Board of Directors Quota Law May Be Unconstitutional

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In 2018, the California Legislature enacted Senate Bill 826, which requires all corporations headquartered in California to have a minimum number of females on their boards of directors; corporations that fail to comply with SB 826 are subject to monetary penalties. One shareholder of OSI Systems, Inc., Creighton Meland, brought an action challenging the constitutionality of SB 826 on the ground that it requires shareholders to discriminate on the basis of sex when exercising their voting rights in violation of the Fourteenth Amendment. The district court granted a motion to dismiss Meland’s complaint for lack of Article III standing, reasoning that Meland had not suffered an injury in fact. In this opinion, the Ninth Circuit reversed the district court, holding that to the extent Meland’s allegations that SB 826 “requires or encourages” him to discriminate on the basis of sex, he has suffered a concrete personal injury sufficient to confer Article III standing. The Court further held that Meland’s “injury is ongoing and neither speculative or hypothetical, and the district court can grant meaningful relief.”

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