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February 27, 2026

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RE: *In re Saama Technologies Litigation*,
C.A. No. 2022-1045-LWW

Dear Counsel,

In this longstanding litigation, plaintiff Suresh Katta contends that defendants Warrior Holdings, LLC, Vivek Sharma, and Thomas Rogers objected to an earnout in bad faith and breached their fiduciary duties. Today—Friday—is the last business day before a five-day trial begins. But on Wednesday, Katta moved to amend the

pleadings to include claims for fraud and/or aiding and abetting.[1] This morning, the defendants filed an opposition to the motion.[2]

For the reasons that follow, Katta's motion is denied.

I. BACKGROUND

This earnout litigation has taken an unusual number of procedural twists.

In November 2022, I entered a partial judgment granting Katta's request to compel arbitration over the earnout—the original focus of this suit.[3] In October 2024, I granted Katta's motion to vacate that partial judgment so that he could file an amended complaint with new theories, including tortious interference and breach of fiduciary duty.[4] On January 23, 2025, the complaint was amended once more.[5]

Discovery ensued. In June 2025, the defendants produced a version of a Carlyle Investment Committee memo that Katta contends was "unsanitized" relative to the version previously provided.[6] During depositions in October 2025, Katta

[1] Pl.'s Mot. to Conform Pleadings or, in the Alternative, for Leave to Am. Pleadings Under Ct. Ch. R. 15 (Dkt. 414) ("Mot").

[2] Defs.' Opp'n to Pl.'s Mot. to Conform Pleadings or, in the Alternative, for Leave to Am. the Pleadings Under Ct. Ch. R. 15 (Dkt. 422) ("Opp'n").

[3] Verified Compl. (Dkt. 1); Order Granting Pl.'s Mot. to Compel Arbitration (Dkt. 47).

[4] Order Granting Pl.'s Mot. to Vacate the Court's Partial J. and Am. and Suppl. Compl. (Dkt. 106); Verified Am. and Suppl. Compl. (Dkt. 107).

[5] Verified Second Am. Compl. (Dkt. 130).

[6] Mot. ¶ 9; Opp'n ¶ 5.

claims that he realized there were material discrepancies between the two versions of the memo. He formed the view that he had been defrauded.[7]

The case then moved into expert discovery. On December 19, 2025, Katta served the opening expert report of Dr. Richard Manning (the "Manning Report").[8] The Manning Report briefly noted that counsel was "considering a fraud claim in light of discovery obtained over the course of this action" and included a fraud damages analysis.[9]

Numerous pre-trial filings were made in January 2026. Relevant here, on January 26, Katta filed a motion for spoliation sanctions that said he "only learned of a potential fraud claim in discovery" and might "seek leave to conform the complaint to the evidence" if "trial supports such a claim."[10] And on February 20, Katta served his pre-trial brief, which included an extended discussion of anticipated fraud and aiding and abetting claims.[11] Still, he had not moved to amend the second amended complaint, though the pre-trial order reserved his right to do so.[12]

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[7] Mot. ¶¶ 10-13.

[8] Notice of Service (Dkt. 311).

[9] Trans. Aff. of Clara E. Hubbard in Supp. of Pl.'s Opp'n to Defs.' Mot. to Strike Portions of Expert Report (Dkt. 336) Ex. 1 ("Manning Report") ¶¶ 12, 157.

[10] Pl.'s Mot. for Spoliation Sanctions (Dkt. 324) ¶ 5 n.1.

[11] Pl. and Countercl. Def.'s Pre-trial Br. (Dkt. 401).

[12] Joint Pre-trial Stipulation and Order (Dkt. 412) ¶ 145.

II. ANALYSIS

Now, Katta wishes to file a third amended complaint to add claims for fraudulent inducement and aiding and abetting breaches of fiduciary duty against both existing defendants and previously dismissed ones. To achieve this, he pursues two paths under Rule 15. He moves to amend his complaint either pre-trial under Rule 15(a), or to conform it to evidence he hopes to adduce at trial under Rule 15(b).

