

Nevada Classified Sch. Emp. Ass'n v. Quaglia, 124 Nev. Adv. Op. No. 6

(Feb. 28, 2008)¹

CORPORATE LAW - BYLAWS

Summary:

Appellant is Nevada Classified School Employees Association (NCSEA). NCSEA is a non profit corporation with multiple chapters whose members are Nevada public school district employees. NCSEA is governed by its articles of incorporation and bylaws. The articles of incorporation require each member have equal voting power. “[T]he bylaws state that ‘each Chapter shall be entitled to one (1) Delegate for every fifty (50) members or part thereof, with a maximum of seven (7) Delegates.’”²

In 2003, at the annual delegate conference, the NCSEA passed an amendment to article III, section 3 of the bylaws. Prior to the amendment, section three had a provision for dissociation which allowed chapters to disaffiliate by giving the NCSEA notice. The amendment changed section three to require a two-thirds majority of the entire chapter membership in order to disaffiliate.

At the conference, respondent Washoe County, Chapter 2 of the NCSEA, had 923 members, and was represented by seven delegates (the maximum number of delegates allowed under the bylaws). Chapter 2 had one delegate for every 132 members; the other chapters had one delegate for every 23 members. This resulted in Chapter 2 having unequal voting power as required by the articles of incorporation.

Chapter 2 was the only chapter that voted against the amendment to section three. Chapter 2 cast all seven of its votes against the amendment. The amendment passed thirty to seven. Twenty-eight votes were from other chapters, and two were from members of the state board who were given the right to vote.

In 2004, Chapter 2 notified NCSEA that it was disaffiliating. NCSEA tried to prevent the disaffiliation and moved for injunctive relief. NCSEA argued that Chapter 2 had not met the requirements of amended section three. Chapter 2 counterclaimed arguing that it was not bound by the amendment because the amendment was not valid under the articles of incorporation.

The district court concluded that “[a]n in-depth analysis would probably support a conclusion that [section 3] is void for violating NCSEA’s Articles of Incorporation.”³ The district court denied NCSEA’s complaint for injunctive relief and granted Chapter 2’s counterclaim and approved disaffiliation. NCSEA appealed.

¹ By Emily Reed

² Nevada Classified Sch. Emp. Ass'n v. Quaglia, 124 Nev. Adv. Op. No. 6, 3 (Feb. 28, 2008).

³ *Id.* at 4.

Issue and Disposition:

Issue

Is a corporate bylaw invalid when it violates the voting requirements of a corporation's articles of incorporation?

Disposition

Yes. A corporation's bylaws must be consistent with its articles of incorporation to be valid. Any amendments made in compliance with the invalid bylaw are also invalid. The Nevada Supreme Court affirmed the district court's decision refusing to grant a preliminary injunction based upon the invalid amendment and affirmed a grant of declaratory relief to the opposing party.

Commentary:

State of the Law Before Nevada Classified Sch. Emp. Ass'n v. Quaglia

This case is an issue of first impression for Nevada. The Nevada Supreme Court looked to the Delaware Supreme Court and other states for guidance. The Nevada Supreme Court has adopted the rule from the Delaware Supreme Court.

Other Jurisdictions

The court notes that multiple states have determined that a corporation's bylaw is void when it conflicts with the articles of incorporation.⁴ In Delaware, the Supreme Court has stated that "[w]here a by-law provision is in conflict with a provision of the charter, the by-law provision is a 'nullity.'"⁵ This rule is essentially identical to the rule cited by the court for both Oregon and Alabama.⁶

Effect of Nevada Classified Sch. Emp. Ass'n v. Quaglia on Current Law

Because this is a case of first impression, the effect on Nevada law is to bring the law into compliance with other states. Nevada law now requires a corporation's bylaws to be consistent and in compliance with that corporation's articles of incorporation to be valid.

Conclusion:

When a corporation's bylaws conflict its articles of incorporation it is invalid. Any amendments to the bylaws made in compliance with the invalid bylaw are likewise invalid.

⁴ See *Roach v. Bynum*, 403 So. 2d 187, 192 (Ala. 1981); *State v. Ostrander*, 318 P.2d 284, 289-90 (Or. 1957); *Mount Gideon Baptist Church v. Robinson*, 812 So. 2d 758, 763 (La. Ct. App. 2002).

⁵ *Nevada Classified Sch. Emp. Ass'n*, 124 Nev. Adv. Op. No. at 6 (quoting *Centaur Partners v. Nat. Intergroup, Inc.*, 582 A.2d 923, 929 (De. 1990)).

⁶ *Roach*, 403 So. 2d at 192; *Ostrander*, 318 P.2d at 289-90.