

**COURT OF CHANCERY
OF THE
STATE OF DELAWARE**

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JUDGE

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RE: *WIA Holdings LLC et al. v. Scottish American Capital LLC et al.*
2024-1226 PRW
Plaintiffs' Motion for Limited Reargument

Dear Counsel:

This Letter Decision and Order resolves Plaintiffs' Motion for Limited Reargument (D.I. 34). For the reasons explained below, Plaintiffs' Motion is **GRANTED**.

I. FACTUAL & PROCEDURAL BACKGROUND¹

This action arises out of a post-closing dispute following WIA’s April 9, 2021 acquisition of certain insurance-related assets and entities from Scottish American Capital LLC (“SAC”) pursuant to a Securities Purchase Agreement (the “SPA”).² Under the SPA, SAC made various representations and warranties and undertook indemnification obligations in favor of WIA.³ After closing, WIA contends that it discovered undisclosed liabilities and compliance issues—including matters relating to an AIG audit, ongoing violations of a settlement with Standard Lines Brokerage, and other alleged undisclosed proceedings—and further alleges that SAC failed to satisfy its contractual indemnification obligations.⁴ WIA also alleges that SAC, at the direction of its managing member Paul Thomson, distributed transaction

¹ For the purpose of analyzing this and the underlying motion to dismiss, the following facts are drawn from the Plaintiffs’ Verified Second Amended Complaint. *See Windsor I, LLC v. CW Capital Asset Mgmt. LLC*, 238 A.3d 863, 873 (Del. 2020) (“In most cases, when . . . [the] Court considers a 12(b)(6) motion, it limits analysis to the ‘universe of facts’ within the complaint and any attached documents.”). Mindful that the parties have a complete understanding of and familiarity with the factual background, the Court dispenses with a fuller recounting thereof here. In addition to the facts presented here, the Court has considered the facts set forth in its previous decision to resolve the issues presented in Plaintiffs’ Motion for Reargument. *Kovach v. Brandywine Innkeepers Ltd. Partnership*, 2001 WL 1198944, at *1 n.1 (Del. Super. Ct. Oct. 1, 2001); *Miles, Inc. v. Cookson Am., Inc.*, 677 A.2d 505, 506 (Del. Ch. 1995) (“[A] motion for reargument properly seeks only a re-examination of the facts in record at the time of decision or the law as it applies to those facts.”).

² *See generally* Second Amend. Compl. (D.I. 18).

³ *See generally* Second Amend. Compl. Ex. B [hereinafter “SPA”].

⁴ *See generally* Second Amend. Compl.

proceeds to insiders in a manner that rendered SAC unable to meet those obligations.⁵

Procedurally, Plaintiffs initiated parallel actions in this Court and the Superior Court, which were subsequently consolidated.⁶ Plaintiffs amended their pleading multiple times, culminating in the Verified Second Amended Complaint filed April 30, 2025.⁷ That pleading asserts claims for breach of contract, indemnification, declaratory relief, fraud, unjust enrichment, fraudulent transfer, and related tort theories against SAC, Mr. Thomson, and certain unnamed defendants.⁸ Defendants moved to dismiss portions of the Complaint under Rule 12(b)(6).⁹

By Memorandum Opinion dated January 20, 2026, the Court granted the motion in part and denied it in part, sustaining Plaintiffs' breach-of-contract and fraudulent transfer claims while dismissing, among others, the unjust enrichment claim and the claims against Mr. Thomson for aiding and abetting and civil conspiracy.¹⁰ Plaintiffs thereafter filed a motion styled as one for reargument.¹¹

⁵ *See generally id.*

⁶ D.I. 10; D.I. 7 (Plaintiffs' Letter seeking cross-designation).

⁷ D.I. 18.

⁸ *See generally* Second Amend. Compl.

⁹ D.I. 21.

¹⁰ D.I. 33.