A. Leave to Amend Under Rule 15(a)

First, Katta seeks to file a third amended complaint before trial. Court of Chancery Rule 15(a) provides that leave to amend a pleading should be "freely give[n] . . . when justice so requires."[13] The rule embodies a preference that disputes "be decided on their merits."[14] As such, leave to amend should be granted unless the non-movant shows "undue prejudice, undue delay, bad faith, dilatory motive or futility of amendment."[15] "Prejudice to the nonmoving party is the touchstone for

[13] Ct. Ch. R. 15(a).

[14] *Cypress Assocs., LLC v. Sunnyside Cogeneration Assocs. Project*, 2007 WL 148754, at *18 (Del. Ch. Jan 17, 2007).

[15] *Cantor Fitzgerald, L.P. v. Cantor*, 1999 WL 413394, at *2 (Del. Ch. June 15, 1999).

the denial of an amendment."[16] Whether to grant leave to amend is "addressed to the discretion of the trial court."[17]

Katta asserts that he learned late in the discovery process that the defendants fraudulently induced him into signing the Merger Agreement.[18] They did so, he alleges, by concealing plans to assert premeditated objections about the earnout, to terminate him shortly after closing, and to withhold resources from Saama.[19] To excuse his delay, Katta maintains that though the Investment Committee memo was produced in June 2025, he did not review it until preparing for depositions in October.[20]

This is the epitome of undue delay. By Katta's own admission, he "realized" the basis for the fraud claim by October 2025 at the latest.[21] Yet he allowed the November fact discovery deadline to pass and waited until the eve of trial to formally seek leave to amend. All the while, as the Manning Report and pre-trial filings show, he was preparing to pursue a fraud theory at trial. In fact, Katta's counsel conceded

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[16] *Whittington v. Dragon Gp. L.L.C.*, 2011 WL 497612, at *6 (Del. Ch. Feb. 11, 2011) (citation omitted).

[17] *Bokat v. Getty Oil Co.*, 262 A.2d 246, 251 (Del. 1970).

[18] *See* Mot. ¶ 2.

[19] Mot. ¶ 2.

[20] *Id.* ¶ 10.

[21] *Id.*

that they were "waiting to pull the trigger on a fraud claim as long as [they] could."[22] Such strategic delay is improper.[23]

If the complaint were amended, the resulting prejudice to the defendants would be severe. Unlike the existing claims, a fraud claim requires proof of knowingly false statements, scienter, and justifiable reliance.[24] Permitting Katta to plead a fraud claim now would deprive the defendants of the opportunity to test it through motions practice under the heightened pleading standard of Rule 9(b). It would also bar them from taking discovery on the elements of the fraud theory, such as probing Katta's reliance through further deposition questioning.

The prejudice is compounded by Katta's request to assert the claims against the "Carlyle Investors."[25] These parties were dismissed from the suit with prejudice in November 2025.[26] It is unreasonable to expect parties who have extracted

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[22] Opp'n ¶ 11 (citation omitted); Tr. of Feb. 24, 2026 Pretrial Conference (Dkt. 426) 25 (defense counsel quoting Katta's counsel at a motion to strike hearing).

[23] *See Those Certain Underwriters at Lloyd's, London v. Nat'l Installment Ins. Servs., Inc.*, 2008 WL 2133417, at *8-9 (Del. Ch. May 21, 2008) (denying amendment where "inexcusable" delay was "purposeful").

[24] *See Stephenson v. Capano Dev., Inc.*, 462 A.2d 1069, 1074 (Del. 1983).

[25] The Carlyle Investors consist of Cap Growth II, LLC, Carlyle Partners VIII, L.P., and Carlyle Partners Growth, L.P. *See* Opp'n ¶ 3.

[26] Dkt. 283.

themselves from this litigation to defend against new claims seeking hundreds of millions of dollars in damages on two days' notice.

