**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

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| EVENTUS HOLDINGS LLC, | ) | |
| | ) | |
| Plaintiff, | ) | |
| | ) | |
| v. | ) | C.A. No. N25C-09-002 SKR CCLD |
| | ) | |
| CLIQ, INC. and ANDREW M. PHILLIPS,[1] | ) | |
| | ) | |
| | ) | |
| Defendants. | ) | |

Submitted: February 20, 2026
Decided: May 14, 2026

*Upon Consideration of Certain Defendants' Motion to Dismiss or Stay the Action Pending Arbitration:*
**GRANTED**

**MEMORANDUM OPINION AND ORDER**

Jeffrey S. Cianciulli, Esq., WEIR LLP, Wilmington, Delaware, *Attorney for Plaintiff Eventus Holdings LLC.*

Christopher D. Loizides, Esq., LOIZIDES, P.A., Wilmington, Delaware, *Attorney for Defendants Cliq, Inc. and Andrew M. Phillips.*

**RENNIE, J.**

## I. INTRODUCTION

This matter presents a familiar judicial frustration: a settlement agreement designed to end litigation has instead become its source. Plaintiff Eventus Holdings LLC, a limited liability company operating in the payment processing sector, was

[1] Although the initial complaint named sixteen defendants, the claims against fourteen of those parties have been resolved by settlement. Accordingly, the Court adopts the parties' practice of modifying the caption to reflect only the remaining defendants.

formerly co-owned by Jonathan Beckman. Following an internal dispute, the members participated in mediation and executed a settlement agreement. Under its terms, Eventus purchased Beckman's membership interest, and Beckman committed to provide litigation assistance and to maintain strict confidentiality.

Prior to the execution of the settlement agreement, defendant Cliq, Inc., a competitor of Eventus, commenced a lawsuit against Eventus in California. Eventus alleges that Cliq and defendant Andrew M. Phillips, induced Beckman to violate his contractual obligations by disclosing confidential information and testifying against Eventus in the pending California action. It is these alleged breaches that give rise to the present action.

While Eventus originally asserted eight counts against sixteen defendants, a December 2025 settlement narrowed the scope of this dispute. The sole remaining claim is Count V, which alleges that Cliq and Phillips tortiously interfered with Eventus and Beckman's settlement agreement.

Cliq and Phillips now move to dismiss or, alternatively, stay this action on the grounds that the doctrine of equitable estoppel applies, enabling them, as non-signatories, to enforce the arbitration provision found in Eventus and Beckman's settlement. For the reasons articulated below, the Court finds that equitable estoppel is properly invoked. Accordingly, Defendants' Motion is

**GRANTED**, and this action is **STAYED** pending and subject to the arbitrator's decision on procedural arbitrability.

## II. BACKGROUND[2]

### A. The Parties[3]

Plaintiff Eventus Holdings LLC ("Eventus") is a Delaware limited liability company with its principal place of business in Washington.[4] Eventus operates within the payment processing industry, where it facilitates debit and credit card transactions between consumers, merchants, and banks.[5]

Nonparty Jonathan Beckman ("Beckman") is an individual residing in Oregon.[6] Beckman was a member of Eventus until his membership interest was redeemed pursuant to a confidential mediation.[7] While Beckman was originally named as a defendant in this action, Eventus voluntarily dismissed all claims against him in December 2025.[8]

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[2] The facts are drawn from the allegations in the complaint and the documents incorporated therein. *See* D.I. No. 3 ("Am. Compl."). Under the applicable standard of review, the Court may also draw facts from the parties' briefing and letters. *See* D.I. No. 6 ("Mot."); D.I. No. 12 ("Opp'n"); D.I. No. 13 ("Reply"); D.I. No. 21 ("Defs.' Letter"); D.I. No. 22 ("Pl.'s Letter"); D.I. No. 25 ("Pl.'s Supp. Br."); D.I. No. 26 ("Defs.' Supp. Br.").

