



## John Mark Zeberkiewicz

### Director

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John Mark Zeberkiewicz focuses his practice on transactional matters involving Delaware corporations, including mergers and acquisitions, corporate governance, and corporate finance. He has served on drafting subcommittees responsible for significant amendments to Delaware's General Corporation Law, including the subcommittee responsible for the 2010 amendments overhauling Delaware's nonstock corporation law and the proposed amendments relating to ratification of corporate acts.

A director in the firm's Corporate Department, John Mark is a frequent presenter on Delaware corporate law and practice. He has published numerous articles in the field of corporate governance and mergers and acquisitions, and he serves on the editorial advisory board of *Insights*.

### Experience

- Representation of social media company in connection with its IPO charter and bylaws
- Representation of a for-profit education provider in connection with the valid issuance of its shares prior to its initial public offering
- Representation of a board of directors of software company in connection with the adoption of its tax benefit preservation rights plan and the triggering of the rights under the plan
- Representation of special committee of majority-controlled media company in connection with recapitalization transaction
- Representation of pharmaceutical company in connection with the declassification of its board of directors
- Representation of telecommunications company in connection with the review of its indemnification arrangements
- Representation of financial services company in connection with its adoption of an advance notice bylaw
- Representation of mid-cap public company in connection with all-cash acquisition in

competitive bidding situation

- Representation of major retailer in connection with asset purchase agreement, including legal opinion whether the asset sale required a stockholder vote under Delaware law

### **Publications**

- "The Delaware Court of Chancery Revisits Director Equity Awards," *Insights*, May 24, 2017
- "2017 Proposed Amendments to the Delaware General Corporation Law," *Insights*, April 30, 2017
- "*Frechter v. Zier*: Delaware Court of Chancery Provides Guidance on Supermajority Voting Provisions," *Insights*, March 31, 2017
- "Delaware Supreme Court Revisits Director Independence in Considering Derivative Demands," *Insights*, February 28, 2017
- "2016 Proposed Amendments to the General Corporation Law of the State of Delaware," *Insights*, April 2016
- "Disclaiming Reliance on Extra-Contractual Representations under Delaware Law," *Insights*, April 2016
- "The New Paradigm (Burden) Shift: The Business Judgment Rule After *KKR*," *Insights*, December 2015
- "Recent Delaware Court of Chancery Opinion Provides Guidance on Advancement and Indemnification," *Insights*, October 2015
- "New Delaware Court of Chancery Opinion Provides Guidance for Director Compensation Practices," *Insights*, June 2015
- "Court Sanctions Forum Selection Arrangements and Confirms Power to Restrict Books and Records Inspections," *Insights*, March 2015
- "The Rights and Duties of Blockholder Directors," *The Business Lawyer*, Winter 2014/2015
- "Recent Chancery Court Opinions on Ripeness," *Delaware Business Court Insider*, December 10, 2014
- "Chancery Dismisses Stockholder Suit Over Expedia CEO Award," *Delaware Business Court Insider*, July 30, 2014
- "Proposed Amendments to the DGCL to Limit Applicability Of the Delaware Supreme Court's Holding in 'ATP Tour'," *Corporate Counsel Weekly*, June 18, 2014
- "Chancery Court Decides First Action Under New Section 205," *Delaware Business Court Insider*, May 7, 2014
- "2014 Proposed Amendments to the General Corporation Law of the State of Delaware," *Insights*, May 2014

