IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STONEX GROUP, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. N25C-07-224 PAW CCLD
	)	
XL SPECIALTY INSURANCE COMPANY, IRONSHORE INDEMNITY INC., STARR INDEMNITY & LIABILITY COMPANY, BERKLEY INSURANCE COMPANY, WESTFIELD INSURANCE COMPANY, and CONTINENTAL CASUALTY COMPANY,	)	
	)	
Defendants.	)	

Date Submitted: April 21, 2026
Date Decided: July 29, 2026

MEMORANDUM OPINION

Upon Plaintiff's Motion for Partial Summary Judgment;
GRANTED, in part and DENIED, in part.

Upon Defendant Ironshore Indemnity Inc.'s Motion for Judgment on the Pleadings;
GRANTED, in part and DENIED, in part.

Jennifer C. Wasson, Esq.; and Ryan D. Kingshill, Esq., of Potter Anderson & Corroon LLP; Robin L. Cohen, Esq.; Orrie A. Levy, Esq.; Meredith Elkins, Esq.; and Ethan M. Weinberg, Esq., of Cohen Ziffer Frenchman & McKenna LLP, *Attorneys for Plaintiff StoneX Group, Inc.*

Alan R. Silverstein, Esq.; Sara A. Barry, Esq.; and Louis F. Masi, Esq., of Connolly Gallagher LLP; Daniel E. Tranen, Esq.; and Erik J. Tomberg, Esq., of Wilson Elser, *Attorneys for Defendant Ironshore Indemnity Inc.*

WINSTON, J.

I. INTRODUCTION

This is a directors and officers insurance coverage dispute. Before the Court are competing dispositive motions between the insured and an excess insurer. The motions concern three issues: (i) whether the policy's "Interrelated Claims" provision applies such that an arbitration relates back to prior matters that arose during an earlier policy period; (ii) if the arbitration is covered, whether the Larger Settlement Rule requires the insurer to pay defense costs for a related uncovered matter; and (iii) whether the insured's bad faith claim survives the pleading stage.

The parties raise myriad crossing arguments on the first issue. But resolving it turns on one question: Were the earlier matters brought against an employee for an Employment Practices Wrongful Act? They were not. Accordingly, the Interrelated Claims provision does not apply, and the arbitration is covered under the insurer's policy period.

On the second issue, the Larger Settlement Rule is the appropriate allocation method. However, on the present record, the Court cannot determine the extent to which that allocation method requires allocation of the uncovered matter's costs to the covered arbitration. The insurer is entitled to contend that the uncovered matter increased defense costs above what would have been incurred in the covered arbitration alone.

On the third issue, the insured's bad faith claim fails as a matter of law. Although the Court disagrees with it, the insurer's coverage position is not clearly without reasonable basis. Moreover, the complaint does not plead that the insured had advanced the prevailing argument prior to litigation. Instead, the complaint alleges a less compelling theory. Nothing else in the pleadings supports a reasonable inference of bad faith.

Accordingly, each party's motion is granted in part and denied in part.

II. FACTUAL AND PROCEDURAL BACKGROUND[1]

A. THE RELEVANT INSURANCE POLICIES

Defendant Ironshore Indemnity Inc. ("Ironshore") issued to Plaintiff StoneX Group, Inc. ("StoneX") an Excess Liability Insurance Policy with a Policy Period of September 30, 2022 to September 30, 2023 (the "Ironshore Policy").[2] The Ironshore Policy follows form to the primary policy issued by XL Specialty Insurance

[1] Numbered exhibits refer to those submitted with Ironshore's motion for judgment on the pleadings. *See* D.I. 48. Citations in the form of "StoneX Ex. [letter]" refer to the lettered exhibits submitted with StoneX's motion for partial summary judgment and opposition to Ironshore's motion for judgment on the pleadings. *See* D.I. 49; D.I. 57. Citations in the form of "Ironshore Ex. [letter]" refer to the lettered exhibits submitted with Ironshore's answering brief in opposition to StoneX's motion for partial summary judgment. *See* D.I. 58; D.I. 60.

[2] *See* D.I. 30, Answer ¶¶ 22-23; Ex. 1 (hereinafter "Ironshore Policy") Item 4.

Company ("XL") covering the same policy period (the "Primary Policy" and, with the Ironshore Policy, the "Policies").[3]

The Policies provide coverage under insuring agreements including:

> (B) The Insurer shall pay on behalf of the Company Loss resulting from a Claim first made against the Insured Persons during the Policy Period for a Wrongful Act to the extent the Company is required or permitted to pay on behalf of the Insured Persons as indemnification.
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> (C) The Insurer shall pay on behalf of the Company Loss resulting solely from any Securities Claim first made against the Company during the Policy Period for a Wrongful Act.[4]

The Primary Policy obligates XL to advance "Defense Expenses" upon written request after StoneX has satisfied the applicable retention.[5] Following exhaustion of the Primary Policy's $10 million limit, the Ironshore Policy provides $5 million in excess coverage.[6]

The Policies include an "Interrelated Claims" provision, which provides, in part:

> All Claims . . . arising from the same Interrelated Wrongful Acts shall be deemed to constitute a single Claim . . . and

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[3] *See* Ironshore Policy Item 3, § IV.A; *see generally* Ex. 2 (hereinafter "Primary Policy").

[4] *See* Primary Policy § I(B), (C). When quoting policy language, this opinion omits bolding from defined terms.

[5] *See id.* § V(C) (as amended by Endorsement No. 14).

[6] *See* Ironshore Policy Items 6-7, §§ I, IV.D.

> shall be deemed to have been made at the earliest of the time at which the earliest such Claim is made . . . .[7]

"Interrelated Wrongful Acts" is defined to mean "any Wrongful Acts which are logically or causally connected in time, place and sequence by reason of any common fact, circumstance, situation, transaction or event."[8] "Wrongful Act" is defined to include:

> (1) any actual or alleged act, error, omission, misstatement, misleading statement, neglect, or breach of duty by an Insured Person while acting in his or her capacity as such or due to his or her status as such;
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> . . .
>
> (3) with respect to Insuring Agreement (C) of the Policy, any actual or alleged act, error, omission, misstatement, misleading statement, neglect, or breach of duty by the Company; [or]
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> (4) any Employment Practices Wrongful Act by an Insured Person while acting in his or her capacity as such or due to his or her status as such . . . .[9]

"Insured Person" is defined to include:

> any past, present or future natural person employee of the Company (other than an individual described in (J)(1) above [i.e., a director, officer, or individual occupying a similar role]) . . . to the extent that a Claim is made against

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[7] Primary Policy § VI(B).

[8] *Id.* § II(K) (as amended by Endorsement No. 15(10)).

[9] *Id.* § II(U) (as amended by Endorsement No. 15(17)).

> such employee for an Employment Practices Wrongful Act . . . .[10]

The definition of "Employment Practices Wrongful Act" includes a list of eleven items set forth fully below.[11]

The Policies also include a provision relating to allocation of covered and uncovered loss, set forth below.[12]

Also relevant to the present motions is an earlier primary policy issued by XL, with a policy period of September 30, 2020 to September 30, 2021 (the "2020-21 XL Policy").[13] The parties do not contend that the 2020-21 XL Policy language differed from the Primary Policy in any material way.[14] Ironshore did not issue an excess policy that followed the 2020-21 XL Policy.[15]

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[10] *Id.* § II(J) (as amended by Endorsement No. 15(9)).

[11] *See infra* pp. 21-22 (quoting Primary Policy § II(G) (as amended by Endorsement No. 15(6)).

[12] *See infra* p. 33 (quoting Primary Policy § V(D) (as amended by Endorsement No. 14)).

[13] *See* Ex. 3 (hereinafter "2020-21 XL Policy").

