



## Annette E. Becker

### Practice Area Leader - Corporate

Seattle

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## OVERVIEW

Annette Becker has over 30 years of experience practicing corporate law with an emphasis on U.S. and cross border mergers and acquisitions for emerging, middle market, and Fortune 500 companies. Annette advises her company clients and their boards as to corporate governance issues and general corporate matters. Annette's transactional experience also includes joint ventures and other complex strategic relationships, securities offerings and securities compliance issues, strategic and venture capital equity investments, financing transactions, recapitalizations, and restructurings.

Annette's experience is focused on businesses, both public and private, primarily in the technology, senior housing and care, and health care industries. She serves as a practice area leader of the K&L Gates corporate practice and a leader of the K&L Gates Technology industry group.

## ACHIEVEMENTS

- Recognized by *Chambers USA* for Business, Corporate/Commercial in Seattle
- Listed in *The Best Lawyers in America*® for Corporate Law and Mergers and Acquisitions Law in Seattle
- Recognized by *The Legal 500 United States* for Mergers & Acquisitions

## PROFESSIONAL / CIVIC ACTIVITIES

- Board of Directors, Executive Committee, Chair, Membership Committee, Technology Alliance, January 2016 through present
- Board of Directors, ArtsFund, October 2010 through 2016
- Board of Directors, The Kline Galland Center and The Kline Galland Foundation, June 2010 through 2016
- Investment Committee, Bertschi School, July 2015 through 2019
- Liaison to Seattle Chapter, Women Presidents Organization, 2002 through 2016
- Women Presidents Organization, Zenith Group, 2016 through present

- Board of Directors, New Beginnings, 2005 through 2009

## SPEAKING ENGAGEMENTS

- Speaker, "Seattle Women in Tech Regatta 2023: ChatGPT and Generative AI for Good," Seattle, WA, May 2023
- Moderator, "Capital Solutions for Financially Stressed Companies," Northwest Middle Market Growth Conferences, Seattle, WA, September 2020
- Speaker, "Art and Science of the IP Deal - The Structure of Deals," University of Washington School of Law, Seattle, WA, April 2017
- Speaker, "Seattle Women in Leadership Symposium," Pacific Northwest Leadership Symposium, Seattle, WA, April 2017
- Speaker, "Surviving and Thriving in Challenging Work Environments," International Legal Technology Association, January 2017
- Speaker, "Positioning Your Company for Sale and Selling It," K&L Gates LLP Breakfast Briefing, Seattle, WA, October 2015
- Speaker, "Mergers & Acquisitions in Technology Industries," The Seminar Group, Seattle, WA, November 2014
- Speaker, "Striking the Right Deal, Oversight of M&A and International Ventures," KPMG Fall 2013 Audit Committee Roundtable Series, Seattle, WA, December 2013
- Speaker, "Selling a Company to Maximize Value," Association for Corporate Growth, Seattle, WA, October 2013
- Speaker, "Key Negotiation Issues, Tips, and Tactics in M&A Deals," Association of Corporate Counsel, Washington State Chapter, February 2013
- Speaker, "Traps for the Unwary," Angel Capital Association, Northwest Regional Annual Meeting, Seattle, WA, May 2012
- Moderator, "Spotlight on Growing Game/ Interactive Entertainment Industry," Association for Corporate Growth, Seattle, WA, June 2011
- Speaker, "Valuation Uncertainty in Today's M&A Negotiations: Techniques for Getting Deals Done," presented by K&L Gates, Seattle, WA, April 2010
- Moderator, "CEO Roundtable 2009," Women Business Owners
- Speaker, "Mergers & Acquisitions Forecast for 2009," Pacific Northwest Mergers and Acquisitions Forum

