

January 27, 1999

Fleming Case: Oklahoma Upholds Anti-Pill By-Law
But the Outlook for Such By-Laws in Other States Remains Negative

The Oklahoma Supreme Court yesterday upheld the validity of a shareholder-adopted by-law requiring a poison pill to be put to a shareholder vote. The decision applies only to corporations chartered under Oklahoma law, and the Oklahoma Court indicated that such a by-law would not be valid if Oklahoma had enacted a statute that, like statutes in 24 states, specifically validates rights plans. The Fleming opinion thus stands as authority supporting the invalidity of Fleming-type by-laws in jurisdictions that do have pill validation statutes. And we continue to believe strongly that Delaware - - which has its own carefully developed case law governing rights plans and the powers of directors in takeover situations - - will reject Fleming-type by-laws as overly restrictive of a board's fiduciary duties.

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