[14] StoneX states that the 2020-21 XL Policy "is materially identical to the Primary Policy." *See* D.I. 57, Pl.'s Br. in Opp'n to Def. Ironshore's Mot. for J. on the Pleadings (hereinafter "StoneX JOP Ans. Br.") at 7. Ironshore does not identify any differences in the policy language.

[15] *See* D.I. 48, Def. Ironshore Indemnity Inc.'s Op. Br. in Support of Mot. for J. on the Pleadings (hereinafter "Ironshore JOP Op. Br.") at 6 n.5; D.I. 71, Pl.'s Reply Br. in Further Support of Its Mot. for Partial Summ. J. (hereinafter "StoneX SJ Reply") at 4-5 (noting that if StoneX sought coverage under the "2020-21 D&O insurance tower," that would "foist the burden onto another insurer").

B. THE 2021 DEMAND LETTERS AND SETTLEMENT AGREEMENT

In February 2021, counsel for BTIG, LLC ("BTIG") sent letters to StoneX and two former BTIG employees, Debayan Bhaduri and Evan Pfeuffer, who had recently resigned from BTIG and joined StoneX (each a "Demand Letter").[16] The Demand Letters raised concerns that Bhaduri and Pfeuffer may have breached their confidentiality and restrictive covenant obligations to BTIG.[17] In particular, the StoneX and Bhaduri Demand Letters asserted that, prior to his resignation, Bhaduri emailed confidential business information from his BTIG account to his personal email account.[18] The letters also asserted that Bhaduri was in discussions with StoneX about employment at the time he was sending this confidential information and that BTIG "assume[s]" Bhaduri intended to use this information "in connection with [his] new job with StoneX."[19] According to the Bhaduri Demand Letter, Bhaduri's onboarding with StoneX, "a business competitor of BTIG," was "not consistent with what [Bhaduri] told BTIG when [he] resigned, which was that [he] would be working for a proprietary trading tech firm."[20]

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[16] *See generally* Exs. 4, 5, 6.

[17] *See* Ex. 4 at 1; Ex. 5 at 2; Ex. 6 at 1.

[18] *See* Ex. 4 at 1; Ex. 5 at 2.

[19] *See* Ex. 4 at 1; Ex. 5 at 2.

[20] *See* Ex. 5 at 2.

The StoneX Demand Letter sought written assurances regarding the disclosure and use of any BTIG confidential information obtained by Bhaduri or Pfeuffer.[21] The Demand Letters also indicated that BTIG was prepared to initiate litigation if necessary to protect its rights.[22]

In March 2021, BTIG, StoneX, Bhaduri, and Pfeuffer executed a settlement agreement to resolve the issues raised in the Demand Letters (the "Settlement Agreement" and, with the Demand Letters, the "2021 Matters").[23] The Settlement Agreement required, among other things, that Bhaduri and Pfeuffer execute sworn affirmations, that a forensic analyst conduct an analysis of Bhaduri's emails, and that Bhaduri pay BTIG attorneys' fees.[24]

C. THE FINRA ARBITRATIONS

In November 2023, BTIG sued StoneX in California state court.[25] StoneX filed a FINRA arbitration (the "StoneX Arbitration"), and BTIG then proceeded to assert its California state court claims as counterclaims in that arbitration.[26] BTIG's counterclaims allege that "StoneX, Pfeuffer, and Bhaduri knowingly made false

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[21] *See* Ex. 4 at 2.

[22] *See* Ex. 4 at 2; Ex. 5 at 1; Ex. 6 at 2.

[23] *See* Ex. 7, Recital E.

[24] *See id.* §§ 1, 2, 8; *see also* Exs. 8-9.

[25] *See generally* Ex. 11.

[26] *See* Ex. 12, Counterclaims ¶ 27.

representations in the [Settlement Agreement] and the attached Affirmations."[27] Most causes of action in the counterclaims reference the Settlement Agreement.[28] One count is for breach of the Settlement Agreement, and other counts assert that StoneX made knowingly false representations in it.[29]

In August 2024, BTIG filed a FINRA arbitration against Bhaduri and other StoneX employees who previously worked for BTIG (the "Employee Arbitration" and, with the StoneX Arbitration, the "FINRA Arbitrations").[30] Although brought against different respondents, the Employee Arbitration is "overlapping" with or contains allegations that are "substantively identical" to the allegations in the StoneX Arbitration.[31] BTIG amended its statement of claims in the Employee Arbitration in October 2024.[32]

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[27] *See id.* ¶ 115.

[28] *See, e.g.*, *id.* ¶¶ 139, 152, 164, 172-74, 196, 210, 222, 244.

[29] *See, e.g.*, *id.* ¶¶ 172-74, 196.

[30] *See* Ex. 15 ¶¶ 1, 29-33; D.I. 34, Reply ¶ 65.

[31] *See* D.I. 49, Pl.'s Opening Br. in Support of Its Mot. for Partial Summ. J. (hereinafter "StoneX SJ Op. Br.") at 26; Ironshore JOP Op. Br. at 28-29; D.I. 72, Def. Ironshore Indemnity Inc.'s Reply Br. in Further Support of Its Mot. for J. on the Pleadings (hereinafter "Ironshore JOP Reply") at 11.

[32] *See* D.I. 34, Reply ¶ 65. Ironshore also references other legal actions filed in 2024. *See* Ironshore JOP Op. Br. at 12-13. At least on its present motion, it does not appear StoneX seeks coverage for these other legal actions. *See* StoneX SJ Op. Br. at 25 (seeking coverage for Defense Expenses associated only with the FINRA Arbitrations); StoneX JOP Ans. Br. at 12 n.3 (asserting that other actions are not "relevant to the instant dispute"). Ironshore does not provide a basis to distinguish the other legal actions for purposes of coverage and states that all of the actions it

The Employee Arbitration was stayed while the StoneX Arbitration proceeded.[33] Certain of the respondents in the Employee Arbitration are represented by the same counsel as StoneX in the StoneX Arbitration, and that counsel has averred that the FINRA Arbitrations are overlapping such that work performed for StoneX would benefit the employees counsel represents in the Employee Arbitration.[34]

D. THE PARTIES DISAGREE ON COVERAGE, AND STONEX FILES THIS ACTION

In July 2025, Ironshore provided StoneX with a letter regarding coverage for the FINRA Arbitrations and other legal matters.[35] The letter stated that Ironshore understood that its excess policy was not presently implicated because the Primary Policy had not yet been exhausted.[36] It further advised that Ironshore "does not

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references contain allegations that are "identical or substantively identical." *See* Ironshore JOP Op. Br. at 28-29; Ironshore JOP Op. Br. at 11. Accordingly, when addressing the parties' arguments, this opinion refers only to the Employee Arbitration or the FINRA Arbitrations, rather than also to the other legal actions Ironshore raises.

[33] *See* D.I. 49, Aff. of Abraham Tabaie in Support of Pl.'s Mot. for Partial Summ. J. (hereinafter "Tabaie Aff.") ¶ 2. After briefing on the present motions was complete, an arbitration panel decided the StoneX Arbitration and the parties to the Employee Arbitration reached a settlement in principle. *See* D.I. 85. These developments do not alter the Court's decision on the present motions.

[34] *See* Tabaie Aff. ¶¶ 1-4.

[35] *See* StoneX Ex. E; D.I. 30, Answer ¶¶ 8, 51-52 (Ironshore referencing July 16, 2025 letter in response to StoneX's allegations characterizing Ironshore's position).