[3] Although there were initially sixteen defendants named in this action, all but Cliq, Inc. and Andrew M. Phillips have been dismissed. D.I. No. 17 (hereinafter, the "Stipulation").

[4] Am. Compl. ¶ 1.

[5] *Id.*

[6] *Id.* at ¶ 3.

[7] *Id.* at ¶¶ 2–3.

[8] Stipulation.

Defendant Cliq, Inc. ("Cliq") is a California corporation with its principal place of business in California.[9] Cliq operates as a payment processor and registered money services business.[10]

Defendant Andrew M. Phillips ("Phillips" and collectively with Cliq, the "Defendants") is an individual residing in California.[11] Phillips serves as the Director, Chief Executive Officer, and beneficial owner of Cliq.[12]

### B. The Settlement Agreement

In 2021, an internal dispute arose between Beckman and the two other members of Eventus.[13] The parties resolved this dispute through a confidential mediation conducted by Joel A. Mullin ("Mullin").[14] The resulting settlement provided, among other things, for the redemption of Beckman's equity interest in Eventus.[15] In exchange, Beckman agreed to maintain the confidentiality of certain proprietary information[16] and to cooperate reasonably with Eventus in its ongoing and future litigation.[17] These terms were memorialized in the Settlement and Release Agreement (the "Settlement Agreement")[18] and an accompanying exhibit, the

[9] Am. Compl. ¶ 4.
[10] *Id.*
[11] *Id.* at ¶ 5.
[12] *Id.*
[13] *Id.* at ¶ 2.
[14] *Id.* at ¶ 2; Opp'n 4.
[15] Am. Compl. ¶ 2.
[16] Opp'n, Ex. A (hereinafter the "Redemption Agreement") § 8.1.
[17] Redemption Agreement § 10.
[18] Opp'n, Ex. B (hereinafter the "Settlement Agreement").

Equity Interest Redemption Agreement (the "Redemption Agreement" and, collectively with the Settlement Agreement, the "Agreement").[19]

The Agreement contains two provisions that the Defendants contend constitute binding arbitration clauses. First, Section III.G of the Settlement Agreement, titled "Additional Assurances and Cooperation," provides:

> The Parties will cooperate in good faith to execute any additional transaction documents required to effectuate the transactions contemplated by this Agreement, or any of the Schedules or Exhibits hereto. In the event of dispute over the terms of such documents, or any interference, breach, lack of cooperation, circumvention, frustration or failure to perform in connection herewith or with regard to any of the above, the Parties will submit such disputes to Mullin to act as arbiter (the Arbitrator ) of the disputes with power to decide such disputes, with a goal of arriving at terms that are commercially reasonable, in a binding and summary way, in his discretion, and to award reasonable fees and costs to either or neither party.[20]

Second, Section IV.P. of the Settlement Agreement, titled "Dispute Resolution," states:

> Any action or proceeding arising out of the interpretation or alleged breach of this Agreement shall be resolved through confidential arbitration. The Parties agree to request that Mullin serve as the arbitrator in any such proceeding. If Mullin is unwilling or unable to serve, the Parties agree that any such disputes will be submitted to any other partner at Stoel Rives LLP appointed by Mullin. The Parties agree that any action or proceeding arising out of this Agreement will be heard in Portland, Oregon.[21]

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[19] Redemption Agreement.
[20] Settlement Agreement § III.G.
[21] Settlement Agreement § IV.P. The Redemption Agreement incorporates this provision. Redemption Agreement § 12.

