
NetCentric Wins Fiduciary Duty Case

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Hale and Dorr litigators won a recent case on behalf of our client, NetCentric, in the Supreme Judicial Court. The case arose when a former founder was fired after only 55% of his NetCentric stock had vested. Under NetCentric's standard Stock Restriction Agreement, whenever an employee is terminated, NetCentric is entitled to buy back the former employee's unvested stock at a nominal price. The former founder of NetCentric refused to tender his shares and filed suit against his former employer, claiming breach of fiduciary duty of good faith, loyalty and fair dealing, wrongful termination of his employment and interference with his contractual relations.

Hale and Dorr litigators Jack Fabiano and Doug Nash argued on behalf of NetCentric that the "internal affairs" doctrine has been the settled law of Massachusetts for more than 50 years. They also argued that many corporations located in Massachusetts incorporated in Delaware with the expectation that Delaware law would apply to their internal affairs. Retroactively determining that some rules of Massachusetts law would apply to such corporations would result in confusion into the corporate governance of Massachusetts based Delaware corporations.

The Supreme Judicial Court concluded:

As NetCentric is, and always has been, a Delaware corporation, Delaware law applies

to the plaintiff's claim that the defendants breached their fiduciary duty. Because Delaware does not impose heightened fiduciary duties on shareholders in a close corporation...summary judgement was properly granted...