[36] *See* StoneX Ex. E at 3.

believe any coverage would be afforded under the Ironshore Excess Policy.”[37] According to the letter, the FINRA Arbitrations were Claims arising from the “same Interrelated Wrongful Acts” as the 2021 Matters and thus related back to the 2020-21 XL Policy period for which Ironshore did not issue an excess policy.[38]

StoneX responded to Ironshore’s letter a week later.[39] In its response, StoneX argued that the FINRA Arbitrations could not relate back to the Demand Letters because the Demand Letters “did not constitute a Claim under any Insuring Agreement of XL’s policy.”[40] In addition, StoneX contended that relating the FINRA Arbitrations back to the earlier policy period would be “illogical and inconsistent with an insured’s reasonable expectations of coverage” because “[i]t would make no sense for an uncovered letter requesting information from a non-insured to restrict coverage at a later point in time for a covered claim against an insured purely because they involved some of the same subject matter.”[41] StoneX also accused Ironshore of bad faith and asserted that Ironshore’s letter was issued “on the eve of mediation,” which it said risked prejudice to StoneX’s ability to settle the FINRA Arbitrations.[42]

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[37] *See id.* at 2.

[38] *See id.* at 13, 18.

[39] *See* Ironshore Ex. E.

[40] *See id.* at 2-3.

[41] *See id.* at 3.

[42] *See id.* at 3-4.

StoneX filed this action the next day.[43] The complaint seeks a declaratory judgment that Ironshore is obligated to pay defense costs (Count I) and indemnify (Count II) StoneX for the Employee Arbitration.[44] It also brings counts for breach or repudiation of the Ironshore Policy (Count III) and breach of the implied covenant of good faith and fair dealing therein (Count IV) due to Ironshore's denial of coverage for the Employee Arbitration.[45]

Ironshore filed counterclaims.[46] The first seeks a declaratory judgment that it is not obligated to advance Defense Expenses for the FINRA Arbitrations or other legal actions (Count I),[47] the second is for recoupment of any Defense Expenses it may advance (Count II),[48] and the third seeks a declaratory judgment that it has no duty to indemnify (Count III).[49]

On November 14, 2025, Ironshore and StoneX filed competing dispositive motions.[50] Ironshore's motion for judgment on the pleadings seeks judgment in its

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[43] *See* D.I. 1.

[44] *See id.* ¶¶ 57-72. The complaint also named XL and additional excess insurers. All defendants other than Ironshore and one other excess insurer have since been voluntarily dismissed. *See* D.I. 26; D.I. 98-100.

[45] *See* D.I. 1 ¶¶ 73-89.

[46] *See* D.I. 30.

[47] *See id.* ¶¶ 96-98.

[48] *See id.* ¶¶ 99-103.

[49] *See id.* ¶¶ 104-06.

[50] *See* D.I. 48; D.I. 49.

favor "on all counts of StoneX's Complaint, and Counts I and III of Ironshore's Counterclaim."[51] StoneX's motion for partial summary judgment requests that the Court "dismiss [Ironshore's] Counterclaim, and grant partial summary judgment in favor of StoneX [] confirming that Ironshore is contractually obligated to reimburse StoneX [] for expenses incurred in defending the ongoing FINRA [A]rbitrations."[52] The parties filed crossing answering and reply briefs.[53]

III. STANDARD OF REVIEW AND INTERPRETATIVE PRINCIPLES

A. JUDGMENT ON THE PLEADINGS AND SUMMARY JUDGMENT

Rule 12(c) permits motions for judgment on the pleadings "[a]fter the pleadings are closed but within such time as not to delay . . . trial."[54] On such a motion, the Court's review "is limited to a review of the contents of the pleadings" and documents integral thereto.[55] The standard for a motion for judgment on the

[51] Ironshore JOP Op. Br. at 5.

[52] StoneX SJ Op. Br. at 3-4. A few days before the parties filed their motions, StoneX advised Ironshore that the Primary Policy's limit had been exhausted. *See* Ironshore Ex. A. About a week later, Ironshore advanced Defense Expenses up to the Ironshore Policy's $5 million limit but stated that it would continue to seek reimbursement of the advanced expenses in this lawsuit. *See* Ironshore Ex. B at 5-6.

[53] *See generally* StoneX JOP Ans. Br.; D.I. 58, Def. Ironshore Indemnity Inc.'s Br. in Response to Pl. StoneX Group, Inc.'s Mot. for Partial Summ. J. (hereinafter "Ironshore SJ Ans. Br."); StoneX SJ Reply; Ironshore JOP Reply.

[54] Del. Super. Ct. Civ. R. 12(c).

[55] *Desert Equities, Inc. v. Morgan Stanley Leveraged Equity Fund, II, L.P.*, 624 A.2d 1199, 1204 (Del. 1993) (citations omitted).

pleadings is "almost identical" to the standard for a motion to dismiss.[56] The Court "view[s] the facts pleaded and the inferences to be drawn from such facts in a light most favorable to the non-moving party."[57] Judgement is proper "only when no material issue of fact exists and the movant is entitled to judgment as a matter of law."[58] A Rule 12(c) motion is often "a proper framework for enforcing unambiguous contracts because there is no need to resolve material disputes of fact."[59]

Under Rule 56(c), the Court grants summary judgment upon a showing "that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law."[60] The movant bears the burden of establishing the nonexistence of issues of material fact.[61] Upon such a showing, the burden shifts to

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[56] *See Blanco v. AMVAC Chem. Corp.*, 2012 WL 3194412, at *6 (Del. Super. 2012) (quoting *Ross Hldg. and Mgmt. Co. v. Advance Realty Grp.*, LLC, 2010 WL 1838608, at *5 (Del. Ch. Apr. 28, 2010)).

[57] *Desert Equities*, 624 A.2d at 1205 (citation omitted).

[58] *Id.* (citations omitted).

[59] *Chi. Bridge & Iron Co. N.V. v. Westinghouse Elec. Co. LLC*, 166 A.3d 912, 925 (Del. 2017) (citation omitted).

[60] Del. Super. Ct. Civ. R. 56(c).

[61] *KBranch, Inc. v. BSI3 Menu Buyer Inc.*, 2026 WL 446425, at *3 (Del. Super. Jan. 30, 2026) (citing *Moore v. Sizemore*, 405 A.2d 679, 680 (Del. 1979)).

the nonmovant to demonstrate genuine factual issues exist.[62] The Court views the facts in the light most favorable to the nonmovant.[63]

These standards likewise apply when the parties file crossing dispositive motions.[64] Such motions are not *per se* concessions that no material disputes of fact exist.[65] Yet, if no party argues a factual dispute exists, the Court deems the cross-motions to be a stipulation for decision on the merits based upon the record submitted with the motions.[66]

B. INSURANCE POLICY INTERPRETATION

The Delaware Supreme Court has summarized the principles governing insurance policy interpretation as follows:

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[62] *Id.* (citing *Brzoska v. Olson*, 668 A.2d 1355, 1364 (Del. 1995)).

[63] *Merrill v. Crothall-American, Inc.*, 606 A.2d 96, 99-100 (Del. 1992).

[64] *KBranch*, 2026 WL 446425, at *3 (citing *Capano v. Lockwood*, 2013 WL 2724634, at *2 (Del. Super. May 31, 2013)).

[65] *Mason v. United Servs. Auto. Ass'n*, 697 A.2d 388, 392 (Del. 1997) (citing *United Vanguard Fund, Inc. v. TakeCare, Inc.*, 693 A.2d 1076, 1079 (Del. 1997)).

[66] Del. Super. Ct. Civ. R. 56(h). Here, only StoneX moves for summary judgment. Yet similar principles apply: By moving for judgment on the pleadings on some of the same issues on which StoneX seeks summary judgment, Ironshore has asserted that "no material factual dispute exists" on those issues. *See* Ironshore JOP Op. Br. at 15 (quoting *Intermec IP Corp. v. Transcore, LP*, 2021 WL 3620435, at *8 (Del. Super. Aug. 16, 2021)); *see also Firemen's Ins. Co. of Washington, D.C. v. Birch Point Condo. Ass'n, Inc.*, 2009 WL 1515550, at *3 (Del. Ch. May 29, 2009) (applying Rule 56(h) where one party had moved for judgment on the pleadings, because "the parties have presented the pending issues essentially as if they had filed cross motions for summary judgment and have not argued that there is any issue of material fact").

