

*Appraising the Appraisal Remedy: Is it really the
Best Option for Dissenting Shareholders?*

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Abstract

The availability of appraisal as a remedy for dissenting shareholders in a country's company law statute places an obligation on corporations to repurchase the dissenters' shares at a fair value, where it appears that their rights or interests are about to be adversely affected. Appraisal therefore provides a 'buy-out' option for both sides of the divide i.e. the majority seeking to effect or explore a particular line of action; and the minority shareholders opposed to their decision; thereby offering amicable resolution to a potentially explosive situation. Also known as appraisal rights, or dissenters' rights; the remedy is available in jurisdictions including the United States, Canada, Germany, New Zealand, and more recently South Africa.

Although forging an amicable resolution as stated above, applicability of the remedy is often fraught with problems, leading to the question of whether appraisal is actually the best remedy for dissenting shareholders, or whether it merely provides an illusion of peaceful resolution in the jurisdictions in which it is applicable. The paper will take into consideration the mode or extent of applicability of the remedy in some of these jurisdictions. Problems associated with appraisal include its potential to aid minority freeze-out, and the difficulty of arriving at a fair valuation of the dissenter's shares. The paper will assess these problems; consider appraisal against other possible remedies; and determine if appraisal is indeed the best alternative for dissenting shareholders.

Keywords: Appraisal Remedy; Dissenters' Rights; Minority Shareholders; Minority Buy-out; Share Valuation.

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The appraisal remedy gives an aggrieved shareholder the right to demand payment from the corporate issuer of his shares at a fair value (Paine 2005). Also known as dissenters' rights, minority buy-out, share-purchase remedy, or simply as appraisal, this remedy is available in jurisdictions including the United States, Canada, New Zealand and South Africa.

Justifications for the application of appraisal are that it compensates the minority for the loss of their veto power; offers a cash exit as opposed to being forced to take up stock in a new entity, and protects the majority by expediting corporate transactions (MacIntosh 1986; Wertheimer 1998). There are several instances in which appraisal may be used, depending on the jurisdictions in question. These include mergers and consolidations; schemes of arrangement; substantial transfers of assets; dissolutions; liquidations, and amendment to a company's Memorandum or Article of Incorporation.

THE APPRAISAL REMEDY IN SELECT JURISDICTIONS

Appraisal is available in the company law statutes of several countries, either as a sole remedy or alongside other remedies. This discussion will be limited to three jurisdictions namely: the United States of America (the US); New Zealand and South Africa.

The United States

The current Model Business Corporation Act (the MBCA), as developed by the American Bar Association provides for appraisal rights in the US. The remedy is incorporated into the company law statutes of all US states, most of which formulated their appraisal provisions from the MBCA, although varying in scope and application.

Chapter 13 of the MBCA provides for appraisal. Section 13.02(a)(1)-(8) recognises the shareholder's appraisal right in the following situations: consummation of a merger requiring shareholder approval in which the dissenter is entitled to vote; conclusion of a share exchange in which the company's shares will be acquired; disposition of the company's assets; an amendment to the company's articles of incorporation which reduces the number of shares of a class owned by the shareholder to a fraction of a share if the corporation has the obligation or right to repurchase the fractional share created; any other situation involving the above events to the extent allowed; a domestication resulting in the dissenter receiving shares with less favourable terms than before; conversion of the corporation's status to non-profit; and, its conversion to an unincorporated entity.

The procedure for appraisal is set out in s13.20. Where any of the changes envisaged in section 13.02(a) is to be approved by shareholders, they must be accordingly notified of the applicability of appraisal rights; and a copy of chapter 13 must accompany the notice. To enable them make an informed decision, disclosure of financial information and other material facts is usually required.

In terms of section 13.21, to be entitled to payment, a dissenter who wishes to demand for appraisal must inform the company in writing before the shareholders' votes are taken, and must not vote or execute a consent in favour of the decision. Other

formalities include delivery of statutory forms and notices by the company, and completion of the forms and deposit of share certificates (where certificated) by the shareholder (section 13.22&13.23). Importantly, the company is further required under section 13.22 to provide the shareholder with an estimate of the fair value of the shares, and an assurance that it could provide on request, the number of shareholders demanding appraisal, and their total shareholding. This is to enable unsure shareholders reassess their demand.

