



Fee-Shifting Provisions and the SEC

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Despite the pleas of Senator Blumenthal and others, the SEC seems content to wait, at least temporarily, for the outcome, from the Delaware courts or legislature. Even if the SEC continues to await the Delaware outcome and the outcome is that fee-shifting provisions are not allowed in Delaware “for profit” corporations, the SEC cannot be assured, however, that the problem has been cured, since other states may determine to allow such provisions. In the end, the SEC may be forced to act or see a demise of private enforcement of the U.S. securities laws. For now, though, the SEC continues to watch and wait.

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