> "Insurance contracts, like all contracts, 'are construed as a whole, to give effect to the intentions of the parties.'" Proper interpretation of an insurance contract will not render any provision "illusory or meaningless." If the contract language is "clear and unambiguous, the parties' intent is ascertained by giving the language its ordinary and usual meaning." Where the language is ambiguous, the contract is to "be construed most strongly against the insurance company that drafted it." A contract is not ambiguous simply because the parties do not agree on the proper construction. "Rather, a contract is ambiguous only when the provisions in controversy are reasonably or fairly susceptible of different interpretations or may have two or more different meanings."
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> Insurance contracts should be interpreted as providing broad coverage to align with the insured's reasonable expectations. "Generally, an insured's burden is to establish that a claim falls within the basic scope of coverage, while an insurer's burden is to establish that a claim is specifically excluded." Courts will interpret exclusionary clauses with "a strict and narrow construction . . . [and] give effect to such exclusionary language [only] where it is found to be 'specific,' 'clear,' 'plain,' [']conspicuous,' and 'not contrary to public policy.'"[67]

IV. ANALYSIS

The motions raise three issues: (i) whether the Employee Arbitration relates back to the 2021 Matters under the Policies' "Interrelated Claims" provision; (ii) whether, and the extent to which, the Larger Settlement Rule applies to allocation of

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[67] *RSUI Indem. Co. v. Murdock* (*Murdock Supreme Court*), 248 A.3d 887, 905-06 (Del. 2021) (citations omitted).

defense costs between the Employee Arbitration and StoneX Arbitration; and (iii) whether StoneX's bad faith count may proceed. This opinion addresses each in turn.

A. THE EMPLOYEE ARBITRATION IS COVERED BECAUSE IT DOES NOT RELATE BACK TO THE 2021 MATTERS.

The parties first dispute whether there is coverage for the Employee Arbitration, which turns on whether the Policies' Interrelated Claims provision applies.[68] While the parties submitted crossing briefs on many related issues, this dispute boils down to one question: Were the 2021 Matters brought against an employee for an Employment Practices Wrongful Act? Below, the Court explains why that is the decisive question and then provides an answer. To preview, the answer is no, meaning the Interrelated Claims provision does not apply and Ironshore must cover the Employee Arbitration.

1. THE QUESTION: WERE THE 2021 MATTERS FOR AN EMPLOYMENT PRACTICES WRONGFUL ACT?

The Policies' Interrelated Claims provision applies when there is more than one "Claim[] . . . arising from the same Interrelated Wrongful Acts."[69] "Interrelated Wrongful Acts" is defined to mean "any Wrongful Acts" which are connected in

[68] *See* Primary Policy § VI(B).

[69] *See id.*

certain broad manners.[70] Accordingly, for the Interrelated Claims provision to apply, the Claim to which a later Claim relates back must be for a Wrongful Act.

A Wrongful Act, by definition, can only be committed by (a) "the Company" (defined to mean StoneX and subsidiaries), or (b) an "Insured Person."[71] The Company can only commit a Wrongful Act "with respect to Insuring Agreement (C)," which applies only to Securities Claims.[72] No party contends the 2021 Matters were Securities Claims. Thus, the 2021 Matters can be for a Wrongful Act only if they asserted acts committed by or concerning an Insured Person.

Of the five listed categories of "Insured Person," four require that the individual be a director, officer, or person acting in a similar role listed in section II(J)(1), as opposed to an individual who is only an employee.[73] One category, section II(J)(2), includes an employee generally, but only "to the extent any Claim is: (a) a Securities Claim, (b) made and maintained against both such employee and an Insured Person as defined in (J)(1) above [i.e., a director, officer, or person acting in a similar role], or (c) to the extent that a Claim is made against such employee for

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[70] *See id.* § II(K) (as amended by Endorsement No. 15(10)).

[71] *See id.* § II(U) (as amended by Endorsement No. 15(17)). A Wrongful Act may also be "concerning" (rather than "committed by") an Insured Person, but solely with respect to a Claim as defined in § II(C)(4), which no party contends applies. *See id.* § II(U)(2) (as amended by Endorsement No. 15(17)).

[72] *See id.* §§ I(C), II(U) (as amended by Endorsement No. 15(17)).

[73] *See id.* § II(J)(1), (3)-(5) (as amended by Endorsement No. 15(9)).

an Employment Practices Wrongful Act."[74] Bhaduri and Pfeuffer are the only individuals against whom the 2021 Matters were asserted. Although they were StoneX employees, no party contends they occupied a role set forth in section II(J)(1). Nor does any party contend they qualify as an Insured Person under section II(J)(2)(a) or (b): as noted above, no party contends the 2021 Matters involved a Securities Claim, and no party contends that the 2021 Matters were asserted against an Insured Person under section II(J)(1).[75] That means that Bhaduri or Pfeuffer can be an "Insured Person" only under section II(J)(2)(c), which requires that the 2021 Matters are a Claim made against them "for an Employment Practices Wrongful Act."[76]

Putting the above analysis together, the Interrelated Claims provision applies only if the 2021 Matters are a Claim made against Bhaduri or Pfeuffer for an

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[74] § II(J)(2) (as amended by Endorsement No. 15(9)).

[75] According to a February 2025 XL letter, XL accepted coverage for the Employee Arbitration only after the Employee Arbitration statement of claims was amended to add a StoneX executive as a respondent. *See* StoneX Ex. D at 1. According to XL, that StoneX executive qualified as an "Insured Person" under Primary Policy section II(J)(1) and, due to the presence of that executive as a party, the remaining respondents would be deemed Insured Persons under section II(J)(2)(b). *See id.* at 3-4. Ironshore does not argue, however, that the addition of an executive renders Bhaduri or Pfeuffer an "Insured Person" for purposes of analyzing whether the Employee Arbitration relates back to the 2021 Matters.

[76] Primary Policy § II(J)(2)(c) (as amended by Endorsement No. 15(9)).

Employment Practices Wrongful Act.[77] Ironshore contends that this requirement is satisfied. As explained below, it is not.

2. THE ANSWER: NO, MEANING THE INTERRELATED CLAIMS PROVISION DOES NOT APPLY.

The 2021 Matters were not for an Employment Practices Wrongful Act. The Policies define that term to mean "any actual or alleged":

> (1) wrongful dismissal, discharge or termination (either actual or constructive) of employment, including breach of an implied contract;
>
> (2) harassment (including workplace bullying, sexual harassment whether 'quid pro quo,' hostile work environment or otherwise);
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> (3) discrimination (including, but not limited to, discrimination based upon age, gender, race, color, national origin, religion, sexual orientation or preference, pregnancy or disability);

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[77] The definition of "Wrongful Act" also requires that the act be by an Insured Person "while acting in his or her capacity as such or due to his or her status as such." Primary Policy § II(J)(2)(c) (as amended by Endorsement No. 15(9)). The parties do not dispute that this imposes an additional requirement that the relevant act be taken in the person's capacity as a StoneX employee. *See* Ironshore SJ Ans. Br. at 18 (describing requirement that an individual was "acting in his…['present or future…employee'] capacity…or …status as such" as a "component for qualifying as a[] 'Wrongful Act'" and asserting Bhaduri was acting in capacity as StoneX employee (all but last alteration in original)); StoneX SJ Reply at 11-13 (arguing that 2021 Matters do not qualify as Wrongful Act for additional reason that they do not concern misrepresentation made in Bhaduri's "capacity" as StoneX employee). Because the Court holds that the 2021 Matters are not for an Employment Practices Wrongful Act, it need not decide whether the "capacity" requirement would provide an additional basis to rule in favor of StoneX.