- "Considerations in Drafting Board Observer Arrangements," *Business Law Today*, April 2004
- "Restoring Equity: Delaware's Legislative Cure for Defects in Stock Issuances and Other Corporate Acts," *The Business Lawyer*, February 2014
- "*Klaassen v. Allegro*: Implementing the Stockholders' Agreement," *Delaware Business Court Insider*, December 4, 2013
- "Preserving (or Limiting) Contractual Claims to Address 'Sandbagging'," *Delaware Business Court Insider*, July 24, 2013
- "Significant Proposed Amendments to the General Corporation Law of the State of Delaware," *Insights*, June 2013
- "Streamlining Two-Step Mergers With Proposed Amendment to DGCL," *Delaware Business Court Insider*, April 24, 2013
- "The Equitable Case for Ratification," *Delaware Business Court Insider*, March 27, 2013
- "Court of Chancery Addresses Validity of Entity Action," *Delaware Business Court Insider*, October 24, 2012
- "Chancery Arbitrations after Year One: Annotated New Form," *ABA*, August 16, 2012
- "Delaware Chancery Court Questions Use of Advance Notice Bylaw," *Delaware Business Court Insider*, June 27, 2012
- "Chancery Court Provides Guidance on Structuring Financings," *Delaware Business Court Insider*, April 4, 2012
- "Revisiting the Special Committee Process: 'In re Southern Peru Copper Corporation'," *BNA's Corporate Counsel Weekly*, November 30, 2011
- "Valid Issuance of Capital Stock," *The Review of Securities & Commodities Regulation*, September 7, 2011
- "Chancery Court Sensitive to Potential Conflicts of Financial Advisors in M&A," *Delaware Business Court Insider*, September 7, 2011
- "Fair Summary II: An Update on Delaware's Disclosure Regime Regarding Fairness Opinions," *The Business Lawyer*, August 2011
- "Chancery Court Addresses *Revlon* Duties and Deal Protection Measures in Small-Cap Transaction," *Delaware Business Court Insider*, May 11, 2011
- "Reviewing the Standards of Review in Delaware," *Insights*, March 2011
- "New Day for Nonstock Corporations: The 2010 Amendments to Delaware's General Corporation Law," *The Business Lawyer*, February 2011
- "An Overview of Delaware-Specific Issues for Stockholders' Meetings," *The Review of Securities & Commodities Regulation*, November 17, 2010
- "Poison Pills - How Effective Is Too Effective?," *The M&A Lawyer*, September 2010

- "Amendments to Delaware General Corporation Law," *Insights*, June 2010
- "Prediction Protection: The Delaware Supreme Court's *Amylin* Footnote," *Insights*, November 2009
- "Destaggering with Class: A Plan for Potential Targets in Troubled Times," *Deal Lawyers*, November-December 2009
- "The Delaware and SEC Proxy Access Regimes," *The Review of Securities & Commodities Regulation*, October 7, 2009
- "Stockholder Ratification: A Review of the Benefits and Burdens," *Bloomberg Law Reports*, February 2009
- "The Right Protection: More on Advancement and Indemnification," *The Review of Securities & Commodities Regulation*, December 2008
- "Commanding Officers: The Fiduciary Duties of Officers under Delaware Law," *Insights*, June 2008
- "Fair Summary: Delaware's Framework for Disclosing Fairness Opinions," *The Business Lawyer*, May 2008
- "Dealing with Dissidents: Vote-Buying and Management States," *Insights*, April 2008
- "Finding Safe Harbor: Clarifying the Limited Application of Section 144," *Delaware Journal of Corporate Law*, 2008
- "The Implications of Netsmart for Private Companies," *Insights*, January 2008
- "Winning the Class Struggle: Acquirer Strategies for Declassifying Classified Boards," *The Corporate Governance Advisor*, January 2008
- "No Surprises: The Mandatory Nature of Mandatory Advancement and Indemnification," *The Corporate Governance Advisor*, November 2007
- "The Price of Remorse: Paying Reverse Termination Fees to Excuse Performance," *Insights*, October 2007
- "Paying for the Privilege of Independence: Termination Fees Triggered by "Naked No Votes"," *Insights*, September 2007
- "The Shops Are Open: Delaware's New Take on Go-Shop Provisions under *Revlon*," *Insights*, July 2007

#### **Awards**

- *Chambers USA*, 2017, 2016, 2015, 2014, 2013, 2012
- *The Legal 500 United States*, 2016
- *The Best Lawyers in America*, 2017, 2016, 2015, 2014, 2013
- *Delaware Today*, Top Lawyer, 2016
- *Super Lawyers*, 2016, 2015, 2014, 2013, 2012
- *Delaware Law Weekly*, Lawyers on the Fast Track, 2016

**Leadership**

- Chairman, Corporate Documents and Process Committee, American Bar Association, Business Law Section

**Education**

- J.D., *cum laude*, University of Pennsylvania Law School
- B.A., *magna cum laude*, University of Delaware, Phi Beta Kappa

**Admitted to Practice**

- Delaware
- New York

**Pro Bono Activities**

- William E. Proudford Sickle Cell Fund, Inc., Board of Directors
- Pro Bono Counsel, Mothers2mothers International, Inc.

**Practices**

- Corporate Advisory and Governance
- Special Committees