¹¹ Pl.s' Mot. Reargument (D.I. 34). Since this motion for reargument, Plaintiffs have docketed

II. PARTIES' CONTENTIONS

A. PLAINTIFFS' CONTENTIONS

Plaintiffs argue that the Court's Order is unclear as to the disposition of the claims against Mr. Thomson as a defendant to the surviving fraudulent transfer claim and the rejected unjust enrichment claim.¹² First, they contend that although the Court dismissed aiding and abetting and conspiracy claims against Mr. Thomson, it expressly allowed the fraudulent transfer claim to proceed, which was pleaded against all Defendants, including Mr. Thomson as a transferee of allegedly improper distributions.¹³ Therefore, Mr. Thomson should remain in the case because plaintiffs seek remedies directly against him, such as disgorgement and constructive trust over transferred assets.¹⁴ Second, although unjust enrichment has been dismissed, Plaintiffs assert that the unjust enrichment claim should survive as to Mr. Thomson because he isn't a party to the governing SPA; thus, the contractual bar to unjust

another further amended complaint. The Court addresses only the complaint that was operative at the time of dismissal—Plaintiffs' Verified Second Complaint (D.I. 18). To the extent Plaintiffs' subsequent amendments raise new or distinct issues, the parties might address those matters, if appropriate, through subsequent substantive filings.

¹² *See generally* Pl.s' Mot. Reargument.

¹³ Pl.s' Mot. Reargument at 3–5.

¹⁴ *Id.*

enrichment doesn't apply to him.¹⁵

B. DEFENDANTS' CONTENTIONS

Defendants argue that the motion for reargument should be denied because Plaintiffs fail to meet the high standard required to show that the Court overlooked controlling facts or law.¹⁶ On the fraudulent transfer issue, Defendants contend that any confusion about whether Mr. Thomson remains a defendant stems from Plaintiffs' own poorly drafted and ambiguous complaint, which relies on vague group pleading and fails to clearly specify which claims apply to which defendants.¹⁷ They argue that such pleading defects do not justify reargument.¹⁸ Regarding unjust enrichment, Defendants assert that Plaintiffs are merely rehashing arguments already considered and rejected by the Court.¹⁹ Therefore, they argue that the motion should be denied.²⁰

III. APPLICABLE STANDARD OF REVIEW

A motion to dismiss under this Court's Rule 12(b)(6) tasks the Court with

¹⁵ *Id.* at 5–7.

¹⁶ *See generally* Def.s' Resp. (D.I. 35).

¹⁷ Def.s' Resp. at 3–5.

¹⁸ *Id.*

¹⁹ *Id.* at 5–8.

²⁰ *See generally* Def.s' Resp.

weighing the complaint’s allegations against the reasonable conceivability pleading standard.²¹ Thereunder, the Court accepts all of the non-movant’s well-pleaded allegations as true, draws all reasonable inferences in its favor, and grants dismissal only if recovery is not possible under any reasonably conceivable set of circumstances susceptible of proof.²²

Under Rule 59, there are various species of relief that might be sought or granted. Essentially, Rule 59 applies if “the Court has overlooked a controlling precedent or legal principles, or the Court has misapprehended the law or facts such as would have changed the outcome of the underlying decision.”²³

After the Court issued its initial decision, WIA sought “reargument.” But as explained below, the Court considers WIA’s request really as an ask that the Court

²¹ *Windsor I, LLC v. CW Capital Asset Mgmt. LLC*, 238 A.3d 863, 871–72 (Del. 2020) (quoting *In re General Motors (Hughes) S’holder Litig.*, 897 A.2d 162, 168 (Del. 2006)) (“The grant of a motion to dismiss is only appropriate when the ‘plaintiff would not be entitled to recover under any reasonably conceivable set of circumstances susceptible of proof.’”).