> (4) Retaliation;
>
> (5) employment-related misrepresentations;
>
> (6) employment-related libel, slander, humiliation, defamation or invasion of privacy;
>
> (7) wrongful failure to employ or promote;
>
> (8) wrongful deprivation of career opportunity with the Company, wrongful demotion or negligent evaluation, including the giving of negative or defamatory statements in connection with an employee reference;
>
> (9) wrongful discipline;
>
> (10) failure to grant tenure; or
>
> (11) with respect to any of the foregoing items (1) through (10) of this DEFINITION (G): negligent hiring, retention, training or supervision, infliction of emotional distress or mental anguish, failure to provide or enforce adequate or consistent corporate policies and procedures, or violation of an individual's civil rights;
>
> but only if the Employment Practices Wrongful Act relates to an employee of the Company or Non-Profit Entity, or an applicant for employment with the Company or Non-Profit Entity, whether committed directly, indirectly, intentionally or unintentionally.[78]

Ironshore contends that the 2021 Matters qualify under this definition. In so contending, it focuses only on item 5: "employment-related misrepresentations."[79]

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[78] Primary Policy § II(G) (as amended by Endorsement Nos. 15, 18).

[79] *See* Ironshore SJ Ans. Br. at 14-18.

Ironshore asserts that Bhaduri is alleged to have engaged in employment-related misrepresentations because he is alleged to have "misrepresented his employment status and employment plans to BTIG when he resigned, falsely misrepresenting that he would not be working for a competitor."[80] Bhaduri's statements were "employment-related," Ironshore suggests, "because they were "connected…to the act of employing or the state of being employed;" and they were "a 'misrepresentation' because they were 'a false or misleading assertion.'"[81] Ironshore bases its conclusion on two courts applying dictionary definitions to "employment-related"[82] and another court applying a dictionary definition to "misrepresentation,"[83] and then melding those definitions together.[84]

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[80] *See id.* at 17. Although, as noted above, the 2021 Matters also concerned Pfeuffer, Ironshore only argues that Bhaduri is alleged to have made "employment-related misrepresentations." *See id.* at 12-18; Ironshore JOP Reply at 8-12. Accordingly, the Court focuses only on Bhaduri below.

[81] *See* Ironshore SJ. Ans. Br. at 18 (alteration in original) (first quoting *Hansard v Fed. Ins. Co.*, 46 N.Y.S.3d 163, 167 (N.Y. App. Div. 2017); and then quoting *KnighTek, LLC v. Jive Commc'ns., Inc.*, 225 A.3d 343, 353 n.41 (Del. 2020)).

[82] *See id.* at 15 (first citing *Hansard*, 46 N.Y.S.3d at 167; and then citing *Clinical Res. Inst. of S. Or., P.C. v. Kemper Ins. Cos.*, 84 P.3d 147, 151 (Or. Ct. App. 2004)).

[83] *See id.* (citing *KnighTek*, 225 A.3d at 353 n.41).

[84] Ironshore also suggests that this term must be "interpreted to favor broad coverage." *See id.* at 9 (quoting *AMC Entm't Hldgs., Inc. v. XL Specialty Ins. Co.*, 2025 WL 655595, *4 (Del. Super. Feb. 28, 2025)). Here, however, Ironshore is not asking the Court to interpret the Policies broadly in favor of coverage. It is seeking to interpret the Policies to deny coverage. Ironshore suggests that there is coverage under the 2020-21 XL Policy, but the issue currently before the Court is not

Although dictionary definitions can often aid in determining the meaning of contract terms, they "are not the only possible source of plain meaning."[85] Rather, a court must read words in their "natural habitat" of "a larger text"—including the "phrases, [] sentences, [] paragraphs, and [] entire provisions" in which they appear.[86]

Here, context indicates that the 2021 Matters do not allege "employment-related misrepresentations." That item appears in a list with ten others. Each concern employment-based torts brought by an employee against her employer, such as for wrongful termination, harassment, discrimination, or wrongful discipline. They do not concern claims brought by an employer against an employee, such as

interpretation of the 2020-21 XL Policy. It is interpretation of the Policies covering the 2022-23 period.

[85] *Clear Channel Outdoor Hldgs., Inc. v. Ill. Nat'l Ins. Co.*, 2026 WL 1347392, at *11 (Del. Super. Apr. 28, 2026) (quoting *In re P3 Health Grp. Hldgs., LLC*, 282 A.3d 1054, 1066 (Del Ch. 2022)).

[86] *P3 Health Grp.*, 282 A.3d at 1066. At oral argument, Ironshore suggested that Delaware courts do not look to context when a term is unambiguous. *See* Apr. 21, 2026 Oral Argument Tr. (hereinafter "Tr.") at 50:14-51:4, 52:16-53:19. To the contrary, Delaware courts always consider "the context of the contract language and circumstances," even when relying on dictionary definitions to aid in construing unambiguous terms. *See, e.g.*, *Lorillard Tobacco Co. v. Am. Legacy Found.*, 903 A.2d 728, 740-42 (Del. 2006) (relying on dictionary definitions to interpret unambiguous term "in the context of Section VI"); *see also Chi. Bridge*, 166 A.3d at 913-14, 926-27 (Del. 2017) (explaining that "[i]n giving sensible life to a real-world contract, courts must read the specific provisions of the contract in light of the entire contract" and that agreement was unambiguous "when read in full and situated in the commercial context between the parties").

breach of a non-compete or misappropriation of trade secrets.[87] Accordingly, "employment-related misrepresentations" refers to claims for misrepresentations brought by an employee against her employer. That interpretation is supported by the canon of *noscitur a sociis*,[88] as well as *ejusdem generis*.[89] It is also supported by the historical purpose of employment-practices liability coverage[90] and caselaw

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[87] The closest potential exception is item 6's reference to "employment-related libel, slander, . . . [or] defamation," as an employer could conceivably sue an employee for defamation. Primary Policy § II(G)(6) (as amended by Endorsement Nos. 15, 18). But even that language appears within an item that otherwise indicates it is meant to concern claims by an employee against her employer: "invasion of privacy." *See id.* A claim that an employee has committed an "invasion of privacy" against her employer seems unlikely.

[88] *See ArchKey Intermediate Hldgs. Inc. v. Mona*, 302 A.3d 975, 1001 (Del. Ch. 2023) ("Under the familiar principle of *noscitur a sociis*, 'a word in a contract is to be read in light of the words around it.'" (quoting *Smartmatic Int'l Corp. v. Dominion Voting Sys. Int'l Corp.*, 2013 WL 1821608, at *10 (Del. Ch. May 1, 2013))).

[89] *See Aspen Advisors LLC v. United Artists Theatre Co.*, 861 A.2d 1251, 1265 (Del. 2004) ("The well-established rule of construction, *ejusdem generis*, is that 'where general language follows an enumeration of persons or things, by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same general kind or class as those specifically mentioned.'" (quoting *Petition of State*, 708 A.2d 983, 988 (Del. 1998))).