## EDUCATION

- J.D., Emory University School of Law, 1992
- B.A., Emory University, 1989

## ADMISSIONS

- Bar of Washington

## THOUGHT LEADERSHIP *POWERED BY HUB*

- June 2023, Generative AI - Legal, Policy, and Ethical Considerations
- 12 June 2023, May 2023 Accolades
- June 2023, Generative AI and the Health Care Industry
- 9 February 2021, Chancery Court Applies Internal Affairs Doctrine to Declaratory Action for Inspection Rights Sought Under California Law
- 20 January 2021, Management Cannot Unilaterally Preclude Directors from Obtaining Privileged Communications
- 4 August 2020, Chancery Court Holds Late Breach of Fiduciary Duty Claim Is Barred By Laches
- 3 August 2020, Master in Chancery Dismissive of Fiduciary Seeking Dismissal, Applies Familiar 12(b)(6) Standard
- 16 May 2020, Court of Chancery Applies Entire Fairness Standard to Stock Sale Approved by Interested Board of Directors
- 11 May 2020, Delaware Court of Chancery Interprets "Sufficient Particularity" Pleading Standard Under Rule 23.1
- 29 April 2020, Court of Chancery Applies Entire Fairness Standard to PennyMac's Reorganization Transaction
- 28 April 2020, Court Reviews Fiduciary Disclosure Obligations in Connection with Seeking Investments
- 1 April 2020, Court of Chancery Orders Specific Performance of Merger Agreement, Finding that Fraud Contained in FDA Filings for Approval of Target Product did not Rise to a "Material Adverse Effect"
- 29 March 2020, Chancery Court Finds that Res Judicata Bars Plaintiff's Demand for Information Rights Under Merger Agreement
- 19 March 2020, Transactions Involving Controlling Stockholder as a Result of Actual or Inherent Coercion are Subject to Entire Fairness Standard of Review

- 16 March 2020, Request for Attorneys' Fees Denied Under Corporate Benefit Doctrine
- 9 March 2020, Directors Breach Fiduciary Duties in Coercive Self-Tender
- 10 January 2020, Delaware Court of Chancery Grants Stockholder's Section 220 Demand for Books and Records
- 23 October 2019, Chancery Court Dismisses Uber Derivative Suit for Failure to Make Demand or Plead Demand Futility
- 18 October 2019, Waiver Of Appraisal Rights In A Stockholder Agreement Is Enforceable Under Delaware Law
- 5 August 2019, Plaintiff Alleged Facts Sufficient To Support Claims Against Defendants To Survive A Motion To Dismiss
- 15 July 2019, Words Matter: Chancery Court Holds that Indemnification Provision in Equity Purchase Agreement Does Not Cover Advancement of Expenses for Officer Conduct Unauthorized by the Board
- 19 June 2019, Chancery Court Applies And Affirms Delaware's Corporate Opportunity Doctrine
- 3 April 2019, Fiduciary Duty Claim Against Selling Company CEO Survives Motion to Dismiss with Aiding and Abetting Claim Missing the Mark
- 2 April 2019, Know Thyself: Self-Awareness in Corporate Valuations
- 26 March 2019, Chancery Court Grants Preliminary Injunction Restraining Former Director from Selling Shares Allegedly Invalidly Issued to Himself
- 7 March 2019, Chancery Court Confirms Limited Scope Of Authority Of Expert-Not-Arbitrator Dispute Resolution Provisions
- 18 December 2018, Mandatory Indemnification Provided Under Bylaws To Agent Due To Actions Taken On Company's Behalf
- 6 November 2018, Chancery Court Denies Appraisal Rights Where a Stockholders' Agreement Requires that Stockholders Refrain from Appraisal Petition
- 10 October 2018, Chancery Court Claims for Breach of Fiduciary Duty Dismissed for Failure to Establish Demand Utility
- 4 September 2018, Chancery Court Sets Fair Value In Appraisal Action At Deal Price Less Synergies
- 16 July 2018, Chancery Court Awards Fees in Corporate Benefit Doctrine Case
- 26 June 2018, Chancery Court Allows Complaint Alleging Waste of Corporate Assets to Move Forward to Discovery as a Result of Extreme Facts
- 26 June 2018, Motion for a Temporary Restraining Order of Controlling Stockholders Denied as No Extraordinary Circumstances Found