Barring a withdrawal from appraisal under section 13.23(b), a shareholder who has deposited share certificates or returned the forms (in case of uncertificated shares), loses all shareholder rights in that company. In terms of section 13.24(a), cash payment being the company's estimate of the fair value of the dissenter's share, plus interest, must then be made to complying shareholders within 30 days, together with information on their right to demand further payment.

Despite having been available for a long time in the US, appraisal has not always proved popular with shareholders. In the case of mergers, it has been said that apart from practical factors discouraging reliance on appraisal, a combination of factors usually result in shareholders being offered fair value for their shares, hence the need for the remedy does not arise in the first place (Betzen & Shurte 2005). Hagan (2003) attributed the recent increase in reliance on appraisal in part to the decline in tender offers, increase in mergers and the Supreme Court's direction to shareholders with voting powers which would not have effect on the outcome of a vote to turn to state law remedies like appraisal, rather than proxy rules of the Federal Security Laws. Notwithstanding, reliance on appraisal remains infrequent.

Some of the impediments to appraisal in the US include the cumbersome nature of the procedure; the problem of arriving at a fair valuation method, although *Weinberger v UOP Inc* (1983) has since dealt with this issue; and the fact that the MBCA acts only as a guide. Hence state provisions could vary from those of the MBCA. For instance, state laws might not incorporate all the appraisal-triggering transactions recognised under the MBCA, thus limiting the scope of the procedure. For instance, in Delaware, the remedy is available in the event of a merger or consolidation (section 262, Delaware General Corporation Law 2001).

New Zealand

The Companies Act 1993 provides for the appraisal remedy in New Zealand; with amendments introduced by the Companies (Minority Buy-out Rights) Amendment Act 2008. Appraisal is entrenched in section 110 of the Act. Importantly, in addition to the company, section 111(2)(a)and(b) and section 113 also allows a third party to purchase the dissenter's shares. The company is required to inform the shareholder of the proposed offer price; how valuation was arrived at following the formula under section 112(2), or using another method if the provided formula would otherwise be unfair.

If the shareholder does not agree with the valuation, a written notice to this effect must be delivered to the company within ten working days (section 112(4)), in which case the matter must be referred to arbitration for determination of a fair and reasonable valuation; and available remedies for the parties (section 112A(1)). In the

meantime, the company must pay a provisional price to the dissenting shareholder pending the end of arbitration, when it may be ordered to pay a balance on it (section 112A(1)and(2)).

It is submitted that the above procedure will ensure fairness to the parties. Referring the matter to arbitration first of all avoids recourse to the court. Importantly also, requiring the company to pay a provisional price pending determination of fair value holds the company accountable while awaiting the outcome of arbitration. This gives shareholders the confidence that they would receive some payment in the meantime, pending determination of a possibly bigger value, while the company is prevented from taking undue advantage of proceedings to prolong payment.

It must be noted that prior to the introduction of the Companies (Minority Buy-out Rights) Amendment Act 2008, there was insufficient guidance on valuation and the timelines involved. In *Natural Gas Corp Holdings Ltd v Infratil (2005)*, the court criticised the lack of detail in New Zealand's appraisal provisions, stating that there was urgent need for review. Significant changes introduced by the 2008 Amendment Act include providing under section 112(3) for the application of a different valuation method where the stipulated ones were unfair.

The remarkable provisions of the New Zealand Act notwithstanding, the provisions of sections 114 and 115 could limit the rights of the shareholder to appraisal, in that they exempt the company from purchasing the dissenter's shares in certain circumstances, which include inability to finance the purchase and insolvency. The situation is only slightly mitigated by the fact that the court must be satisfied that the company has made necessary efforts where indicated to ensure purchase by a third party, thereby placing the burden on the company to reasonably ensure purchase of these shares. On the whole however, the possibility of purchase by a third party means that in any of the situations where the company could be exempted from the obligation to purchase the shares, a neutral party could purchase these shares, resulting in a win-win situation for both the company and the shareholder.

South Africa

The appraisal remedy was introduced into South African company law by the Companies Act 2008. Prior to this, the available shareholder remedies were personal action and derivative action. Section 164 of the Companies Act 2008 provides for appraisal where a company intends to amend its Memorandum of Incorporation; or commence proceedings for certain fundamental transactions like disposal of all or a greater part of its assets or undertaking (section 112), amalgamation or merger (section 113), and the scheme of arrangement (section 114).

