

# Delaware Supreme Court Clarifies *MFW* Framework

## Publications

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On April 4, 2024, the Delaware Supreme Court held in *In re Match Group Inc., Derivative Litigation* that the entire fairness standard of review applies to all controlling stockholder transactions in which a controller receives a non-ratable benefit, unless all of the factors contemplated by *Kahn v. M&F Worldwide Corp.* (“*MFW*”) are satisfied. The Court also held that all members of the special committee must be independent to obtain business judgment review under *MFW*.

In *Match*, minority stockholders of Match Group, Inc. (“Match Group”) brought suit challenging the fairness of IAC/InterActiveCorp’s (“IAC”) separation from its controlled subsidiary, Match Group. The reverse-spinoff was approved by a separation committee of Match Group and a majority of the minority stockholders. However, despite such approval, the Plaintiffs sued claiming that the transaction was unfair because it left the spun-off company with lesser quality assets than the controller.

On appeal, the Court held that entire fairness standard of review remains the presumptive standard of review in any action challenging a transaction where the controller stands on both sides and receives a non-ratable benefit, and in order for the business judgment review to apply, the defendants will have to satisfy both *MFW* prongs (the transaction is [1] negotiated by a special independent committee and [2] approved by a fully informed vote of the majority of minority stockholders). However, the Court confirmed that using only one prong of the *MFW* factors will shift the burden of proving entire fairness to the Plaintiff, but will not alter the standard of review. Finally, the Court confirmed that the *MFW* framework requires a special committee of a board of directors that consists entirely of independent directors.

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