



Thomas H. Herndon, Jr.

Partner

Commercial Litigation | Corporate Compliance
Corporate Transactions & Business
Corporate, Partnerships, & LLC Disputes | Mergers & Acquisitions

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SCARINCI | HOLLENBECK
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BIOGRAPHY

Thomas H. Herndon, Jr. is a partner in Scarinci Hollenbeck's litigation practice group with over nineteen years of experience handling a wide variety of general litigation matters and general corporate matters. Mr. Herndon, Jr. has routinely handled matters relating to corporate disputes, cyber litigation, transportation litigation, construction litigation, as well as corporate liability on behalf of his clients. He is also experienced in advising clients in matters relating to commercial real estate, labor & employment, corporate & regulatory compliance as well as corporate transactions & business.

Prior to joining Scarinci Hollenbeck, Mr. Herndon, Jr. was founding and managing member of a New York law firm. He managed all corporate, commercial, regulatory and administrative matters on behalf of the firm, which had locations in New York and New Jersey.

General Corporate & Corporate Governance

Mr. Herndon works with his business clients in selecting the best entity for their businesses and after formation, assists and counsels them through the initial as well as ongoing operations and corporate governance issues that arise in their day-to-day operations. He also negotiates a wide range of documents, including but not limited to, operating agreements; shareholders agreements; corporate by-laws; non-disclosure agreements; employment agreements; consulting agreements; software license agreements; vendor agreements; commercial leases; manufacturing agreements and any such other documents relevant in their businesses. He counsels business clients on corporate governance issues such as governmental investigations/audits, internal investigations, adherence to fiduciary duties, and other regulatory compliance matters.

General Commercial Litigation & Corporate Disputes

Mr. Herndon is an experienced litigator with experience in multiple forums. Mr. Herndon winds-down corporate businesses; commences and defends actions against shareholders who engaged in corporate waste, breach of fiduciary duties, and unfair business practices; litigates dissolution and derivative actions; and commences and defends post-judgment collection proceedings. He further litigates security fraud actions; defends individuals and companies in alleged Ponzi schemes; defends collective and class action proceedings; litigates misappropriation of private client cyber data as well as intellectual property disputes. He further represents his

business clients in adversarial proceedings in bankruptcy court as well as collection proceedings.

Cyber Litigation

Mr. Herndon advises corporate clients on cyber law issues arising under the Federal Trade Commission Act, the Gramm–Leach–Bliley Act, the Fair Credit Reporting Act, the Electronic Communications Privacy Act, the Communications Act, the Health Insurance Portability and Accountability Act, and the accompanying state laws. Mr. Herndon also routinely serves as a panelist regarding cutting edge cyber security laws for accounting, finance, and other professionals throughout the country.

Transportation Litigation

Mr. Herndon's experience includes representing ridesharing companies and other start-up transportation companies. Mr. Herndon represents large and small international and domestic ambulette companies concerning federal and state regulatory and compliance issues, responds to audits, and litigates those issues before administrative agencies, underlying courts with jurisdiction, and appellate courts.

Construction Litigation and Compliance

Mr. Herndon litigates real property disputes between developers and the City and State of New York concerning landmark building disputes, challenges administrative rulings before Administrative Law Judges, and seeks appellate review by the courts when such review is necessary. Mr. Herndon counsels developers on zoning and land use laws for their construction projects, represents developers in administrative proceedings concerning zoning disputes, challenges administrative rulings in court, and works with city and state officials to address public policy concerns related to construction projects. He further litigates construction disputes concerning violations, stop work orders, defective concrete foundation work, water intrusion, and other environmental issues.

Mr. Herndon is responsible for supervising all of the compliance and regulatory matters for all his corporate firm clients. This includes, inter alia, representing large and small developers, general contractors, and subcontractors concerning federal and state regulatory and compliance related issues concerning their construction projects in New York, New Jersey, the District of Columbia, and Massachusetts.

Professional Liability/ Errors and Omissions Liability

Mr. Herndon represents licensed professionals such as doctors, healthcare providers, dentist, lawyers, engineers, architects, nurses, real estate brokers, and other licensed professionals arising under the performance of their professional service within the state of New York, New Jersey, the District of Columbia, and Massachusetts.

Director and Officer Liability

Herndon represents directors and officers, insurers and their insureds, in the defense of claims for a variety of issues arising under the exercise of their fiduciary duties and other company duties as officers. He has experience representing directors and officers, domestically and internationally, arising under securities laws, employment, white collar and all other laws that may arise under their businesses.

Labor & Employment

Mr. Herndon represents individuals and companies concerning age, race, sex, and disability discrimination charges and prosecutes and defends discrimination charges with the U.S. Equal Employment Opportunity Commission, the applicable state commissions, and in federal and state courts. He routinely litigates cases arising under Title VII of the Civil Rights Act of 1964 (Title VII), the Family and Medical Leave Act (FMLA), the Age Discrimination in Employment Act (ADEA), the Americans with Disabilities Act (ADA), and the Fair Labor Standards Act (FLSA). Additionally, Mr. Herndon counsels individuals and companies on reduction-in-force and reorganization matters as well as collective action wage, hour, overtime, and time shaving disputes under the FLSA and the applicable state and city laws.

EDUCATION

- *University of Maryland Francis King Carey School of Law (JD, 2002)*
- *University of Maryland Baltimore County (BA, 1999)*

BAR ADMISSIONS

- *New York (2005)*
- *New Jersey (2003)*
- *District of Columbia (2004)*
- *Massachusetts (2016)*

PRESENTATION

- *“How Accounting & Finance Professionals Can Lead in a Big Data World” (Cyber Security) 2016*
- *“Cyber Insurance: Separating Fact From Fiction” (2020)*
- *Employment Practices Liability Insurance Seminar 2021*