In terms of section 164, the dissenter must give notice objecting to the resolution before it is passed by the company, which must then notify dissenters of its adoption of the said resolution. Shareholders may then demand to be paid the fair value of their shares. Once this has been done, the shareholder has no further rights in respect of the shares.

The Act does not offer adequate guidance on how to arrive at a fair value, which has been a major problem associated with appraisal. Rather, it leaves determination of fair

value at the discretion of the directors (section 164(12)), only requiring that they provide a statement on how it was arrived at. The shareholder is however empowered to turn to the courts for redress where the company fails to make an offer, or the proposed offer is deemed inadequate, and the court is thereafter empowered to determine fair value. In this regard, it is suggested that provisions similar to section 112A of the New Zealand Companies Act be introduced whereby the company is required to pay a provisional price to the shareholder pending the court's determination of the appropriate price, with the difference, if any, to be paid later.

It must be noted that the court's discretion in this case extends to appointing appraisers who can help in determining what constitutes fair value; and allowing a reasonable interest to be paid to the dissenters (section 164(15)(c)). The implication of not providing enough guidance under the Act on the determination of fair value is that there will be undue recourse to the courts, thereby negating the idea of limiting court's interference in appraisal proceedings.

It is important to note the implication of section 164(17), which allows the court to vary the company's obligations under the appraisal remedy. In terms of the subsection, if there are reasonable grounds to believe that paying dissenting shareholders would result in the company being unable to pay its debts as they fall due over the next twelve months, the company could apply to the court for an order varying its obligations to the dissenting shareholders, and the court will make an appropriate order, having regards to the company's financial circumstances. It is submitted that this provision could act to defeat the purpose of appraisal provisions, with companies attempting to show that paying the dissenters would negatively affect their financial standing. Meanwhile, at this stage, title to the shares would have long passed to the company, while the shareholder will be forced to wait until such a time that the company will be deemed able to pay, leaving the shareholder in a vulnerable state. It is important that the company is not allowed to hide behind this provision in delaying payment to dissenting shareholders, or affecting valuation of their shares, since the possibility that the court could be more inclined to show sympathy to a company that has applied for variation of its obligations owing to foreseeable financial problems must be strongly considered. A ready solution to the problem created by this provision is the introduction of a provision enabling third-party purchases similar to the New Zealand Act. The availability of a third-party purchaser of the dissenter's shares will effectively dispense with the need to rely on subsection 17, since the pressure on the company to purchase the shares would have been removed by the third party.

Equally worrisome is the wording of section 164(17)(b)(ii), which simply requires the company relying on section 164(17) to pay dissenters "at the earliest possible date compatible with the company satisfying its other financial obligations as they fall due and payable". This provision gives the company too much leeway, and is detrimental to the interests of the dissenting shareholders. Rather, it is advisable to give specific timelines within which the company must pay, once it is shown that its finances are in order. It is also advisable for the court to verify the financial standing of a company relying on this provision at designated times to determine how soon the variation on its obligation can be brought to an end. To achieve this, court appointed auditors or assessors may be commissioned to investigate and report their findings to the court.

MERITS OF APPRAISAL

The foremost benefit of appraisal is that it implies a win-win situation for both parties involved. The company is able to proceed with the transaction in question without the fear of being held back by the minority, or without being termed as oppressive, while the minority avoids forcefully going along with the majority, thereby effectively taking charge of their affairs in the company, and being compensated for loss of their veto power while at it (Hagan 2005).

An offshoot of applying the appraisal remedy is that it encourages an amicable resolution of what could have otherwise been an explosive situation. By providing for the appraisal remedy, a country's statutes empower the dissenting shareholder, in a manner of speaking. Even though they are unable to wield the kind of power necessary to influence the company's decision, respite is offered to dissenting shareholders in the form of the remedy. Availability of the remedy – as opposed to forcefully going with the majority's decision – could prevent tension. Thus, unless a dispute arises over the value of their shareholding, or the company's inability to pay due to non-availability of funds, the issue will be peacefully resolved.

Also an individual shareholder can pursue the appraisal remedy. There is no complicated requirement requiring an aggregate of shareholding or a number of shareholders before the remedy can be sought. Further, appraisal is designed to be cost effective, as it does not primarily involve litigation. Should the procedure go as envisaged between the parties, there would be no recourse to the courts. The New Zealand provisions emphasise this point, in that any issue on determination of fair value is initially referred to arbitration, and not the courts.

