

Does Caremark Apply To California Corporations?

Allen Matkins
CHALLENGE. OPPORTUNITY. SUCCESS.

Article By

[Keith Paul Bishop](#)

[Allen Matkins Leck Gamble Mallory & Natsis LLP](#)

[California Corporate and Securities Law](#)

- [Administrative & Regulatory](#)
- [Corporate & Business Organizations](#)

- [California](#)
- [Delaware](#)

Friday, October 11, 2019

Chancellor William T. Allen famously observed that a derivative claim based on a board's failure of oversight "is possibly the most difficult theory in corporation law upon which a plaintiff might hope to win a judgment." *In re Caremark International Inc. Derivative Litigation*, 698 A.2d 959 (Del. Ch. 1996). These cautionary words, however, have not sufficed to dissuade plaintiffs' attorneys who have continued to bring failure of oversight claims with an apparent *sprezzatura*. According to [Liz Dunshee](#), moreover, they may be meeting with more success in Delaware. In this [post](#), she noted that a case decided last week, *In re Clovis Oncology, Inc. Derivative Litig.*, 2019 Del. Ch. LEXIS 1293, is the third Delaware decision in the last two years that has found *Caremark* claims to be viable.

Whatever is happening in Delaware with respect to *Caremark* has not yet reached California. There are only two reported appellate decisions that mention the case. One, *Leyte-Vidal v. Semel*, 220 Cal. App. 4th 1001 (2013), applies Delaware law. The other, *Robbins v. Alibrandi*, 127 Cal. App. 4th 438 (2005), cites *Caremark* only as to the standard of review applicable to settlements.

© 2010-2019 Allen Matkins Leck Gamble Mallory & Natsis LLP

Source URL: <https://www.natlawreview.com/article/does-caremark-apply-to-california-corporations>