²² All Delaware courts treat decisions under Court of Chancery and Superior Court’s respective Rules 12(b)(6) interchangeably. *See In re General Motors (Hughes) S’holder Litig.*, 897 A.2d 162, 168 (Del. 2006) (a Court of Chancery appeal quoting the Rule 12(b)(6) standard articulated in *Savor, Inc. v. FMR Corp.*, 812 A.2d 894, 896–97 (Del. 2002), a Superior Court appeal); *see also CLP Toxicology, Inc. v. Casla Bio Holdings LLC*, 2020 WL 3564622, at *9 n.65 (Del. Ch. Jun. 29, 2020) (explaining that there is no substantive difference between the two Courts’ rules nor any operative difference in the analyses engaged under them to decide a Rule 12(b)(6) motion to dismiss).

²³ *Bd. of Managers of the Delaware Crim. Just. Info. Sys. v. Gannett Co.*, 2003 WL 1579170, at *1 (Del. Super. Ct. Jan. 17, 2003); *Miles, Inc. v. Cookson Am., Inc.*, 677 A.2d 505, 506 (Del. Ch. 1995).

clarify its disposition of the claims and named defendants. “A motion for clarification may be granted where the meaning of what the Court has written is unclear.”²⁴ Procedurally, a motion for clarification is treated as a motion for reargument.²⁵ The Court’s review is “limited to consideration of the record,”²⁶ meaning the Court may not consider issues raised for the first time in a motion for clarification or reargument.²⁷ Such an application “is not an opportunity for a party to rehash arguments already decided by the Court or to present new arguments not previously raised.”²⁸

IV. DISCUSSION

The Court observes that, although Plaintiffs have styled their submission as a motion for reargument under Rule 59(f), the substance of the application doesn’t meaningfully seek reconsideration based on overlooked law or facts. Rather, the

²⁴ *New Castle County v. Pike Creek Recreational Services*, 2013 WL 6904387, at *2 (Del. Ch. Dec. 30, 2013) (quoting *Naughty Monkey LLC v. MarineMax Northeast LLC*, 2011 WL 684626, at *1 (Del. Ch. Feb. 17, 2011)).

²⁵ Ct. Ch. R. 59(e); *Pike Creek Recreational Services*, 2013 WL 6904387, at *2; *McMillan v. Nelson*, 2024 WL 3757549, at *1 (Del. Ch. Aug. 12, 2024).

²⁶ *Pike Creek Recreational Services*, 2013 WL 6904387, at *2.

²⁷ *Id.*

²⁸ *Strong v. Wells Fargo Bank*, 2013 WL 1228028, at *1 (Del. Super. Ct. Jan. 3, 2013); *Merrill Lynch Pierce Fenner & Smith, Inc. v. Sun K. Shin*, 1984 WL 8224, at *1 (Del. Ch. June 13, 1984) (“The motion is not designed to accommodate a reargument of matters which were previously considered and determined.”).

motion primarily requests clarification as to the scope and effect of the Court’s prior ruling—specifically, whether Defendant Paul Thomson remains a party to the surviving fraudulent transfer claim and whether the dismissal of the unjust enrichment claim extends to him.²⁹ Framed in this manner, the core request is not so much one for reargument, but instead concerns the interpretation of the Court’s prior Opinion.

Accordingly, the Court treats Plaintiffs’ motion as one for clarification of its January 20, 2026 Memorandum Opinion and Order.³⁰ The Court resolves the motion as follows. First, the Court confirms that the fraudulent transfer claim (Count VII) includes Mr. Thomson, and that he remains a defendant in this action in his capacity as an alleged transferee. Second, the Court confirms that the unjust enrichment claim (Count VI) is dismissed in its entirety, including as to Mr. Thomson, notwithstanding his status as a non-signatory to the SPA. The Court issues this clarification and will incorporate conforming edits to its prior decision to eliminate any ambiguity regarding which claims now proceed and against whom.

²⁹ See generally Pl.s’ Mot. Reargument.

³⁰ *Naughty Monkey*, 2011 WL 684626, at *1 (“A motion for clarification may be granted where the meaning of what the Court has written is unclear, and such a motion is treated, procedurally, as a motion for reargument under Court of Chancery Rule 59(f).”).

