SUPREME COURT OF DELAWARE

Seinfeld v. Verizon Communications, Inc.

909 A.2d 117 (Del. 2006) · No. No. 624, 2005 · Decided September 25, 2006

SUMMARY

The Delaware Supreme Court affirmed the Court of Chancery's denial of a stockholder's demand under Delaware General Corporation Law section 220 to inspect Verizon's books and records concerning executive compensation. The court reaffirmed that a stockholder seeking inspection to investigate possible waste, mismanagement, or wrongdoing must prove a proper purpose by showing, by a preponderance of the evidence, a credible basis supported by some evidence. Mere suspicion, curiosity, or disagreement with the board's business judgment is insufficient.

CASE DETAILS

COURT	Supreme Court of Delaware
WRITING FOR THE COURT	Holland, Justice; Steele, Chief Justice; Berger, Justice; Jacobs, Justice; Ridgely, Justice
JURISDICTION	Delaware
DECIDED	September 25, 2006
DOCKET	No. 624, 2005
DISPOSITION	affirmed
PROCEDURAL POSTURE	Stockholder appealed from the Court of Chancery's judgment on cross-motions for summary judgment denying his demand under Delaware General Corporation Law section 220 to inspect Verizon's books and records.
PRECEDENTIAL VALUE	Published Delaware Supreme Court en banc opinion; binding Delaware precedent.
PARTIES	Frank D. Seinfeld v. Verizon Communications, Inc.

TOPICS

corporate governance · corporate law · summary judgment · appellate procedure · civil procedure

PRACTICE AREAS

Delaware corporate law · shareholder inspection rights · corporate governance · appellate procedure

QUESTIONS PRESENTED

1. Whether a stockholder seeking inspection under Delaware General Corporation Law section 220 must present some evidence establishing a credible basis from which the court can infer possible waste, mismanagement, or wrongdoing.
2. Whether Seinfeld's evidence established a credible basis to investigate possible waste or mismanagement in Verizon's executive compensation.

HOLDINGS

1. A stockholder seeking inspection under Delaware General Corporation Law section 220 to investigate possible wrongdoing or mismanagement must prove a proper purpose by a preponderance of the evidence and must present some evidence establishing a credible basis from which the court can infer that possible waste, mismanagement, or wrongdoing may have occurred.
2. Seinfeld was not entitled to inspection because his disagreement with the amount of executive compensation and his unsupported suspicions did not establish a credible basis to infer waste, mismanagement, or wrongdoing.

KEY QUOTATIONS

> *"Stockholders have a right to at least a limited inquiry into books and records when they have established some credible basis to believe that there has been wrongdoing. . . . Yet it would invite mischief to open corporate management to indiscriminate fishing expeditions."* (123)

> *"Stockholders need only show, by a preponderance of the evidence, a credible basis from which the Court of Chancery can infer there is possible mismanagement that would warrant further investigation"* (123)

> *"We remain convinced that the rights of stockholders and the interests of the corporation in a section 220 proceeding are properly balanced by requiring a stockholder to show "some evidence of possible mismanagement as would warrant further investigation.""* (125)

FACTUAL BACKGROUND

Seinfeld, the beneficial owner of approximately 3,884 Verizon shares, sought inspection of corporate records concerning compensation paid to Verizon's three highest officers from 2000 through 2002. He alleged that approximately $205 million in compensation, including stock options, was excessive and wasteful. During his deposition, however, he admitted that he had no factual support for alleged mismanagement, no basis to claim the executives had not earned their compensation, and uncertainty about his compensation calculations.

PROCEDURAL HISTORY

Seinfeld sought inspection of Verizon's books and records concerning compensation paid to its three highest corporate officers. The Court of Chancery held that he failed to present evidence establishing a credible basis to infer waste, mismanagement, or wrongdoing and entered judgment for Verizon. The Delaware Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Thomas & Betts Corp. v. Leviton Mfg. Co., 681 A.2d 1026, 1031 (Del. 1996)
- Security First Corp. v. U.S. Die Casting & Dev. Co., 687 A.2d 563, 567-71 (Del. 1997)
- Helmsman Mgmt. Servs., Inc. v. A & S Consultants, Inc., 525 A.2d 160, 166 (Del. Ch. 1987)
- Grimes v. Donald, 673 A.2d 1207, 1216 (Del. 1996)
- Rales v. Blasband, 634 A.2d 927, 934-35 & n.10 (Del. 1993)
- Saito v. McKesson HBOC, Inc., 806 A.2d 113, 115-17 (Del. 2002)
- Brehm v. Eisner, 746 A.2d 244, 267 n.75 (Del. 2000)
- White v. Panic, 783 A.2d 543, 557 n.54 (Del. 2001)
- Malone v. Brincat, 722 A.2d 5, 9-10 (Del. 1998)
- Nodana Petroleum Corp. v. State ex rel. Brennan, 123 A.2d 243, 246 (Del. 1956)
- Oscar George, Inc. v. Potts, 115 A.2d 479, 481 (Del. 1955)
- Skouras v. Admiralty Enters., Inc., 386 A.2d 674, 679 (Del. Ch. 1978)
- Skoglund v. Ormand Indus., Inc., 372 A.2d 204, 210 (Del. Ch. 1976)