### C. Beckman's Alleged Breaches of the Settlement Agreement

The resolution of the pending motion does not require an exhaustive recitation of the minutia surrounding Beckman's alleged breaches. Nevertheless, certain background facts are necessary to contextualize Eventus' claim for tortious interference.[22] On September 15, 2021, Defendants initiated a civil action in California for breach of contract and usury against Beckman and the remaining members of Eventus.[23] Eventus alleges that Beckman, instead of cooperating with Eventus as contractually required under the Agreement, conspired with Defendants' counsel to harm Eventus.[24] Specifically, Defendants allegedly induced Beckman to disclose sensitive information and proprietary documents to them in direct violation of the confidentiality and cooperation provisions of the Agreement.[25]

### D. Procedural History

In January 2025, Beckman initiated arbitration against Eventus, claiming that he was owed additional funds under the Agreement.[26] Eventus participated in the arbitration and asserted Beckman's breach of the confidentiality and cooperation provisions as affirmative grounds to excuse its payment obligations.[27] Two days after the arbitrator demanded information from Eventus regarding negotiations

[22] *See* Am. Compl. ¶¶ 131–140.
[23] *See id.* at ¶ 7; Opp'n 11.
[24] Am. Compl. ¶ 67.
[25] *Id.* at ¶ 43.
[26] Defs.' Supp. Br. 1.
[27] *Id.* at 2.

surrounding an alleged "change of control" event, Eventus commenced the present action.[28] Eventus alleges it filed suit in response to an imminent threat by Beckman to file a formal complaint in another forum.[29]

Eventus filed its initial complaint in this Court on September 2, 2025.[30] Shortly thereafter, Eventus filed its amended complaint, seeking recovery for breach of contract,[31] breach of the implied covenant of good faith and fair dealing,[32] tortious interference with contract,[33] and a declaratory judgment that Eventus is excused from further performance under the Agreement.[34] On September 22, 2025, Cliq, Phillips, and Beckman filed a joint motion to dismiss or stay this action,[35] which they amended on October 1 2025.[36] The parties subsequently completed full briefing on that motion.[37] Prior to oral argument, fourteen of the sixteen originally named defendants, including Beckman, executed a settlement agreement with Eventus (the "Second Settlement Agreement").[38] Consequently, those fourteen defendants were dismissed from this action.[39] The dismissal of these defendants mooted all claims

[28] *Id.*
[29] Opp'n 5–6.
[30] D.I. No. 1.
[31] Am. Compl. ¶¶ 102–114.
[32] *Id.* at ¶¶ 115–130.
[33] *Id.* at ¶¶ 131–140, 148–165.
[34] *Id.* at ¶¶ 141–147.
[35] D.I. No. 4.
[36] Mot.
[37] *See* Mot., Opp'n., Reply.
[38] *See* Defs.' Letter 3 (stating that a settlement motivated the dismissal).
[39] Stipulation.

set forth in the amended complaint except for Count V, which alleged tortious interference against Cliq and Phillips.[40]

Eventus and Defendants each submitted a letter to the Court outlining their respective positions on how the Second Settlement Agreement impacted the pending motion to dismiss.[41] The Court subsequently held a status conference and ordered supplemental briefing.[42] The parties submitted their supplemental briefs on February 13, 2026,[43] and the Court heard oral argument on February 20, 2026. This motion is now ripe for adjudication.

## III. STANDARD OF REVIEW

Motions to dismiss in favor of arbitration are considered under Delaware Superior Court Civil Rule 12(b)(1) or 12(b)(3).[44] Regardless of which subsection governs, the Court may properly consider documents outside the pleadings.[45] Although the Court of Chancery has exclusive authority to compel arbitration, this Court maintains jurisdiction to determine whether a valid and enforceable arbitration

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[40] *See* Am. Compl. ¶¶ 102–165 (pleading all Counts except Count V against Beckman or the "Industry Defendants").
[41] *See* Defs.' Letter; Pl.'s Letter.
[42] *See* D.I. No. 24.
[43] Pl.'s Supp. Br.; Defs.' Supp. Br.
[44] *Monica v. Delta Data Software, Inc.*, 2026 WL 370756, at *4–5 (Del. Super. Feb. 10, 2026) (citing *Gandhi-Kapoor v. Hone Cap. LLC*, 307 A.3d 328, 343 (Del. Ch. 2023), *as corrected* (Dec. 4, 2023), *aff'd sub nom. CSC Upshot Ventures I, L.P. v. Gandi-Kapoor*, 326 A.3d 369, 2024 WL 3575652 (Del. 2024) (TABLE)). Where, as here, the arbitrability issue is raised at the pleading stage, there is no meaningful distinction between the procedural standards applicable under Rule 12(b)(1) and Rule 12(b)(3).
[45] *Id.* at *5.