- 17 April 2018, Plaintiffs Were Unable To Rouse Support For Their Position That A Minority Stockholder Was A Controller And Breached Fiduciary Duties Because They Did Not Plead Sufficient Facts
- 4 January 2018, Chancery Court Holds Business Strategy Disputes May Not Be Resolved by Appointment of a Receiver under Section 291
- 22 November 2017, Class Action Dismissed as Demand was Not Excused as Futile; Plaintiff Failed to Allege Facts Sufficient to Establish that a Majority of the Board Faced Substantial Likelihood of Liability for Non-Exculpated Claims
- 19 October 2017, Chancery Court Dismisses Claims Against Defendants and Holds that the Transactional Structure in M&F Worldwide Applies to Conflicted One Sided Controller Transactions
- 13 October 2017, Court of Chancery Dismisses Derivative Breach of Fiduciary Duty Claims For Failure to Make a Pre-Suit Demand or Demonstrate Demand Futility
- 30 August 2017, In Statutory Merger Appraisal Proceeding, Chancery Court Declines Use of the Discounted Cash Flow Analysis to Determine Fair Value and Upholds Deal Price as Best Indicator of Fair Value
- 23 August 2017, Chancery Court Holds That Stockholder Rejection of Corporate Proposals Are Not Defective Corporate Acts That Can Later Be Ratified
- 24 July 2017, Chancery Court Vacates Order of Default Judgment Due to Lack of Subject Matter Jurisdiction
- 27 June 2017, Chancery Court Holds More than Red Flags Required to Allege Demand Futility in a Derivative Suit
- 3 February 2017, Chancery Court Clarifies the Cleansing Power of an Uncoerced and Fully Informed Disinterested Majority Stockholder Vote
- 28 December 2016, Chancery Court Determines that Merger Price is Fair Value in an Appraisal Proceeding as a Result of a Properly Conducted Sales Process
- 25 October 2016, Delaware Chancery Court Applies MFW Framework to Dismiss Suit by Minority Stockholders in Connection with Squeeze-out Merger
- 14 October 2016, Chancery Court Dismisses Derivative Breach of Fiduciary Duty Claims as Improperly Pled and the Requests for Declaratory Judgment as Not Ripe
- 24 June 2015, Chancery Court Holds That Company Does Not Have To Pay Damages For Refusing To Appoint Director Represented By Counsel That Is Also Representing Opposing Party In Adverse Litigation

## OTHER PUBLICATIONS

- “Acquiring an AI Company,” *Thomson Reuters Practical Law*, January 2024
- “Corporation Law: Washington,” *Thomson Reuters Practical Law*, October 2023

## NEWS & EVENTS

- 1 June 2023, K&L Gates Receives Firm, Individual Rankings in 2023 *Chambers USA* Guide
- 1 March 2023, K&L Gates Advises Microsoft on Continued Investment in ChatGPT Creator OpenAI
- 1 June 2022, K&L Gates Receives Firm, Individual Rankings in 2022 *Chambers USA* Guide
- 9 December 2021, K&L Gates Continues California Growth with Addition of Emerging Growth and Venture Capital Partner to San Francisco Office
- 24 May 2021, Chambers USA 2021 Guide Recognizes K&L Gates Corporate Practice, Lawyers Among Leaders
- 1 March 2021, K&L Gates Strengthens Corporate Practice with Addition of Orange County Partner
- August 2020, K&L Gates Lawyers Provide Insights on Impact of COVID-19 Across Various Industries
- 6 July 2020, K&L Gates Corporate M&A Practice Again Among Top Rated in the United States by The Legal 500 with Rankings in Seven Categories and 34 Lawyers Recommended
- 26 June 2020, *American Lawyer*: Microsoft Names Winning Firms in Legal Innovation Challenge
- 22 June 2020, K&L Gates Selected as Finalist in Microsoft's Legal Business Design Challenge
- 23 April 2020, K&L Gates, Lawyers Recognized in 2020 Chambers USA Guide
- 1 November 2019, *U.S. News* "Best Law Firms" Rankings Recognize K&L Gates as Corporate "Law Firm of the Year"
- 24 July 2019, K&L Gates Advises Microsoft on US\$1 Billion Equity Investment in OpenAI
- 11 June 2019, K&L Gates Once Again Top Ranked in the United States in Middle Market M&A by *The Legal 500*
- 26 April 2019, Chambers USA 2019 Guide Ranks K&L Gates, Lawyers Among Leaders
- 11 November 2016, K&L Gates Recognized as Top Performer in Microsoft's Law Firm Diversity Program
- 23 June 2016, K&L Gates, Lawyers Recognized as Leaders in Chambers USA 2016 Guide