[90] *See* Note, Robert Cavallaro, *Corporate Buyer Beware: Deficiencies in Directors' and Officers' Insurance for Employment Practices Liability*, 26 Hofstra L. Rev. 217, 226-33, 261 (1997) (explaining development of employment practices liability insurance addressed common claims by employees against employers, such as "wrongful termination, discrimination, and sexual harassment"); *see also* John H. Denton, 5 Law & Prac. of Ins. Coverage Litig. § 56:13 (Westlaw July 2026 Update) (noting that employment practices liability policies generally cover "causes of action such as discrimination, sexual harassment, and wrongful discharge," though they

from other jurisdictions.[91] Not only that, but it is likewise consistent with the two cases Ironshore cites for its definition of "employment-related."[92]

Applying that contextual interpretation, the 2021 Matters do not fit within the meaning of "employment-related misrepresentations." In the 2021 Matters, Bhaduri's former employer BTIG accused him of having made misrepresentations to it. Those matters were not asserted by an employee against his employer. The "employment-related misrepresentation" term would include matters where Bhaduri, acting on behalf of BTIG in a supervisory capacity, made misrepresentations to an employee he was supervising, and then that employee sued

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have also evolved to include "a 'catch-all' that would include other employment related causes of action").

[91] *See Hardin v. Greenwich Ins. Co.*, 2012 WL 3217704, at *6-7 (C.D. Cal. Aug. 3, 2012) (rejecting construction of "employment related misrepresentations" as "encompassing any misrepresentation made by an insured in the scope of his or her employment" because it was "completely divorced from the definition of Wrongful Acts" and "ignore[d] the maxim that a policy's terms are construed in context"); *see also Samson v. Apollo Res. Inc.*, 64 F. App'x 418, 2003 WL 1529786, at *4 (5th Cir. 2003) (noting that the term "Wrongful Employment Practice," as defined in policy, "limits covered acts to specific types of conduct by the employer").

[92] Both cases interpreted "employment-related" to include claims by employees (whether current or former) against their employers. *See Hansard*, 46 N.Y.S.3d at 165, 167 (involving claims by employees alleging violations of Fair Labor Standards Act, New York Labor Law regarding payment of wages and vacation benefits, and retaliation); *Clinical Res. Inst.*, 84 P.3d at 151 (involving action by former employee alleging employer interfered with economic opportunity and made false assertions about her).

BTIG or Bhaduri for those misrepresentations.[93] It does not include the 2021 Matters in which Bhaduri is alleged to have made misrepresentations to his former employer.

* * *

The Interrelated Claims provision can apply only if the 2021 Matters were for an Employment Practices Wrongful Act. They were not. Accordingly, the Employee Arbitration does not relate back to the 2021 Matters. The Employee Arbitration is covered under the Ironshore Policy.

B. THE LARGER SETTLEMENT RULE IS THE PROPER ALLOCATION METHOD, BUT THE COURT CANNOT ALLOCATE SPECIFIC COSTS ON THE PRESENT RECORD.

Having established that the Employee Arbitration is covered, StoneX asks the Court to order that all StoneX Arbitration Defense Expenses be paid under the Larger Settlement Rule.[94] Although the Larger Settlement Rule applies, whether it requires payment of all StoneX Arbitration Defense Expenses is a factual question that the Court cannot resolve on the present record.

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[93] *See Hardin*, 2012 WL 3217704, at *6-7 (explaining that "employment related misrepresentations" encompasses "employment actions taken in an insured's supervisory capacity for [the employer]," not for alleged misrepresentations made by the insured to the employer).

[94] *See* StoneX SJ Op. Br. at 25-27.

When loss arises from both covered and uncovered claims, the parties or the Court may need to determine the extent to which the loss should be allocated between the covered and uncovered claims.[95] The method for determining how to allocate the loss is sometimes called an "allocation method."[96]

One allocation method, developed by courts and adopted in Delaware, is the Larger Settlement Rule.[97] Under it, "a loss is fully recoverable unless the insurer can show that the liability for non-covered conduct increased the insurer's liability."[98]

A Larger Settlement Rule analysis has two steps.[99] The first asks whether the Larger Settlement Rule is the appropriate allocation method.[100] That step is satisfied if: "(i) the settlement resolves [or the defense costs are incurred for the purpose of

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[95] *See Hemisphere Media Grp., Inc. v. Fair Am. Select Ins. Co.*, 2026 WL 1970729, at *5 (Del. Super. June 18, 2026) (citing Joseph P. Monteleone & Nicholas J. Conca, *Directors and Officers Indemnification and Liability Insurance: An Overview of Legal and Practical Issues*, 51 Bus. Law. 573, 607-08 (1996)).

[96] *See id.* (citing *Arch Ins. Co. v. Murdock* (*Murdock Superior Court*), 2020 WL 1865752, at *7-8 (Del. Super. Jan. 17, 2020), *aff'd*, *Murdock Supreme Court*, 248 A.3d 887).

[97] *See id.* (first citing Monteleone & Conca, *supra* note 95, at 612-13; then citing *Murdock Superior Court*, 2020 WL 1865752, at *7-8; and then citing *Endurance Risk Sols. Assurance Co. v. Clover Health Invs., Corp.*, 295 A.3d 136, 2023 WL 2815997, at *2 n.6 (Del. 2023) (TABLE)).

[98] *Id.* (quoting *Murdock Supreme Court*, 248 A.3d at 908).

[99] *See id.* at *5-6.

[100] *See id.*

resolving], at least in part, insured claims; (ii) the parties cannot agree as to the allocation of covered and uncovered claims [or defense costs]; and (iii) the allocation provision does not provide for a specific allocation method (*e.g.*, *pro rata* or alike)."[101]

The second step involves applying the Larger Settlement Rule to particular losses.[102] It requires the Court to assess whether "the defense or settlement costs of the litigation were, by virtue of the wrongful acts of the uninsured parties [or the existence of an uncovered proceeding], higher than they would have been had only the insured parties [or proceeding] been defended or settled."[103]

Step one may be more amenable to summary judgment than step two. That is because step one largely concerns the nature of the underlying claims and the language of the insurance policy, whereas step two requires an often fact-intensive inquiry into whether uninsured parties or uncovered proceedings increased costs.[104]

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[101] *See Murdock Superior Court*, 2020 WL 1865752, at *7; *see also Clover Health Invs., Corp. v. Berkley Ins. Co.*, 2023 WL 1978227, at *10 (Del. Super. Feb. 6, 2023) (explaining that, though *Murdock* did not concern defense costs, "the Larger Settlement Rule applies to both allocation of defense costs and allocation of a settlement," and incorporating defense costs into standard (citing *Murdock Superior Court*, 2020 WL 1865752, at *7)), *vacated by agreement of parties*, 2025 WL 3645057 (Del. Super. Oct. 22, 2025).

[102] *See Hemisphere*, 2026 WL 1970729, at *5 (citing *Murdock Superior Court*, 2020 WL 1865752, at *7-9).

[103] *See id.* (quoting *Murdock Superior Court*, at *7).

[104] *See id.* at *6-7, *12 (explaining that an issue of fact required discovery on step two but granting summary judgment on step one); *Murdock Superior Court*, 2020

Similarly, here, StoneX is entitled to summary judgment on step one but not step two. At least for purposes of StoneX's motion, the parties agree that the StoneX Arbitration is uncovered, whereas, as explained above, the Employee Arbitration is covered. In allocating defense costs incurred for both of those matters, the Larger Settlement Rule applies. However, on the present record, the Court cannot determine the extent to which the existence of the uncovered StoneX Arbitration increased costs for the covered Employee Arbitration.[105]

1. THE LARGER SETTLEMENT RULE IS THE APPROPRIATE ALLOCATION METHOD.

The Larger Settlement Rule is the appropriate allocation method because each element of step one is satisfied.

First, some StoneX Arbitration defense costs were incurred, at least in part, for the purpose of resolving the Employee Arbitration. StoneX has demonstrated, through admissible evidence, that the two FINRA Arbitrations are overlapping and

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WL 1865752, at *6-9 (granting summary judgment on step one but denying it in part on step two because "the factual record needs to be developed" to determine whether uncovered parties increased costs). *But see Clover Health*, 2023 WL 1978227, at *13 (granting summary judgment on both steps because issue was "whether multiple insurance policies may or may not provide coverage," which did not impact amount of defense costs).