agreement exists for the purpose of assessing whether the case should properly proceed in this forum.[46]

## IV. ANALYSIS

The Court's analysis proceeds in four parts. First, the Court holds that the initial Agreement is the operative contract for purposes of evaluating Eventus' tortious interference claim. Second, the Court determines that Section IV.P. is the applicable arbitration provision. Third, the Court finds that Eventus' claim for tortious interference falls within the scope of arbitration. Fourth, the Court concludes that equitable estoppel applies, permitting Defendants to enforce the arbitration clause.

### A. The Operative Contract

Because Eventus' amended complaint predates the Second Settlement Agreement, its tortious interference claim is predicated entirely upon Defendants' conduct relative to the initial Agreement. To state a claim for tortious interference with a contract under Delaware law, a plaintiff must plead: (1) a contract; (2) defendant's knowledge of that contract; (3) an intentional act that is a significant factor in causing the breach; (4) a lack of justification; and (5) resulting injury.[47]

[46] *Hurtt v. Del Frisco's Rest. Grp.*, 2019 WL 2516763, at *2 (Del. Super. June 18, 2019).
[47] *Tatum v. Fairstead Affordable LLC*, 347 A.3d 1221, 1271 (Del. Ch. 2025) (citing *Bhole, Inc. v. Shore Invs., Inc.*, 67 A.3d 444, 453 (Del. 2013)).

Eventus contends that the Second Settlement Agreement rescinded the arbitration provisions of the initial Agreement, thereby extinguishing any right to invoke them against Eventus.[48] While the complete text of the Second Settlement Agreement is not before the Court, Eventus has disclosed its dispute resolution clause, which provides:

> Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. The arbitration shall take place before a single arbitrator in a hearing held in Orange County, California. Any judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. All power and authority granted to Joel Mullin by the Parties under the Redemption Agreement, Settlement Agreement, and ISO Agreement and any other agreement, is terminated immediately upon [REDACTED] and dismissal of legal actions pursuant to Sections 1 and 3, above.[49]

Generally, when two agreements between the same parties address the same subject matter, the later agreement controls to the extent of any inconsistency or if the parties explicitly intend for it to supersede the prior contract.[50] However, courts recognize circumstances where terms of a prior contract remain enforceable.[51]

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[48] Pl.'s Supp. Br. 3–4.
[49] *Id.* at 4.
[50] *3850 & 3860 Colonial Blvd., LLC v. Griffin*, 2015 WL 894928, at *5 (Del. Ch. Feb. 26, 2015).
[51] *See id.* (collecting cases). For example, "there may be circumstances when a prior entity agreement continues to govern the rights and obligations of a signatory and a successor entity despite the existence of a new entity agreement." *Id*. (citing *Bernstein v. TractManager, Inc.*, 953 A.3d 1003, 1005, 1008–10 (Del. Ch. 2007)).

Eventus relies heavily on *Falcon Tankers, Inc. v. Litton Systems, Inc.* which involved a dispute over a defective vessel.[52] After a partial arbitration ruling, the buyer filed suit in court.[53] The seller initially asserted an arbitration defense, but later waived it, subsequently impleading a non-signatory component manufacturer.[54]

The manufacturer moved to dismiss, arguing that the arbitration clause was irrevocable.[55] The court disagreed, holding that the contracting parties retained the authority to mutually rescind an arbitration clause, and that the manufacturer was not a third-party beneficiary.[56]

*Falcon Tankers* is factually and legally distinct. It did not address equitable estoppel or a claim for tortious interference with contractual relations. Further, it arose from a third-party impleader rather than direct claims against a primary defendant. Finally, whereas the signatories in *Falcon Tankers* entirely waived arbitration, the Second Settlement Agreement preserves a mandatory arbitration framework while attempting to extinguish the prior clause in a manner that selectively targets the non-signatory Defendants.

