

Haynes and Boone Helps The HC Companies, Inc. Win Summary Judgment

December 8, 2017 David Harper, Stephanie Sivinski

PRACTICES Litigation

Delaware's Vice Chancellor Joseph Slights III granted a partial summary judgment for The HC Companies, Inc., ("HC"), ruling on Dec. 5 that Myers Industries, Inc. owes HC \$8.6 million in escrow funds. The decision highlights the Delaware Chancery Court's commitment to enforcing the terms of agreements negotiated by sophisticated parties.

Haynes Boone Partner [David Harper](#) and Associates [Stephanie Sivinski](#) and Sally Dahlstrom represented HC Companies in the case. Morris Nichols Arsht & Tunnell Partners R. Judson (R.J.) Scaggs, Jr. and Ryan Stottmann and Associate Jason Miller served as HC's Delaware counsel.

As the court noted, HC purchased Myers' lawn and garden business in 2015, including the business's manufacturing equipment. As part of the purchase, Myers represented that the equipment was in good condition and agreed to indemnify HC for any equipment that was not. The parties established an \$8.6 million escrow account to satisfy any indemnification claims.

HC gave notice of such an indemnification claim in 2016. Myers failed to respond to the claim within the escrow agreement's 10-day objection period, thereby waiving its right to contest the distribution of the escrow funds to satisfy HC's indemnification demand. HC filed suit to recover the escrow funds, and moved for summary judgment early in the case.

Citing authority that "Delaware is more contractarian than . . . many other states," Vice Chancellor Slights concluded that Myers was bound by the "clear and unambiguous" terms of the parties' agreements and that HC was entitled to the escrowed funds.

"This may seem like a harsh result, but it is the result dictated by what these two sophisticated parties bargained for," Vice Chancellor Slights wrote. "To reiterate, Delaware courts enforce bad deals the same as good deals. The Court cannot rewrite the contracts, and it cannot ignore the plain terms of the contracts."