

Ex-shareholder claims fiduciary duty, breach of contract, oppression

Plaintiff: Book-value assessment should not have been utilized

\$1.2 MILLION

In a confidential lawsuit, plaintiff claimed shareholder/member oppression, breach of contract, and breach of fiduciary duty after being terminated and offered only a nominal buyout.

He sought a buyout of his ownership interests at fair value and damages for lost wages and profits.

The plaintiff was an executive and shareholder owning approximately 20 percent of a corporation; he also was a member/partner in several other related companies. He alleged that he was oppressed by the majority shareholder; was denied a fair share of corporate profits; was excluded from management of the companies; and had his employment wrongfully terminated in violation of a promise of lifetime employment.



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Among defendants' arguments, the plaintiff had no guaranteed right to continued employment, and that his ownership interests in the companies were to be bought out strictly pursuant to an agreed-upon formula — which, plaintiff contended, yielded a very minimal buyout amount.

The defendants added that the plaintiff's claims were barred or trumped by prior agreements between the parties — including the parties' stock-purchase agreement — and belonged in arbitration.

Plaintiff's counsel made vigorous use of statutory tools to obtain documents that had previously been withheld from the plaintiff; developed legal avenues for litigating around the prior agreements signed by the parties; and worked closely with a valuation expert to develop an income-based assessment of the businesses, rather than a book-value assessment.

After engaging in extensive discovery, briefing and settlement discussions, the case settled for \$1.2 million.

Types of actions: Shareholder oppression, breach of fiduciary duty, breach of contract

Types of injuries: Shareholding and other ownership interests, lost wages, lost profits

Name of case: Confidential

Court/Case no./Date: Confidential; confidential; Sept. 20, 2012

Name of judge: Withheld

Settlement amount: \$1.2 million

Most helpful expert: David Croskey, business valuation and lost wages/profits, Rochester

Insurance carrier(s): Withheld

Attorneys for plaintiff: Gerard Mantese, Brian Saxe

Attorney(s) for defendant: Withheld