Logically, a claim for tortious interference must be evaluated based upon the contract in effect at the time of the alleged breach. This is the precise moment the

[52] *Falcon Tankers, Inc. v. Litton Sys., Inc.*, 300 A.2d 231, 232 (Del. Super. 1972).
[53] *Id.* at 232–33.
[54] *Id.* at 233–34.
[55] *Id.* at 234.
[56] *Id.* at 236–37.

injury is sustained and the claim accrues. Allowing signatories to retroactively alter contractual terms after a breach occurs would invite strategic mischief—such as amending damages provisions solely to manipulate subsequent litigation against third parties. Accordingly, the Court holds that the initial Agreement governs Count V.

### B. The Relevant Arbitration Provision

#### *1. One Integrated Agreement*

"As a matter of black letter law, 'all writings that are part of the same transaction must be interpreted together.'"[57] Here, the Redemption Agreement is expressly incorporated into the Settlement Agreement.[58] Likewise, the Redemption Agreement explicitly incorporates Section IV of the Settlement Agreement.[59] The Court therefore treats contractual references to "the Agreement" in the prospective arbitration clauses as encompassing violations of either the Settlement Agreement or the Redemption Agreement.

#### *2. Controlling Language*

The Settlement Agreement contains two sections that could be construed as arbitration provisions. First, Section III.G. provides an extensive list of claims to be

[57] *Florida Chem. Co., LLC v. Flotek Indus., Inc.*, 262 A.3d 1066, 1081 (Del. Ch. 2021) (quoting *Restatement (Second) of Contracts* § 202(2)).
[58] Settlement Agreement § IV.A. *See also* Am. Compl. ¶¶ 3 & 36 n.4 (acknowledging that the Settlement Agreement incorporates the Redemption Agreement).
[59] Redemption Agreement § 12.

submitted to arbitration, including "dispute over the terms of such documents, or any interference, breach, lack of cooperation, circumvention, frustration or failure to perform herewith or with regard to any of the above[.]"[60]

Eventus argues that Section III.G. is merely a further assurances clause, pointing to the heading "Additional Assurance and Cooperation," for support. While headings are not controlling, they may assist in interpreting a substantive provision when the contract does not disavow their use.[61]

Reading the text of Section III.G., the Settlement Agreement, and the Redemption Agreement as an integrated whole, the Court finds that this clause functions as a further assurances provision. Sections 8.2 and 8.3 of the Redemption Agreement, which contain non-solicitation covenants, support this conclusion. Under those sections, Eventus and Beckman agree to submit disputes "to Mullin for resolution *pursuant to Section IV.P* of the Settlement Agreement."[62] Defendants' proposed reading would render these specific cross-references superfluous, as the non-solicitation disputes would already fall within the scope of Section III.G.

Additionally, the text of Section III.G. focuses on the execution of transaction documents necessary to effectuate the Agreement. The natural reading of these terms

[60] Settlement Agreement § III.G.
[61] *Cantor Fitzgerald, L.P. v. Cantor*, 724 A.2d 571, 581 n.35 (Del. Ch. 1998).
[62] Redemption Agreement §§ 8.2, 8.3 (emphasis added).

limits Section III.G. to disputes concerning the implementation of the initial transactions.

Conversely, Section IV.P. is explicitly on point. Entitled "Dispute Resolution," it refers "[a]ny action or proceeding arising out of the interpretation or alleged breach of th[e] Agreement" to arbitration.[63] Accordingly, the Court's analysis regarding the scope of arbitrability proceeds under the plain text of Section IV.P.

