The Internal Affairs Doctrine – California May Not Be Standing Alone

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Delaware lawyers undoubtedly regard the Delaware Supreme Court's decision in *VantagePoint v. Examen, Inc.,* 871 A. 2d 1108 (Del. 2005) as the last word on the internal affairs doctrine. In that case, the Delaware Supreme Court held that the internal affairs doctrine trumps a California statute, Corp. Code § 2115, imposing specified provisions of the California General Corporation Law on foreign corporations whose most significant shareholder and business contacts are with California. The internal affairs doctrine provides that the internal affairs of a corporation are governed by the law of the state of incorporation.

Although I understand the position of Delaware attorneys vis-a-vis the decision of their highest court, I'm not convinced that California courts will follow suit. I'm also of the view that the list of items constituting internal affairs is by no means written in stone. Nonetheless, I'm mindful that many lawyers, including many California lawyers, express the view that California is out of step with other states in applying its corporate law to foreign corporations.

Thus, I was interested to read an article in the October 20, 2010 issue of BNA's *Corporate Counsel Weekly* by Nicholas San Filippo IV entitled "Minority Shareholders Rejoice: New Jersey Extends Reach of Oppressed Minority Shareholder Statute". In this article, Mr. San Filippo cites two New Jersey decisions applying New Jersey law to corporations incorporated in other states. *Krzastek v. Global Resource Industrial & Power, Inc.,* No. A-1815-06T2 (N.J. Super. Ct. App. Div. Sept. 11, 2008) and *Conway v. DialAmerica Marketing, Inc.,* No. BER-C-116-08 (N.J. Super. Ct. Ch. Div. Sept. 30, 2008).

Suddenly, California doesn't seem so lonely.

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