



And The Defense Wins

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DRI member [Christopher A. Holecek](#), partner in the Cleveland law firm **Wegman, Hessler & Vanderburg**, teamed with a colleague to complete a four-day jury trial in Cleveland on January 13, 2011, that resulted in a defense verdict for the company and its board of directors in a shareholder dispute. The plaintiff was a former vice president and a minority shareholder of the company.

Plaintiff's shares in the company were involuntarily redeemed following an earlier jury trial in November 2008. In that trial, the jury found that while the plaintiff's employment had been properly terminated with cause, and he had breached his fiduciary duties as an officer to the company, the majority shareholder had engaged in a shareholder "squeeze out." Relying on the earlier jury verdicts, the company and its board of directors involuntarily redeemed the plaintiff's shares. Following the forced redemption of his shares, the plaintiff filed a second suit alleging that the company and its board of directors breached their fiduciary duties and violated the shareholder agreement, and he demanded that the board of directors reimburse the company for attorney fees incurred in defending the majority shareholder and the board of directors in the first trial. The jury rejected each of the plaintiff's claims, finding in favor of all of the defendants on all claims.

Many states impose upon majority or controlling shareholders a fiduciary duty to the minority shareholders. The claims that were litigated in this trial illustrate the challenges that confront closely held corporations, their officers and board of directors in balancing the interests of the corporation and the shareholders when terminating the employment and shareholder status of a minority shareholder.

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