### C. Scope of the Relevant Arbitration Clause

Section IV.P. of the Agreement mandates that "[a]ny action or proceeding arising out of the interpretation or alleged breach of this Agreement shall be resolved through confidential arbitration."[64] To determine whether Eventus' claim for tortious interference falls within this provision, the Court applies a two-step test.[65] First, the Court "must determine whether the arbitration clause is broad or narrow in scope."[66] Second, the Court must resolve whether the asserted claim falls within that scope.[67]

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[63] Settlement Agreement § IV.P.
[64] Settlement Agreement § IV.P.
[65] *See Parfi Hldg. AB v. Mirror Image Internet, Inc.*, 817 A.2d 149, 155 (Del. 2002). There is no contractual indication that parties intended to have the arbitrator determine the substantive arbitrability, so the Court applies the presumption that these issues were left for the Court to decide. *See Fairstead Cap. Mgmt. LLC v. Blodgett*, 288 A.3d 729, 751–52 (De. Ch. Jan. 6, 2023).
[66] *Parfi Hldg.*, 817 A.2d at 155.
[67] *Id*.

"An arbitration clause is broad if it refers all disputes under the agreement to arbitration."[68] The breadth of an arbitration clause turns on the intent of the parties; no specific magic words are required.[69] If the contractual language demonstrates that the parties intended to arbitrate only specific categories of claims, the clause is narrow.[70]

Eventus urges the Court to find that Section IV.P. is a narrow clause because it applies only to claims "arising out of" the interpretation or breach of the Agreement. Eventus attempts to distinguish this from cases considering provisions using the phrase "arising out of or relating to,"[71] arguing that the omission of "relating to" restricts the clause's reach.

The Court is unpersuaded by this distinction. The Court of Chancery addressed an identical argument in *Anadarko Petroleum Corp. v. Panhandle Eastern Corp*.[72] There, the court acknowledged that while a legacy Second Circuit case once

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[68] *Specialty DX Hldgs., LLC v. Lab. Corp. of Am. Hldgs.*, 2020 WL 5088077, at *6 (Del. Super. Jan. 31, 2020).
[69] *Id*.
[70] *Id.*
[71] *See, e.g., Milton Invs., LLC v. Lockwood Bros., II, LLC*, 2010 WL 2836496, at *5–7 (Del. Ch. Jul. 20, 2010) (discussing other cases that found broad arbitration clauses based on similar language).
[72] *Anadarko Petroleum Corp. v. Panhandle E. Corp.*, 1987 WL 16508, at *2–3 (Del. Ch. Sep. 8, 1987).

drew such a distinction,[73] subsequent caselaw has all but overruled the narrow interpretation.[74] The *Anadarko* court then proceeded to compel arbitration.[75]

Even if the Court were to find that the omission of the phrase "relating to" rendered this clause narrow, the tortious interference claim would still fall within its scope. Black's Law Dictionary defines "arise" as "[t]o originate; to stem (from)[.]"[76] Pleading a claim for tortious interference with contractual relations requires an underlying breach of contract.[77] By definition, the tort claim must originate or stem from that breach. Consequently, an action for tortious interference is an action arising out of an alleged breach of the Agreement and falls squarely within the bounds of Section IV.P.

Hence, the Court finds that Count V rests within the scope of the arbitration clause.[78]

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[73] *Id*. at *2 (discussing *In re Kinoshita & Co.*, 287 F.2d 951, 952 (2d. Cir. 1961)).
[74] *Id*.
[75] *Id*. at *3.
[76] ARISE, Black's Law Dictionary (12th ed. 2024).
[77] *Bhole, Inc. v. Shore Invs., Inc.*, 67 A.3d 444, 453 (Del. 2013) (internal quotations and emphasis omitted).
[78] This holding comports with established Delaware precedent finding that claims for fraudulent inducement (*Matria Healthcare, Inc. v. Coral SR LLC*, 2007 WL 763303, at *8 (Del. Ch. Mar. 1, 2007)) and civil conspiracy (*Florida Chem. Co., LLC v. Flotek Indus., Inc.*, 262 A.3d 1066, 1084–85 (Del. Ch. 2021)) arose out of the underlying agreements, whereas claims for breach of fiduciary duty claims did not. *Parfi Hldg. AB v. Mirror Image Internet, Inc.*, 81 A.2d 149, 156–60 (Del. 2002).

