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Navigating Derivative Litigation in Delaware and Pennsylvania: A Comparative Analysis

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Jay Dubow, Katie Hancin, and Dominique Hazel-Criss* co-authored an article for *The Review of Securities & Commodities Regulation* on how Delaware and Pennsylvania take different approaches to derivative litigation. While both states require stockholders to make a demand upon the corporation, Delaware allows demand to be excused if the stockholder can show that a majority of the board is incapable of making an impartial decision regarding the litigation. In contrast, Pennsylvania does not recognize the concept of demand futility and provides that a corporation can establish a Special Litigation Committee to determine whether pursuing litigation is in the best interests of the corporation. Understanding these differences is essential for effectively navigating derivative litigation in these jurisdictions.

Read the full article in The Review of Securities & Commodities Regulation here.

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