## MEDIA MENTIONS

- Quoted, "Bartell deal follows larger M&A trend among family-owned businesses," *Puget Sound Business Journal*, 12 October 2020

## AREAS OF FOCUS

- Mergers and Acquisitions



- Corporate Governance
- Health Care and FDA

## INDUSTRIES

- Artificial Intelligence
- Digital Health
- Health Care Sector
- Post-Acute/Senior Housing and Care
- Technology

## REPRESENTATIVE EXPERIENCE

### Technology

- Advised Sonata Software North America, Inc. in connection with its purchase of all of the stock of Quant Systems, Inc.
- Represented Microsoft Corporation (Nasdaq: MSFT) in its equity investments in OpenAI Global LLC.
- Represented ePlus Technology, Inc. (NASDAQ NGS: PLUS) in its acquisition of the Network Solutions Group division of CCI Systems' Inc.
- Represented Microsoft Corporation (Nasdaq: MSFT) in its equity investment in PhonePe Private Limited
- Represented Smartsheet Inc. (NYSE: SMAR) in its acquisition by merger of On Brand Holdings Inc.
- Represented ePlus Technology, Inc. (NASDAQ NGS: PLUS) in its acquisition of the assets of Future Com, Ltd.
- Represented AGB Nielsen Media Research BV (NYSE: NLSN) in its acquisition of TVTY S.A.
- Represented Microsoft Corporation (Nasdaq: MSFT) in its acquisition by merger of RiskIQ, Inc.
- Represented Microsoft Corporation (Nasdaq: MSFT) in its investment in HUB Platform Technology Partners Ltd.
- Represented Microsoft Corporation (Nasdaq: MSFT) in its investment in OpenAI Startup Fund I, L.P.
- Represented Microsoft Corporation (Nasdaq: MSFT) in its acquisition of Kinvolk GmbH
- Represented Microsoft Corporation in its investment in PT Bukalapak.com
- Represented The Nielsen Company (US), LLC in its sale of the assets of Nielsen Social, LLC to Talkwalker Inc.

- Represented ePlus Technology inc., a subsidiary of ePlus inc. (Nasdaq: PLUS) in its acquisition of the assets of Systems Management Planning, Inc.
- Represented PayneGroup Inc. in its sale to BigHand Inc.
- Represented ePlus Technology inc., a subsidiary of ePlus inc. (Nasdaq: PLUS) in its acquisition of the assets of Innovative Technology Systems & Solutions, Inc. d/b/a as ABS Technology
- Represented Microsoft Corporation (Nasdaq: MSFT) subsidiary GitHub Inc. in its acquisition of Semmler Inc.
- Represented Centrica Business Solutions US, Inc. in its acquisition of SmartWattEnergy, Inc.
- Represented ePlus Technology Inc., a subsidiary of ePlus, inc. (Nasdaq: PLUS) in its acquisition of SLAIT Consulting, LLC
- Represented Microsoft Global Finance in its equity investment in Databricks, Inc.
- Represented Microsoft Global Finance in its equity investment in Grab Holdings Inc.
- Represented Apex Learning, Inc. in its sale to AL Digital Holdings, LLC
- Represented ePlus Technology Inc., a subsidiary of ePlus inc. (Nasdaq: PLUS) in its acquisition of the assets of Integrated Data Storage, LLC
- Represented ePlus Technology, Inc. in its acquisition of OneCloud Computing, Inc.
- Represented Microsoft GmbH in its investment in Flipkart Limited
- Represented Wickr in its acquisition of Net Power and Light, Inc.
- Represented Founder in Majority Recapitalization of Paula's Choice Holdings, Inc. with TA Associates
- Represented Halliburton Energy Services, Inc. in its sale of IPv4 addresses
- Represented Microsoft Corporation (Nasdaq: MSFT) in its acquisition of 6 Wunderkinder GmbH
- Represented Microsoft Corporation (Nasdaq: MSFT) in its acquisition of Codenauts GmbH
- Represented Microsoft Corporation (Nasdaq: MSFT) in its acquisition of SyntaxTree SARL
- Represented Microsoft Corporation (Nasdaq: MSFT) in its acquisition of Captain SAS
- Represented Paula's Choice LLC in its sale to Paula's Choice Holdings, Inc., a subsidiary of Bertram Capital Management, LLC
- Represented Fum Machineworks, Inc. d/b/a Recipezaar.com in the sale of its outstanding stock to Scripps Networks, LLC

## **Health Care/Senior Housing and Care**

- Advised R.D. Merrill Real Estate Holdings, LLC on its formation of a joint venture with SRMJVVI, LP and SRM Development, LLC.