Appraisal is also expected to be done over a shorter period of time than other procedures. Hence, proceedings are expected to be concluded in as little time as possible. This explains the very short timelines given by appraisal statutes generally. For instance, one of the improvements made by the Companies (Minority Buy-Out Rights) Amendment Act in New Zealand was to reduce the time required for the Board's notice to the shareholder under section 112(1) of the Companies Act to five working days.

DEMERITS OF APPRAISAL

As important as the shareholder appraisal remedy is in company law statutes, it is not without its problems. First of all, working against the remedy is the fact that it brings an end to the membership of the shareholders concerned. Naturally, a procedure with this end result must be viewed with caution. Secondly, the majority could misuse the availability of this remedy to freeze-out the minority (*Matteson v Ziebarth* 1952; *Yuspeh v Koch* 2002). As pointed out by Wertheimer (1998), it is sometimes intended from the onset to end in minority freeze-out.

A major problem with appraisal, which has been the subject of much debate, is the issue of how to determine the fair value of the shareholding in question. As Hagan (2003) has pointed out, an offer or demand for appraisal itself does not ordinarily result in litigation. Rather, as seen from cases on the subject such as *First Western Bank Wall v Olsen* (2001) and *Weinberger v UOP Inc* (1983), arriving at the fair

value of the shares does. The underlying reason, as opined by Adebajo (2008) is that the value of shares is never static; since, from the time of purchase to the time of appraisal, it would have changed periodically, depending on the company's performance per time.

There are several methods of valuation available. The Discounted Cash Flow (DCF) method, popular in Delaware, assumes that the value of a company's assets equals the current value of their expected cash flow into the future; the Comparable Companies Method, involves comparing a company with its publicly traded competitors in the same industry; the Comparable Transactions Approach, uses multiples of valuation metrics e.g. earnings, calculating them as the ratio of the transaction price to the metrics; the Net Asset Value Method, uses the company's balance sheet to arrive at the book value of assets; while, the Market Value Method either compares similar corporations or relies on previous sales of the shares of the closely held corporation (Jarvis 2005; Hagan 2003).

Hence pin-pointing the method which would be the fairest to all parties is a difficult task. However, appraisal should strive to strike a balance between law and equity to ensure that parties are treated fairly (Hagan 2003). To achieve this, it has been suggested that the court's approach should be based on fairness, while duly weighing the facts and circumstances of each case (Adebajo 2008).

A leading case on valuation is *First Western Bank Wall v Olsen* (2001), where the court held that fair market value was an incorrect method of valuation, and ordered the company to pay the difference between the previous amount and the newly calculated value, which judgment was affirmed on appeal. In *Allied Chemical & Dye Corporation v Steel & Tube Co* (1923), the court stated that sound value was not a fair indication of the market value, and the fact that it was usually quoted to potential investors did not detract from this fact. In *Weinberger v UOP Inc* (1983), valuation methods were extended to include methods which were considered generally acceptable in the financial community.

Also militating against the appraisal remedy is the complicated and demanding procedural rules involved, which tend to discourage reliance on the remedy. To counter this problem, it is proposed that appraisal provisions be simplified as much as possible. This will be especially beneficial to shareholders who could be laymen with only a very basic understanding of business or legal issues. A similar problem is that the proceedings tend to drag for longer than expected, usually owing to valuation disputes, with some dragging for years. This could discourage reliance on the remedy.

Yet another worrisome issue is the inclusion in some appraisal provisions of clauses which enable the company to rely on lack of funds to frustrate the proceedings, such as obtains in New Zealand and South Africa. The inclusion of provisions such as section 114 in New Zealand and 164(17) in South Africa effectively negates the whole essence of appraisal. Although it must be pointed out that in New Zealand, the availability of a third-party purchaser could effectively tackle this problem, and in any event, in terms of section 114(2)(a), the court is empowered to set aside the resolution which triggered appraisal, and even liquidate the company (section 114(2)(d)). These powers are necessary to counter any reckless reliance by the company on this provision.

ALTERNATIVES TO APPRAISAL

Apart from appraisal, there are other possible remedies which a dissenting shareholder could rely on, depending on their availability in the jurisdiction concerned. These would be considered below.

