

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|-----------------------------|---------------------------------|
| GERALD A. LECHLITER, | § |
| | § |
| Plaintiff Below, | § No. 104, 2016 |
| Appellant, | § |
| | § Court Below—Court of Chancery |
| v. | § of the State of Delaware |
| | § |
| DELAWARE DEPARTMENT OF | § C.A. No. 7939 |
| NATURAL RESOURCES & | § |
| ENVIRONMENTAL CONTROL, | § |
| COLLIN O’MARA, DAVID | § |
| SMALL, CHARLES SALKIN, | § |
| CITY OF LEWES, UNIVERSITY | § |
| OF DELAWARE, PATRICK T. | § |
| HARKER, SCOTT R. DOUGLASS, | § |
| NANCY M. TARGETT, BLUE | § |
| HEN WIND, INC., FIRST STATE | § |
| MARINE WIND, LLC, and | § |
| GAMESA TECHNOLOGY | § |
| CORPORATION, INC. | § |
| | § |
| Defendants Below, | § |
| Appellees. | § |

Submitted: June 10, 2016

Decided: August 22, 2016

Before **STRINE**, Chief Justice; **HOLLAND** and **SEITZ**, Justices.

ORDER

This 22nd day of August 2016, upon consideration of the parties’ briefs and the record below, we find it evident that the judgment of the Court of Chancery should be affirmed on the basis of and for the reasons assigned in the well-

reasoned decision dated December 31, 2015.¹ The Court of Chancery's thorough decision exemplifies how seriously it treated the plaintiff's claims. Notwithstanding that, the plaintiff faults the Court of Chancery for not formally notifying him that it would treat certain defendants' motion to dismiss as a motion for summary judgment, even though the plaintiff answered that motion (and a related summary judgment motion by other defendants) by filing a brief with a large appendix of documents outside of his complaint. Whatever technical lack of notice provided by the Court of Chancery was harmless, as the record makes clear that the plaintiff and the defendants were aware of the record that was being considered, the only exhibits cited by the defendants who moved to dismiss were incorporated in and integral to the plaintiff's complaint, some of the defendants explicitly moved for summary judgment, the plaintiff himself asked the Court of Chancery to consider additional documents in addressing the motions, and the record read in the light most favorable to the plaintiff supports the Court of Chancery's conclusion that there were no circumstances in which the plaintiff could succeed on his claims.²

¹ *Lechliter v. Delaware Dept. of Natural Res. & Env'tl. Control*, 2015 WL 9591587 (Del. Ch. Dec. 31, 2015).

² *See Appriva S'holder Litig. Co. v. EV3, Inc.*, 937 A.2d 1275, 1288 (Del. 2008) (holding error in conversion of Rule 12(b)(6) motion without notice is harmless when there is no set of facts on which plaintiff could recover).

NOW, THEREFORE, IT IS ORDERED that the judgment of the Court of
Chancery is AFFIRMED.

BY THE COURT:

/s/ Leo E. Strine, Jr._____

Chief Justice