[105] The parties have not framed the analysis in two steps. However, in requesting that the Court order reimbursement of all StoneX Arbitration Defense Expenses under the Larger Settlement Rule, StoneX inherently requests an order that the Larger Settlement Rule is the appropriate allocation method under step one.

that some defense costs in the StoneX Arbitration were incurred in part for the benefit of the Employee Arbitration.[106] StoneX and certain employees in the Employee Arbitration are represented by the same counsel. In representing those clients in both arbitrations, that counsel has "collected, reviewed, and analyzed documents from [the employees it represents] as well as the other employee respondents named in the Employee Arbitration . . . including in preparation for mediation of both matters."[107] Accordingly, at least some of the costs in the StoneX Arbitration were incurred for purposes of resolving the Employee Arbitration. Ironshore does not submit evidence to create a material dispute of fact on this

[106] *See* Tabaie Aff. ¶¶ 2-7.

[107] *See id.* ¶ 3.

point.[108] On this record, the first element of step one is satisfied, even though, as explained below, the specifics of the allocation are another matter.[109]

Second, "[t]he parties have not come to an agreement as to the allocation" of defense costs between the two FINRA Arbitrations.[110] The second element is therefore satisfied.[111]

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[108] Ironshore argues that the Court should disregard counsel's affidavit because it "does not state facts" and is instead only "self-serving" and "conclusory." *See* Ironshore SJ Ans. Br. at 29. Although the affidavit states some conclusions, contrary to Ironshore's characterization, the affidavit states facts, particularly regarding the document collection and analysis counsel has done and that counsel conducted this work in preparation for mediation of both FINRA Arbitrations. Tabaie Aff. ¶ 3. Absent evidence to rebut them, the Court may accept those facts. *See* Super. Ct. Civ. R. 56(e) ("When a motion for summary judgment is made and supported as provided in this Rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this Rule, must set forth specific facts showing that there is a genuine issue for trial."); *see also Hemisphere*, 2026 WL 1970729, at *7-8 (holding first element of step one satisfied where insurer failed to submit evidence or specify discovery needed to determine whether settlement resolved insured claims in part).

[109] Ironshore suggests that the Larger Settlement Rule cannot apply because "the corporate entity alone" can be liable for claims in the StoneX Arbitration. *See* Ironshore SJ Ans. Br. at 32-34. But StoneX has not sought to apply the Larger Settlement Rule to the StoneX Arbitration award; no party contends that award is covered. *See* D.I. 85 (reporting StoneX arbitration award but not seeking coverage for it). Defense costs are different. StoneX has submitted evidence that some defense costs were expended for both FINRA Arbitrations, and Ironshore has not provided evidence to rebut that point.

[110] *See Clover Health*, 2023 WL 1978227, at *12. Certain communications between the parties appear to show that there was an allocation of defense costs between D&O and "E&O." *See, e.g.*, Ironshore Ex. A. However, the parties have not contended that they have agreed on allocation between the two FINRA Arbitrations.

[111] *See Clover Health*, 2023 WL 1978227, at *12 ("In the instant case, the advancement of defense costs would resolve, at least in part, [the relevant] claims.

Third, the Policies' allocation provision does not provide a specific allocation method. Regarding allocation, the Policies provide:

> If both Loss covered by this Policy and loss not covered by this Policy are incurred, either because a Claim, Interview or Investigation Demand made against the Insured contains both covered and uncovered matters, or because a Claim, Interview or Investigation Demand is made against both the Insured and others (including the Company for Claims other than Securities Claims) not insured under this Policy, the Insured and the Insurer will use their best efforts to determine a fair and appropriate allocation of Loss between that portion of Loss that is covered under this Policy and that portion of loss that is not covered under this Policy.[112]

Like in *Murdock*, this provision "speaks only as to a situation where the 'Insureds' and 'Insurer' work together with 'best efforts' to arrive at a fair and proper allocation of covered Loss."[113] It "does not address a situation where the parties fail to agree."[114] Accordingly, the third element is satisfied, and the Larger Settlement Rule applies.[115]

The parties have not come to an agreement as to the allocation of covered and uncovered claims between the Tail and Go-Forward Policies. Therefore, the first two requirements for the Larger Settlement Rule are satisfied.").

[112] Primary Policy § V(D) (as amended by Endorsement No. 14).

[113] *See Murdock Superior Court*, 2020 WL 1865752, at *6.

[114] *See id.* at *7.

[115] *Se id.* at *8.

2. The record is insufficient to determine whether the StoneX Arbitration increased defense costs for the Employee Arbitration.

"The remaining issue," under step two, "is whether the Court can use the Larger Settlement Rule and Civil Rule 56 to determine allocation without further fact finding."[116] StoneX seeks an allocation that is quite simple: 100% to the covered Employee Arbitration, 0% to the uncovered StoneX Arbitration.[117] On the present record, the Court cannot determine whether that allocation is appropriate.

In *Murdock*, this Court indicated that it could likely grant summary judgment that a settlement should be fully allocated to covered defendants because the complaint sought damages against all defendants "jointly and severally."[118] As to another settlement, the Court explained that "it appears that the factual record needs to be expanded."[119] In *Clover Health*, the Court held that it could allocate all defense costs to one insurance policy because whether other policies applied did not impact the defense cost amount.[120] The Court did not have to determine allocation amongst

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[116] *See id.*

[117] *See* StoneX SJ Op. Br. at 25-26.

[118] *See Murdock Superior Court*, 2020 WL 1865752, at *9.

[119] *Id.*

[120] *See Clover Health*, 2023 WL 1978227, at *12.

insured and uninsured persons, because the Court had found that "all disputed directors and officers are Insured Persons."[121]

Here, by contrast with the first settlement in *Murdock* and the defense costs in *Clover Health*, there are factual disputes precluding the Court from deciding a particular allocation on the present record. Even though the Larger Settlement Rule applies, defense costs will not be recoverable to the extent they "were increased due to uninsured parties or matters."[122] StoneX contends that defense costs for the Employee Arbitration could not have been increased by the StoneX Arbitration because a company acts only "though its executives and employees."[123] It also points out that the two arbitrations were "overlapping" and involved the same counsel whose work benefitted all clients in both arbitrations.[124] Even assuming those assertions are true, factual questions would remain. For example, it is possible that the allegations in the StoneX Arbitration broadened the scope of work and caused expenditures that would not have been made had only the Employee Arbitration been filed. Moreover, the Larger Settlement Rule standard is not whether

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[121] *See id.* at *10.

[122] *See id.* at *13.

[123] *See* StoneX SJ Op. Br. at 26.

[124] *See id.*

work is "mutually beneficial" but whether costs have been increased by uninsured parties or matters.

A more thorough record may show that the Larger Settlement Rule requires Ironshore to cover all StoneX Arbitration expenses, as StoneX contends. But Ironshore is entitled to contend that, as a factual matter, the StoneX Arbitration increased costs above what would have been incurred had only the Employee Arbitration been brought. For these reasons, with respect to Defense Expenses, summary judgment is granted as to Larger Settlement Rule step one but denied as to step two.[125]

C. STONEX'S BAD FAITH CLAIM FAILS AS A MATTER OF LAW.

Last, Ironshore moves for judgment on the pleadings on StoneX's bad faith claim.[126] On this issue, Ironshore's motion is granted.

Delaware recognizes "a cause of action for bad faith against an insurer 'when the insurer refuses to honor its obligations under the policy and clearly lacks reasonable justification for doing so.'"[127] "Reasonable justification requires that, at

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[125] In a letter submitted the day before oral argument, StoneX reported that the Employee Arbitration had settled and that it was seeking a ruling that it is entitled to coverage for that settlement. *See* D.I. 85 at 3. The Court will not now grant summary judgment that the settlement is covered because the parties have not briefed that issue.