### D. Equitable Estoppel Applies

The Court now turns to the dispositive issue: whether the doctrine of equitable estoppel permits the non-signatory Defendants to enforce the arbitration clause against Eventus. Under Delaware law, a non-signatory may invoke equitable estoppel to enforce an arbitration provision against a signatory in two limited circumstances:

> First, equitable estoppel applies when the signatory to a written agreement containing an arbitration clause must rely on the terms of the written agreement in asserting its claims against the nonsignatory. When each of a signatory's claims against a nonsignatory makes reference to or presumes the existence of the written agreement, the signatory's claims arise out of and relate directly to the written agreement, and arbitration is appropriate. Second, application of equitable estoppel is warranted when the signatory to the contract containing an arbitration clause raises allegations of substantially interdependent and concerted misconduct by both the nonsignatory and one or more of the signatories to the contract. Otherwise the arbitration proceedings between the two signatories would be rendered meaningless and the federal policy in favor of arbitration effectively thwarted.[79]

Equitable estoppel is properly invoked in these scenarios because it is fundamentally unfair for a signatory to have it both ways.[80] A plaintiff cannot attribute contractual duties to a non-signatory for the purpose of pressing tort claims

[79] *Incyte Corp. v. Flexus Biosciences, Inc.*, 2016 WL 1735485, at *4 (Del. Super. Apr. 19, 2016) (quoting *Grigson v. Creative Artists Agency, L.L.C.*, 210 F.3d 524, 527 (5th Cir.2000)).
[80] *Ishimaru v. Fung*, 2005 WL 2899680, at *18 (Del. Ch. 2005).

while simultaneously denying that same non-signatory the right to invoke the contract's arbitration clause.[81]

In *Incyte Corp. v. Flexus Biosciences, Inc.*, this Court considered a non-signatory defendant's motion to dismiss in favor of arbitration under similar circumstances.[82] There, the plaintiff alleged that the non-signatory induced a former employee, who was a signatory to an employment agreement containing an a arbitration clause, to breach his contractual obligations by misappropriating trade secrets.[83] Applying equitable estoppel, the Court examined the relevant arbitration provision and dismissed the counts for tortious interference and aiding-and-abetting in favor of arbitration.[84]

Eventus fails to engage with the merits of *Incyte*, arguing instead that non-signatory defendants cannot possess greater rights to arbitrate than the original contracting parties. The case Eventus cites, *NAMA Holdings, LLC v. Related World Market Center, LLC*,[85] is inapposite. In *NAMA* Holdings, the defendants sought to compel arbitration against a plaintiff as an indirect third-party beneficiary in a books

[81] *Id.*
[82] *Incyte Corp.*, 2016 WL 1735485, at *2.
[83] *Id.* at *1.
[84] *Id.* at *6.
[85] 922 A.2d 417 (Del. Ch. 2007).

and records action.[86] The Court of Chancery declined to apply equitable estoppel under those specific facts.[87]

Here, Defendants do not assert third-party beneficiary status. Crucially, Eventus is the party that injected the Agreement into this litigation seeking to enforce its boundaries through a tortious interference claim. Denying Defendants the benefit of the arbitration provision while permitting Eventus to rely on the underlying contract to establish its tort claim is the precise inequity equitable estoppel is designed to prevent.

As a final argument, Eventus contends that Defendants are precluded from invoking equitable estoppel under the doctrine of unclean hands.[88] The unclean hands maxim provides that "[he] who comes into equity must do so with clean hands[.]"[89] The purpose of the maxim is to protect the public and the court against misuse by a litigant whose prior inequitable conduct forfeits the right to seek equitable relief.[90]

Eventus argues that Defendants are cherry-picking the arbitration provision after repeatedly encouraging Beckman to breach his broader contractual

