

Leaving the Contractual Term ‘Voting Power’ Undefined Could Be Risky Business

Any attorney who regularly drafts stock purchase agreements, voting agreements, or other contracts that use the term “voting power” would do well to take note of a recent ruling, suggest **Benjamin F. Jackson** and **Stephen P. Younger** of **Patterson Belknap Webb & Tyler LLP**.

They write that the New York case *Special Situations Fund III QP, LP. v. Overland Storage, Inc.* raises several questions: What does the contractual term “voting power” mean? Does it refer only to the power to elect corporate directors, or does it refer to the power to vote on any fundamental matter of corporate governance? Is voting power an attribute of stock, or is it something that shareholders possess?

Leaving this term undefined in a contract could be risky business, they warn.

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