[126] *See* Ironshore JOP Op. Br. at 33-34.

[127] *Murdock Supreme Court*, 248 A.3d at 910 (quoting *Bennett v. USAA Cas. Ins. Co.*, 158 A.3d 877, 2017 WL 961806, at *4 (Del. 2017) (TABLE)).

the time of the denial, facts or circumstances were known to [the insurer] that created a *bona fide* coverage dispute and therefore a meritorious defense to the insurer's liability."[128] The burden of showing a clear lack of reasonable justification is on the insured.[129] "Mere delay is not evidence of bad faith, provided that a reasonable justification exists for refusing to make payment upon submission of proof of loss."[130] An insurer is not clearly without reasonable justification "simply because a court 'ultimately disagree[s] with [the insurer's] position.'"[131] Although reasonableness can be a factual issue, a bad faith claim may be dismissed at the pleading stage where the pleadings fail to raise a reasonable inference that the insurer lacked reasonable justification.[132]

Applying this standard, StoneX's bad faith claim fails as a matter of law. Although the Court ultimately disagrees with Ironshore's position, it was not clearly

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128 *Zurich Am. Ins. Co. v. Syngenta Crop Protection LLC*, 314 A.3d 665, 683 (Del. 2024) (citation omitted).

129 *Bennett*, 2017 WL 961806, at *4 ("[T]he *plaintiff* must show that the insurer failed to honor its contractual obligations without reasonable justification." (citations omitted)).

130 *Tackett v. State Farm Fire & Cas. Ins. Co.*, 653 A.2d 254, 266 (Del. 1995).

131 *Forte Biosciences, Inc. v. Wesco Ins. Co.*, 2026 WL 66768, at *10 (Del. Super. Jan. 8, 2026) (quoting *ACE Am. Ins. Co. v. Guaranteed Rate, Inc.*, 305 A.3d 339, 350 (Del. 2023)).

132 *See id.* (citations omitted); *see also, e.g.*, *Desrivieres v. Richard*, 2016 WL 241373, at *4 (Del. Super. Jan. 14, 2016) (dismissing bad faith claim where plaintiffs had "not alleged a bad faith denial or delay in payment" of benefits).

without reasonable justification. Reading the relevant policy provisions in context, the Court has determined that the 2021 Matters did not concern "employment-related misrepresentations" and thus were not "Wrongful Acts."[133] But Ironshore's argument to the contrary is "at least colorable."[134]

Moreover, nothing in the pleadings indicates that, prior to initiating litigation, StoneX had raised the argument on which it now prevails, that the 2021 Matters were not Wrongful Acts. Instead, the complaint points to a prior position, taken by XL, that the 2021 Matters were not "a covered Claim" under the 2020-21 XL Primary Policy.[135] The Court need not resolve that argument at this time, except to note that it is not as strong as the argument on which StoneX prevails.[136]

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133 *See supra* § IV.A.

134 *See Clear Channel*, 2026 WL 1347392, at *19 (citing *Guaranteed Rate*, 305 A.3d at 350).

135 *See* D.I. 1 ¶ 53.

136 StoneX bases its "covered Claim" argument on *Benefytt Technologies, Inc. v. Capitol Specialty Insurance Corp.* *See* StoneX SJ Op. Br. at 23-25 (citing *Benefytt Techs., Inc. v. Cap. Specialty Ins. Corp.*, 2025 WL 84701, at *2, *11, *14 (Del. Super. Jan. 6, 2025), *aff'd*, 346 A.3d 68 (Del. 2025) (TABLE)). But in that case, the prior matter was not a "Claim" at all, meaning that a later Claim could not relate back to it, regardless of whether it was "covered." *See Benefytt*, 2025 WL 84701, at *11, *14 (noting Claim was defined as made "against any of the Insureds" and holding that the original matter was "not covered because it doesn't make a claim against an insured person"). In addition, StoneX contends that it would be "illogical and inconsistent with an insured's reasonable expectations of coverage" for an interrelated claims provision to cause a claim to be uncovered when it would not be covered by a prior policy. *See* StoneX SJ Op. Br. at 23. Again, the Court need not decide this issue, except to note that it is far from clear.

Looking beyond the arguments' merits, nothing else in the pleadings raises a reasonable inference of bad faith. StoneX points out that XL took the position that the Employee Arbitration should be placed during the Policies' 2022-23 period.[137] But without more, that another insurer took a different position does not raise an inference of bad faith. It at most shows that there could be good faith disagreement.[138] Moreover, StoneX's complaint alleges that XL's coverage position was "shifting,"[139] which further undermines an inference that Ironshore's failure to accept XL's position was in bad faith. StoneX also alleges that Ironshore asserted its coverage position at the "last-minute."[140] But it fails to allege when it provided notice to Ironshore or when it sought Ironshore's position,[141] let alone that Ironshore had any obligation to provide coverage sooner.

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[137] *See* D.I. 1 ¶¶ 52-53.

[138] *Cf. Guaranteed Rate*, 305 A.3d at 350 (rejecting bad faith claim even where same insurer was alleged to have taken contradictory position in another case).

[139] *See* D.I. 1 ¶ 50.

[140] *See id.* ¶¶ 54-55.

[141] The complaint alleges that Ironshore earlier "had access to the information it now relies on" because its coverage letter "quotes from the initial BTIG lawsuit filed in November 2023." *See id.* ¶ 54. But that allegation does not say when StoneX became aware of the BTIG lawsuit or when StoneX provided Ironshore notice of it. Otherwise, the complaint alleges StoneX provided "timely notice of the matters to the Insurers," without specifying when that notice was provided to Ironshore. *See id.* ¶ 43.

Even granting StoneX all reasonable inferences, the pleadings do not support a claim of bad faith.[142] Ironshore's motion for judgment on the pleadings on Count IV is granted.

[142] At oral argument, the parties agreed that the Court could consider only the pleadings and documents incorporated by reference for purposes of addressing this issue. *See* Tr. at 34:20-35:9, 40:16-41:1. Yet both parties rely upon materials outside of that scope. *See, e.g.*, StoneX JOP Ans. Br. at 27-29 (relying on, for example, counsel's affidavit for facts not included in the pleadings); Ironshore JOP Reply at 19-23 (relying on the contents of letters not included in the pleadings). To the extent the Court were to consider these materials, the bad faith claim would still fail. They show that StoneX advanced its full $5 million limit within a week after StoneX advised it that the Primary Policy had been exhausted. *See* Ironshore Ex. A; Ironshore Ex. B at 5-6. They also show that even the day before it filed its complaint, StoneX made, at most, a passing reference to the argument on which it now prevails. *See* Ironshore Ex. E at 2-3 (stating that Bhaduri and Pfeuffer were not "involved in . . . an Employment Practice Wrongful Act," but focusing argument on whether 2021 Matters were not "a covered Claim").

V. CONCLUSION

For the foregoing reasons, StoneX's motion for partial summary judgment and Ironshore's motion for judgment on the pleadings are each **GRANTED in part** and **DENIED in part**. In sum: (i) StoneX is entitled to coverage for the Employee Arbitration under the Ironshore Policy;[143] (ii) the Larger Settlement Rule applies for purposes of allocating Defense Expenses between the Employee Arbitration and the StoneX Arbitration, but the allocation of specific costs under the Larger Settlement Rule remains at issue; and (iii) StoneX's bad faith claim is dismissed.

IT IS SO ORDERED.

/s/ *Patricia A. Winston*
Patricia A. Winston, Judge

[143] To the extent Ironshore seeks judgment on the pleadings that it is not required to cover other lawsuits filed in 2024, *see* Ironshore JOP Op. Br. at 12-13 (referencing the "Amato Lawsuit" and "Bhaduri Lawsuit"), that aspect of its motion is denied.