

Andrew Blumberg, Tom James, and Benjamin Potts Debunk a Common Myth of Delaware Common Law in the *Harvard Law School Forum on Corporate Governance*

February 26, 2025



BLB&G Partners Andrew Blumberg and Tom James and Senior Counsel Benjamin Potts take on a common misconception about Delaware law in their article “Delaware Corporate Law Myth-Busting: The ‘Expanding Definition’ of Controlling Stockholder” [published](#) by the *Harvard Law School Forum on Corporate Governance*. This piece kicks off their “Myth-Busting” series aimed at dispelling misconceptions about Delaware common law and its treatment of controlling stockholders.

The article highlights a prevailing myth suggesting that Delaware courts are unpredictably expanding the definition of a controlling stockholder, creating uncertainty for corporate actors. The authors debunk this claim, arguing that there is no empirical support for such concerns and that Delaware courts continue to apply well-established legal principles to determine fiduciary duties. The legal framework—grounded in majority voting power or actual control—has remained consistent for decades.

Citing cases like *Basho* and *Skye Mineral*, the authors illustrate how Delaware courts take a fact-specific approach to evaluating control, reinforcing precedent rather than expanding it. They conclude that recent criticism is driven more by dissatisfaction with case outcomes than any real shift in the application of legal principles, emphasizing that Delaware courts remain committed to long-standing legal principles designed to protect stockholders against self-dealing and misconduct.