B. Leave to Amend Under Rule 15(b)

Second, Katta seeks to conform the pleadings to the evidence under Court of Chancery Rule 15(b).[27] The rule permits amendment if, "at trial," a party objects that evidence is outside the pleadings, provided the amendment aids in presenting the merits and the objecting party fails to show prejudice.[28] Under Rule 15(b)(1), "[i]f, at trial, a party objects that evidence is not within the issues raised in the pleadings, the court may permit the pleadings to be amended."[29] In that case, leave to amend should be "freely permit[ted] . . . when doing so will aid in presenting the merits and the objecting party fails to satisfy the Court that the evidence would prejudice that party's action or defense on the merits."[30] Under Rule 15(b)(2), if an unpleaded issue is "tried with the parties' express or implied consent," it is "treated

[27] Mot. ¶ 21.

[28] Ct. Ch. R. 15(b).

[29] Ct. Ch. R. 15(b)(1).

[30] *Id.*

in all respects as if raised in the pleadings."[31] As with Rule 15(a), whether to grant leave to amend under Rule 15(b) rests within the court's sound discretion.[32]

Katta's reliance on Rule 15(b) is procedurally improper and substantively flawed. By its text, the rule applies only during trial or after trial when an issue has been tried by consent.[33] We are not yet at trial. Regardless, using a Rule 15(b) motion to assert entirely new claims is disfavored.[34] The rule is designed "to correct the theory of an existing claim and not to assert new and different claims."[35]

Katta attempts to bridge this gap by arguing that the evidence supporting his fraud claim is a "subset" of the evidence supporting his long-pleaded contract claims.[36] But implied consent to try an unpleaded issue cannot be inferred merely because evidence relevant to a properly pleaded claim also tends to prove an unpleaded fact.[37] Because the Investment Committee memo and related communications are relevant to the existing breach of contract and fiduciary duty

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[31] Ct. Ch. R. 15(b)(2).

[32] *See Bellanca Corp. v. Bellanca*, 169 A.2d 620, 622-23 (Del. 1961).

[33] Ct. Ch. R. 15(b); *see* Opp'n ¶ 29.

[34] *See Zutrau v. Jansing*, 2014 WL 6901461, at *3 (Del. Ch. Dec. 8, 2014), *aff'd*, 123 A.3d 938 (Del. 2015).

[35] *Id.*

[36] Mot. ¶ 3.

[37] *See Vichi v. Koninklijke Philips Elecs., N.V.*, 85 A.3d 725, 760 (Del. Ch. 2014).

claims, the defendants lacked fair notice that an unpleaded fraud claim was being tried.[38] The Manning Report's vague reference to counsel "considering a fraud claim," served just weeks before trial, did not cure the lack of notice.[39] The same prejudice addressed above regarding Rule 15(a) would also result if a Rule 15(b) motion were granted.[40]

To preempt any confusion at trial, I will make the evidentiary boundaries clear. Evidence regarding the pre-merger Investment Committee memos may be relevant to demonstrating the defendants' intent or motive behind the February 2022 earnout objection. Its introduction for that limited purpose, however, will not constitute implied consent to try unpleaded claims for fraudulent inducement or aiding and abetting. Katta's counsel must focus their presentation on the properly pleaded claims. I will not expect the defendants' counsel to lodge a continuing objection every time evidence potentially touching upon fraud or aiding and abetting is adduced.

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[38] *See id.*

[39] *See Zutrau*, 2014 WL 6901461, at *7 ("Pleadings are intended to provide fair notice to the opposing party of the legal and factual theories and claims to be litigated.").

[40] *See supra* Section II.A.

III. CONCLUSION

For the foregoing reasons, Katta's motion to conform the pleadings or for leave to amend is denied. Trial will proceed as scheduled on the claims and against the parties currently before the court. IT IS SO ORDERED.

Sincerely yours,

/s/ Lori W. Will

Lori W. Will
Vice Chancellor