- Represented Merrill Gardens L.L.C. in connection with the sale of interests in MG Landlord II, LLC (a joint venture with Welltower Inc. (NYSE: HCN)) to SHI-IV Merrill JV Company LLLP
- Represented Merrill Gardens L.L.C. in connection with the formation of SHI-IV Merrill JV Company LLLP (a joint venture with an affiliate of AEW Capital Management)
- Represented Merrill Gardens L.L.C. in the formation of a joint venture with ReNew REIT to co-own and operate 26 properties acquired from New Senior Investment Group
- Represented Merrill Gardens L.L.C. in its acquisition of Blue Harbor Senior Living
- Represented R.D. Merrill Real Estate Holdings, LLC in the formation of RDM QOZ Fund I, LLC
- Represented R.D. Merrill Real Estate Holdings, LLC in the formation of RDM Housing Strategies VI, LLC
- Represented Merrill Gardens L.L.C. in the purchase and sale of five senior living facilities in various locations across the US with an affiliate of AEW Capital Management LLC
- Represented Merrill Gardens L.L.C. in the formation of a joint venture, SHI-III Merrill JV Company III LLLP, with SHI-III Merrill Investor, L.P., an affiliate of AEW Senior Housing Investors, L.P.
- Represented R.D. Merrill Real Estate Holdings LLC in the formation of a joint venture with STCA, LLC to develop, own and operate a senior housing facility
- Represented MH RDM Holdings LLC in connection with the sale of three senior housing facilities to SHI-III Merrill JV Company III LLLP
- Represented Merrill Gardens at Auburn, LLC and Merrill Gardens L.L.C. in the sale of a senior housing facility to SHI-III Merrill JV Company III, LLLP
- Represented Merrill Gardens at Rockridge, LLC in the sale of a senior housing facility to SHI-III Merrill JV Company III, LLLP
- Represented Best Years LLC in a joint venture with Cindat WT LLC
- Represented Cindat Best Years (US) LLC in connection with joint venture with Welltower Inc.
- Represented 191 II Holdings LLC, in the sale of four senior housing projects to SHI-III Merrill Development JV LLLP, a joint venture between AEW Capital Management and Merrill Gardens L.L.C.
- Represented RDM Housing Strategies V, LLC in its new joint venture SHI-III Merrill Development JV LLLP, with a fund managed by AEW Capital Management
- Represented R.D. Merrill Real Estate Holdings, L.L.C. in its private placement for limited liability company interests in RDM Housing Strategies V, LLC
- Represented Merrill Gardens in the sale of its 20% joint venture interest in MG Landlord, LLC to Healthcare REIT, Inc. (NYSE: HCN), and the formation of a new joint venture with Healthcare REIT, Inc. to own, operate and lease independent and assisted living facilities

- Represented Falck Northern California Corp. in its acquisition of the assets of Emergency Vehicle Management, Inc. and On-Site Response, Inc.
- Represented FCA Corp., a subsidiary of Falck USA, Inc., in its acquisition of the assets of Verihealth Southern California, LLC
- Represented Microsoft Corporation (Nasdaq: MSFT) in its disposition of certain assets of its Amalga health solutions business
- Represented Merrill Gardens L.L.C. in its combination sale and joint venture with Health Care REIT, Inc.
- Represented Microsoft Corporation (Nasdaq: MSFT) in its acquisition of the outstanding shares of Global Care Solutions (GCS) S.A.
- Represented Merrill Gardens LLC in the sale of its Eastern division to CSH Master Care USA, Inc., a subsidiary of Chartwell Seniors Housing Real Estate Investment Trust (TSX: CSH.UN)