

Delaware Court of Chancery Confirms Enforceability of Identity-Based Voting Stock

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Recently, in *Colon v. Bumble*, the Delaware Court of Chancery held that certain provisions in the charter of Bumble, Inc. (Bumble), which contemplated that each share of stock carried either one vote or 10 votes depending upon the identity of the holder, were valid and consistent with the Delaware General Corporation Law (DGCL). The court based its ruling on, among other things, the fact that Section 151 of the DGCL authorizes Delaware corporations to specify the voting powers of its classes of stock on the basis of facts ascertainable outside of the charter. The court so held even though the voting mechanism created disparate voting rights within the same class of stock. This decision provides a modern analysis on decades-old seminal cases such as *Providence & Worcester Co. v. Baker*, 378 A.2d 121 (Del. 1977),^[1] in which the Delaware Supreme Court upheld a scaled voting scheme, and *Williams v. Geier*, 1987 WL 11285 (Del. Ch. May 20, 1987), in which the court upheld a tenured-voting provision. It also provides helpful guidance for transaction planners and drafters of corporate charters.

^[1] In *Providence*, the Delaware Supreme Court drew a distinction between permissible “limitations upon the voting rights of the stockholder” and impermissible “variations in the voting powers of the stock.” In *Bumble*, the plaintiff seized upon this language, arguing that the Bumble charter provisions constituted the latter impermissible variation. According to the court, putting aside the potentially problematic nature of the *Providence* distinction, the Bumble charter provisions were not meaningfully and linguistically different from the voting provisions that were upheld in *Providence*.

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