Personal Action

In terms of section 163 of the South African Companies Act 2008, personal action as a shareholder remedy can be instituted by an aggrieved shareholder against the company for wrong done to that shareholder or a group of shareholders where an act or omission is deemed oppressive or unfairly prejudicial to the interests of the applicant; where the company's business is carried on in a manner that is unfairly prejudicial or oppressive to the applicant's interests; or the directors' powers are being used in such manner. It protects the minority who otherwise would be left at the mercy of the majority.

The merits of personal action include the fact that it enables the minority to challenge the majority's decision (unlike appraisal which does not give room to challenge the majority's decision); the aim of the remedy is not for minority shareholders to exit the company; the reliefs that could be obtained under it are limitless (it could be anything from reversal of the act/omission in question, amendment to the company's Memorandum of Incorporation, to liquidation or business rescue); the court has unfettered discretion, enabling it to rule on future conduct; and the remedy is not limited to acts but includes omissions.

There are also considerable demerits to personal action. Firstly, because the relief is entirely at the court's discretion, a shareholder who has put in an application for this relief has no further input, and must abide by the court's decision. Also this relief is only applicable in cases of unfairly prejudicial, unjust or inequitable conduct. Hence in the absence of any fraud or illegality, dissenting shareholders are stuck with the majority's decision. Further, the relief is litigation-based, hence the primary port of call for the shareholder is the court. Hence such things as costs, and court procedures must be considered.

Choosing this route implies leaving everything in the hands of the court. The shareholder must also bear in mind that though the majority's decision to adopt the resolution in question may be unfavourable to the minority, this does not automatically presuppose oppression or unfairly prejudicial conduct. Hence, personal action may not yield the desired result. Thus, where personal action is available alongside appraisal, it is important to weigh the limitations before opting for that relief instead of appraisal.

Derivative Action

The derivative action can be instituted by a shareholder on behalf of all shareholders (except the wrongdoers) in respect of unratifiable wrongs where the company has refused to act (Cilliers et al 2000). It can be brought under common law or under statutes. The common law derivative action was abolished in South Africa by the 2008 Companies Act, leaving only the statutory action under section 165. In terms of

the section, a shareholder, director or employee (or their representatives) may serve a demand on the company to proceed with legal proceedings to protect the company's interests. The company then investigates this demand to determine its plausibility and its response will determine the next line of action. If it fails to do so, the initiator may then apply for leave of court to initiate proceedings in the company's name and on its behalf (section 165(5)). In exceptional circumstances however, the individual is allowed under section 165(6) to apply directly to the court without first calling on the company to do so.

Advantages of the procedure include that any stakeholder can make use of this remedy, unlike what obtains with appraisal which is restricted to shareholders only. Also, the remedy is primarily designed to protect the company's legal interests and everything is done in the company's name and on its behalf, whereas appraisal aims to protect the interests of the minority shareholder and will be pursued in the shareholder's name. Importantly also, the applicant's earlier ratification of the decision in question does not affect eligibility to rely on this remedy (section 165(14)), unlike under appraisal, which requires that the shareholder not vote in favour of the said resolution.

It must be borne in mind however the derivative action relies on litigation to achieve its aim, hence the possibility of the process dragging for a long time, and costs involved must be factored in, although section 165(10) allows the court to make any order as to the costs of parties to the proceedings.

Subjecting the corporate transaction to a business-purpose test in court

Here, the minority shareholder applies to court to determine if the proposed transaction has a genuine business motive (MacIntosh 1986). Its aim is to eliminate transactions which manifestly lack any business purpose. However, as MacIntosh (1986) pointed out, subjecting fundamental changes in a company to a business purpose test will not fully protect the minority from "redistributional predation", just as the court's competence to determine issues related to a company's business judgment will also be called into question. Also, the remedy is considered expensive, time-consuming and riddled with uncertainty, with the costs borne by the applicant, notwithstanding that other shareholders who have not made any contribution stand to benefit (MacIntosh 1986).

The Supreme Court of Delaware had previously held in *Singer v Magnavox Co* (1977) that proposed mergers must, in addition to the requirement of fairness, pass the business purpose test to have validity. However, this requirement of satisfying the business purpose rule was rejected by the court in *Weinberger v UOP Inc*, wherein it stated instead that appraisal proceedings were sufficient to resolve issues concerning share valuation.

Other possible remedies include private action, which is available to a member in their private capacity for the enforcement of rights which accrued in a private capacity, for instance as an officer of the company; and, also application to inspect the company's books (Cilliers et al 2000).

