10. Derivative claims

Company Law (10th edn)
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Titles in the Core Text series take the reader straight to the heart of the subject, providing focused, concise, and reliable guides for students at all levels. This chapter examines derivative action as a means of safeguarding minority shareholders against abuses of power and its implications for the principle of majority rule. It begins by analysing the rule in *Foss v Harbottle* (1843), which translates the doctrine of separate legal personality, the statutory contract, the ‘internal management principle’, and the principle of majority rule into a rule of procedure governing *locus standi* (that is, who has standing to sue), as well as the exceptions to that rule. It then considers various types of shareholder actions, including personal claims, representative actions (group litigation), and derivative claims. It also discusses derivative claims under the Companies Act 2006, with emphasis on the two-stage process of the application for permission to continue a derivative claim. The chapter concludes by assessing bars to a derivative action, together with liability insurance and qualifying third party indemnity provisions.
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