

## 6 NJ Shareholder Disputes

### New Jersey Shareholder Disputes

Shareholder disputes and partnership disagreements are quite common in small and medium-sized closely held businesses.

Shareholder disputes can have a substantial negative impact on a company. In point of fact, many times management can get so caught up in fighting with other shareholders that the business suffers from a lack of attention.

#### Family Businesses

Unfortunately, shareholder disputes are very common in family owned businesses. If the founder of a successful business leaves his business to his three children, typically not all three are equally skilled or interested in running the business. By the time you get to a second generation – where there are not only siblings, but cousins all fighting over money and control – the situation only becomes more complex.

While the founder can try and anticipate some of these issues and take preventative measures in the shareholder agreements he or she sets up, not every situation can be anticipated, and occasionally the unavoidable outcome will be litigation. In addition to the usual financial issues in any form of shareholder dispute, shareholder disputes in family-owned businesses can be so detrimental as to tear a family apart.

Trying to resolve shareholder disputes within families via Mediation can provide not only financial savings, but can help prevent families from falling apart under the pressure of litigation.

#### Oppressed Minority Shareholders

New Jersey law pays special attention to the rights of minority shareholders in closely-held corporations. The “Oppressed Minority Shareholder Statute” was adopted by the New Jersey legislature in 1973. The statute is incorporated in New Jersey’s corporation laws in NJ Revised Statutes N.J.S.A. [§14A:12-7](#). The law applies to the following situations:

In the case of a corporation having 25 or less shareholders, the directors or those in control have acted fraudulently or illegally, mismanaged the corporation, or abused their authority as officers or directors or have acted oppressively or unfairly toward one or more minority shareholders in their capacities as shareholders, directors, officers, or employees.

Minority shareholders of such a corporation can bring a lawsuit, and if the judge finds that they have, in fact, been oppressed, the court can order the sale of the stock in the company, or order the company dissolved. The law says that any shares sold will be sold at their “fair value,” and if the parties can’t agree on a fair value the court can set one.

New Jersey courts apply the provisions of the law widely thereby protecting the interests of minority shareholders. The courts have also interpreted “minority” rather broadly. In one case the court found that a shareholder who held 98% of the stock of a company was an “oppressed minority.” The important principle was found to be effective control of the company, not the percentage of stock owned by the shareholder. In the 98% case, all the

voting rights to the stock were held up in a trust, so that the nominal owner of 98% of the company had no control over the day to day affairs of the company. Accordingly, the court found his interests were being oppressed under the meaning of the statute.

Our firm can assist you with preparing and negotiation business contracts, employment agreements, preparing shareholder agreements or Limited Liability Membership Agreements. Our firm can also assist you in the formation of your new business venture.