

Delaware's Chancery Court

An Internationally Respected Part of The Delaware Brand

BY DONEENE KEEMER DAMON

ONE OF THE ATTRIBUTES that distinguishes Delaware internationally is its court of business law. Why?

The Delaware brand is sought after across the world for several reasons and its Chancery Court is certainly one of them. Our Chancery Court is very well regarded around the world, and in fact the cases determined in Delaware's Chancery Court are relied on throughout the world. Our judges are appointed, not elected, and that's particularly important because it allows our state to have a level of experience on our bench that surpasses so many others. We have judges who practiced in these areas, they are experts in their field, they know the Delaware corporate law in and out. As a result, there is a very strong desire and an opportunity to apply corporate law in a way that is consistent, which is one of the key reasons people look to Delaware as an internationally recognized legal brand - you know what you are going to get.

Delaware case law has been used for decades as the basis for not only corporate formations and corporate structures, but corporate litigation. When you are forming an entity, when you are dissolving an entity, or when you have a dispute with others with respect to a Delaware entity, knowing that you have an experienced bench of individuals who practiced in this space, who know that law, and who can apply the law consistently is absolutely one of the strongest pillars of the Delaware brand and it's what makes us somewhat unique. It started with respect to corporations and it's been expanded to other alternative entities such as Limited Liability Companies. In fact, we form more LLCs today than we do corporations. So, the Delaware brand has grown from that perspective, it continues to be one of the strongest aspects for the state in terms of economic development and Delaware entities are involved internationally in all types of transactions.

Your description makes Delaware seem unique in this regard, is it?

Yes, Delaware sits in a very unique position and our strength is absolutely the uniqueness of what we bring in terms of our corporate brand, but it's also our strength in terms of being responsive to markets, being collaborative and having a legislative branch and the legal community who work together to make sure that the brand remains strong.

An expression that is used in describing Delaware business law is "court of equity." What does that mean?

A court of equity means it's a court of equity and fairness. Put another way - the court is assessing what is fair and what is right in the context of a dispute. Unlike other courts where you are really looking for damages or money to compensate you for a harm you have suffered or based something that's gone wrong, the Chancery Court really focuses on what is fair and equitable for the parties involved in a dispute.

The Chancery Court attempts to understand the parties' positions in connection with the dispute and to come to a decision in terms of what is the most equitable and fair resolution of that issue based on current Delaware

law. And that is absolutely one of our strengths - our bench is well versed in Delaware corporate law, and alternative entity law and having that strength of experience allows our court of Chancery to apply that in a very consistent, fair and equitable manner. ■

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