CONCLUSION AND RECOMMENDATIONS

This article has examined appraisal rights as a shareholder remedy, focusing on three jurisdictions. It considered the merits and demerits of appraisal, as well as alternatives to appraisal, and their merits and shortcomings as well. It is suggested that one or more of these other remedies may be made available in addition to appraisal, as obtains in South Africa where in addition to appraisal, both personal action and derivative action are also available to shareholders. This will give minority shareholders a broader range of choices to pick from, after considering their individual needs.

It is submitted that appraisal is a viable remedy for dissenting shareholders, with the potential to benefit parties on opposing sides when a corporate transaction is being considered, thereby enabling a win-win situation. The fact that it can be applied with little or no recourse to the court also works in its favour. However, major downsides of appraisal, which include the problem of valuation, the inevitable recourse to the court, lack of funds on the company's part to pay the share price in question, and the tendency for the procedure to drag for longer than necessary (contrary to the projection for the remedy) constitute a stumbling block. To get the best out of appraisal therefore, these issues should be addressed. Ways of resolving these problems include referring the matter of valuation to arbitration, and providing for the possibility of a third party purchasing the dissenter's shares, as the found in the New Zealand appraisal provisions, as well as stipulating applicable valuation methods, for the sake of clarity.

Importantly, the dissenting shareholder, in deciding, must not lose sight of the fact that appraisal will bring an end to their membership. For this reason, appraisal should be seen as a last resort for members who are not eager to end their membership. Thus the available options should be weighed carefully before a choice is made.

References

- Adebanjo A. T. (2008) *Remedies for Dissenting Shareholders: A Comparison of the Current Option of Personal Action and the Proposed Appraisal Remedy under the Companies Bill of 2008* (Masters dissertation, University of South Africa). Retrieved from http://uir.unisa.ac.za/bitstream/handle/10500/2596/dissertation_adebanjo_2008.pdf?sequence=1
- Allied Chemical & Dye Corporation v Steel & Tube Co* 1923 14 Del. Ch. 64.
- Betzen M. E., Shurte M. R. (2005) An ounce of prevention: Managing the increased threat of appraisal proceedings under Delaware Law. Retrieved June 20, 2014 from <http://www.jonesday.com/newsknowledge/publicationdetail.aspx?publication=2716#>
- Cilliers H.S., Benade M.L, Henning J.J., Du Plessis J.J., Delpont P.A., De Koker L., Pretorius J.T. *Corporate Law* (3rd ed.) Butterworths, Durban 2000.
- The Companies Act 1993 (NZ).
- The Companies Act 2008 (SA).
- The Companies (Minority Buy-out Rights) Amendment Act 2008 (NZ).
- The Delaware General Corporation Law 2001 (Del, US)
- First Western Bank Wall v Olsen* 2001 S.D 16, 621 N. W 2d 611 (US).
- Hagan K. J. (2003) *First Western Bank Wall v Olsen*: An interpretation of “Fair Value” for minority shares as found within the South Dakota dissenter’s rights statutes South Dakota Law Review 48(1), 83-103.
- Jarvis G. C. (2005) State appraisal statutes: An underutilized shareholder remedy *The Corporate Governance Advisor* 13(3), 16-19.
- MacIntosh J. G. (1986) The shareholders’ appraisal right in Canada: A critical Reappraisal *Osgoode Hall Law Journal* 24(2), 201-298.
- Matteson v Ziebarth* 1952 40 Wash 2d 286, 242 P. 2d 1045 (US).
- The Model Business Corporations Act 2008 (US).
- Natural Gas Corp Holdings Ltd v Infratil* 2001 3 NZLR 727 (NZ).
- Paine S. J. (2005) Achieving the proper remedy for a dissenting shareholder in today’s economy: *Yuspeh v. Koch Louisiana Law Review* 65(2), 911-939.
- Singer v Magnavox Co* 380 A. 2d 969 (Del. 1977) (US).

The Uniform Business Corporations Act 1928 (US).

Weinberger v UOP Inc. 457 A. 2d 701 (Del. 1983) (US).

Wertheimer B. M. (1998) The shareholders' appraisal remedy and how courts determine fair value *Duke Law Journal* 47(4), 613-716.

Yuspeh v Koch 2002-698 (La. App. 5th Circuit 2003) 840 So. 2d 41.