

The New Jersey Minority Shareholder Oppression Statute Covers More Than Just Oppression

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I have written recently about how broad the New Jersey shareholder oppression statute is, and how it encompasses more than what a court would consider “oppressive” conduct. The statute also mentions “mismanagement,” a concept I covered in my blog [“Focus on the Relief, Not the Label”](#) from December 2022. Courts often do not want to get involved in second-guessing management decisions and deciding what mismanagement is actionable and which is not. However, mismanagement does happen.

There are times when the mismanagement by those in charge is so palpable that it cannot possibly go unchecked. For example, suppose the majority shareholder does not take a business opportunity for himself, but instead provides it to another employee who happens to be a friend at the exclusion of the minority shareholders. If no “kickback” to the majority can be shown, it may be difficult to argue that the majority shareholder benefitted. And if the decision hurt everyone equally, including the majority shareholders, it might not be considered “oppression” under the statutory definition (although the better argument is that it still would). But such a move certainly could be deemed “mismanagement.”

Other types of wrongdoing under the statute that might not be directed specifically toward a minority shareholder include taking illegal actions such as improper tax filings or the failure to follow other regulations. For example, dumping pollutants into the ground might not only be illegal conduct, but could put the company at such risk that a court will think it unfair to expose a minority shareholder to a lifetime of such incidents.

Of course, not every violation of the statute obligates the court to order the buyout of a minority shareholder. The key is to tell a story of unfairness – unfairness in what has happened to you in the past, and unfairness in leaving you in this company into the future with little-to-no protection – other than a statute that the majority shareholders are quite willing to ignore.

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