended the wrongful refusal lawsuit.