**MR. THOMSON REMAINS A DEFENDANT FOR THE
FRAUDULENT TRANSFER CLAIM (COUNT VII).**

First, as to Count VII, the Court denied Defendants’ motion to dismiss Plaintiffs’ fraudulent transfer claim. That claim, as pled, isn’t limited in scope to any single defendant;³¹ rather, it runs against all remaining Defendants, including Paul Thomson, and proceeds on a theory of transferee liability under Delaware’s Uniform Fraudulent Transfer Act. The Opinion expressly analyzed the sufficiency of Plaintiffs’ allegations under that statutory framework, including allegations that assets were transferred while insolvent or with the intent to hinder, delay, or defraud creditors, and concluded that those allegations were sufficient at the pleading stage to survive dismissal.³² That necessarily implied that transferees—here Mr. Thomson—would be bound to the theory’s effect.³³

Thus, to the extent the concluding portion of the Opinion could be read to suggest that Mr. Thomson was dismissed from the case in full, the Court’s wording was too imprecise. The Court’s dismissal of certain claims against Mr. Thomson—namely, aiding and abetting and civil conspiracy—didn’t operate to extinguish

³¹ Second Amend. Compl. at 90–94.

³² Memorandum Op. at 36–38 (D.I. 33).

³³ *Id.*; DEL. CODE ANN. tit. 6, §§ 1304, 1307 (2025) (discussing that an available remedy is avoidance of the transfer).

claims that were independently sustained. The fraudulent transfer claim remains viable, and it remains viable as to Mr. Thomson in his alleged capacity as a transferee. He therefore remains a defendant in this action for purposes of Count VII, and the Opinion is clarified to eliminate any ambiguity on that point.

**THE UNJUST ENRICHMENT CLAIM (COUNT VI)
IS DISMISSED IN ITS ENTIRETY.**

Second, Plaintiffs seek to reargue that Mr. Thomson's status as a non-signatory to the SPA permits the unjust enrichment claim to proceed against him.³⁴ In the Opinion, the Court considered the governing principles of unjust enrichment in the context of an express contract and applied them directly to Mr. Thomson.³⁵ The Court concluded that the SPA supplies the operative framework for the alleged injury because the unjust enrichment claim is expressly premised on SAC's alleged failure to satisfy its indemnification obligations under that agreement.³⁶ The claim therefore arises directly from the parties' contractual relationship and the rights and obligations defined by the SPA, and resultingly, unjust enrichment is without use as a matter of law.³⁷

³⁴ Pl.s' Mot. Reargument at 5–7.

³⁵ *Id.*; Memorandum Op. at 42–44.

³⁶ Memorandum Op. at 42–44.

³⁷ *Id.*

Plaintiffs' argument doesn't identify any ambiguity in that holding, nor does it point to any authority or fact the Court overlooked. Plaintiffs instead reassert that the unjust enrichment claim should continue against Mr. Thomson because he didn't sign the SPA.³⁸ The Court has already considered and rejected that. Accordingly, the Court need only point to its prior order to find that the unjust enrichment claim is foreclosed as a matter of law.³⁹ The dismissal of Count VI as to all named defendants remains undisturbed.

V. CONCLUSION

In sum, the Court clarifies that Defendant Paul Thomson remains in this action as a defendant to Count VII for fraudulent transfer. The unjust enrichment claim is dismissed. The Court will reissue the Opinion to reflect these clarifications. Accordingly, Plaintiffs' Motion for Limited Reargument is **GRANTED** solely for the purpose of clarification and is denied in all other respects.

IT IS SO ORDERED.

/s/ Paul R. Wallace

Paul R. Wallace, Judge*

³⁸ Pl.s' Mot. Reargument at 5–7.

³⁹ *Wessells v. Am. Int'l Grp.*, 2002 WL 233732, at *1 (Del. Super. Ct. Feb. 5, 2002) (“It is a generally held principle that no grounds for reargument are present when the moving party is only advancing matters already considered and resolved by the Court.”).

* Sitting by designation of the Chief Justice pursuant to *In re Designation of Actions Filed Pursuant to 8 Del. C. § 111* (Del. May 30, 2025) (FIFTH AMENDED ORDER).