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[86] *Id.* at 433.
[87] *Id*. Although the *NAMA* court, explicitly recognized the theory of equitable estoppel invoked by Defendants in this action, it was addressing a third-party beneficiary theory. *See id.* at 431 n.26 (citing *Ishimaru*, 2005 WL 2899680, at *17–18)). Given that, the *NAMA* court declined to analyze equitable estoppel any further. See *id*.
[88] Pl.'s Supp. Br. 5–6.
[89] *Nakahara v. NS 1991 Am. Tr.*, 718 A.2d 518, 522 (Del. Ch. 1998).
[90] *Id*.

obligations.[91] Eventus did not brief whether the unclean hands doctrine is appropriately applied to an arbitration referral framework.[92] However, even if the Court assumes the doctrine is applicable in this context, it declines to apply it here. Any claim for tortious interference with a contract inherently involves allegations of wrongful or bad faith conduct by a defendant. Despite this structural reality, Delaware Courts consistently apply equitable estoppel to allow non-signatories to enforce arbitration provisions against tortious inference claims.[93] Holding that the underlying tortious conduct triggers the unclean hands doctrine would effectively subvert this well-established body of law. While Eventus has adequately pled that Defendants acted wrongfully, arbitration is the contractually mandated forum to adjudicate the merits of those allegations.

This opinion has not resolved the issue of procedural arbitrability, which is presumptively determined by the arbitrator.[94] As such, the Court finds that the appropriate remedy is to **STAY** this action pending and subject to the arbitrator's decision on procedural arbitrability.[95] The parties shall provide the Court a status

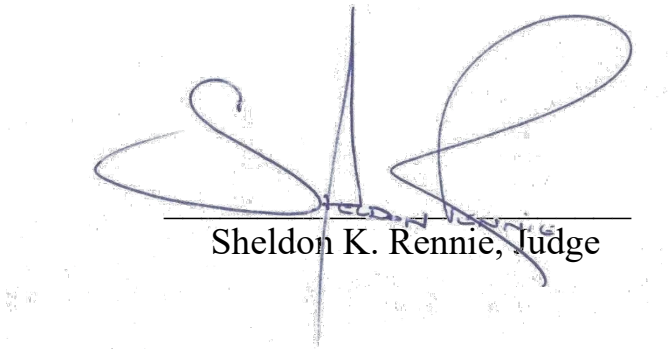
[91] Pl.'s Supp. Br. 6.
[92] *See Arkray Am., Inc. v. Navigator Bus. Sols.*, 2023 WL 4862686, at *5–8 (Del. Super. Jul. 18, 2023) (discussing the use of the affirmative defense of unclean hands in Superior Court).
[93] *See Incyte Corp. v. Flexus Biosciences, Inc.*, 2016 WL 1735485, at *10 (Del. Super. Apr. 19, 2016); *Wilcox & Fetzer, Ltd. v. Corbett & Wilcox*, 2006 WL 2473665, at *4–6 (Del. Ch. Aug. 22, 2006); *Ishimaru v. Fung*, 2005 WL 2899680, at *17–18 (Del. Ch. Oct. 26, 2005).
[94] *See Fairstead Cap. Mgmt. LLC v. Blodgett*, 288 A.3d 729, 750–41 (Del. Ch. Jan. 6, 2023).
[95] Provided the tortious interference claim is procedurally arbitrable, dismissal is appropriate because arbitration will fully resolve all claims remaining in this action and any appeal from the arbitration award is within the sole jurisdiction of the Court of Chancery. *See SC & A Constr., Inc.*

update within sixty days and shall report the arbitrator's decision on procedural arbitrability within 30 days of its issuance.

## V. CONCLUSION

For the foregoing reasons, the Court **GRANTS** Defendants' Motion and **STAYS** this matter.

**IT IS SO ORDERED.**



Sheldon K. Rennie, Judge

*v. Potter*, 2017 WL 2378020, at *6 (Del. Super. May 31, 2017) ("As this Court previously stated, it will not review the arbitrator's decision. Only the Court of Chancery has jurisdiction to vacate or confirm an arbitrator's award." (footnotes omitted)).