IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

QUINTON FREEMAN,	)	
	)	
	)	
Plaintiff,	)	
	)	
v.	)	**C.A. No. N24C-12-212 PRW**
	)	
H.I.G CAPITAL and	)	
CAPSTONE LOGISTICS, LLC,	)	
	)	
Defendants.	)	

Submitted: August 4, 2026
Decided: October 30, 2026

Upon Capstone Logistic's Motion to Dismiss
Mr. Freeman's Second Amended Complaint,
GRANTED in part, DENIED in part.

MEMORANDUM OPINION AND ORDER

Quinton Freeman, *Self-represented*.

Michele D. Allen, Esquire, ALLEN & ASSOCIATES, Wilmington, Delaware; Christina M. Michael, Esquire, and Monica L. Simmons, Esquire, FISHER & PHILLIPS LLP, Philadelphia, Pennsylvania, *Attorneys for Defendant Capstone Logistics, LLC*.

WALLACE, J.

In this case, the plaintiff, Quinton Freeman, has sued defendant Capstone Logistics, LLC, for breach of contract (Count I), breach of the implied covenant of good faith and fair dealing (Count II), tortious interference with business relationships (Count III), and promissory estoppel (Count IV). Mr. Freeman also requests punitive damages. This Memorandum Opinion resolves Capstone's Motion to Dismiss his Second Amended Complaint.[1] And for the reasons explained now, that motion is **GRANTED, in part,** and **DENIED, in part**.

I. FACTUAL AND PROCEDURAL BACKGROUND[2]

A. THE PARTIES

Mr. Freeman is an independent delivery contractor, conducting business with Defendant Capstone Logistics LLC.[3]

Defendant Capstone Logistics LLC is a company engaged in the trade of freight and logistics contracting.[4]

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[1] Mr. Freeman originally filed suit against both H.I.G. Capital, LLC, and Capstone Logistics, LLC. *See* Initial Complaint (D.I. 1). The Court entered an earlier order dismissing H.I.G. Capital, LLC, from the case with prejudice. D.I. 51.

[2] Unless otherwise noted, the Court draws the following background from undisputed facts in the operative complaint and documentary exhibits submitted therewith. *See Windsor I, LLC v. CW Capital Asset Mgmt. LLC*, 238 A.3d 863, 873 (Del. 2020) ("In most cases, when the Superior Court considers a 12(b)(6) motion, it limits analysis to the 'universe of facts' within the complaint and any attached documents.").

[3] *See* Second Amended Compl. (hereafter "Compl."), ¶¶ 1-2 (D.I. 61).

[4] *See id.* ¶¶ 1-2.

B. THE INDEPENDENT CONTRACTOR OPERATING AGREEMENT

On November 11, 2018, Mr. Freeman signed an Independent Contractor Operating Agreement ("ICOA") with Priority Express, which Capstone later acquired.[5] Per this ICOA, Mr. Freeman was an independent contractor to Capstone and provided trucking services.[6] From 2018 to 2023, Mr. Freeman ran more than 15 routes under the ICOA and earned over $700,000.[7]

C. ROUTE 300

On April 11, 2023, Capstone's Terminal Manager offered Mr. Freeman to work Route 300 at a rate of $506.82 per day; Mr. Freeman accepted and began operations on April 18, 2023.[8]

Three events followed. On June 28, 2023, Capstone's freight manager added an additional delivery requirement that was not part of the original route contract without first seeking agreement in writing.[9] On September 19, 2023, Capstone issued a Route Rate Agreement cutting the rate to $485 per day.[10] Two days later, Capstone issued a written notice under ICOA § 26.2 that accused Mr. Freeman of

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[5] *See id.* at 1 ¶ 1.

[6] Exhibit ("Ex.") E, § 1 (D.I. 61).

[7] Amended Compl., 2 (D.I. 53).

[8] *See* Compl., 1 ¶ 3.

[9] *See id*. at 1 ¶ 4.

[10] *Id*., at 1 ¶ 5; *see* Ex. A (Route Agreement for Route 300) (D.I. 61). It is unclear what the original rate was for Route 300. The Route Rate Agreement is dated "9.19.2023" without a specific designation of a separate effective date. Thus, one must assume it was effective immediately.)

(1) failing to find coverage for working Route 300; and (2) respond to Capstone.[11] According to Mr. Freeman, he had already arranged coverage with Capstone's dispatcher at 12:47 a.m. the same day.[12] On September 25, Capstone issued a 10-day notice under ICOA § 3.3 terminating Mr. Freeman's Route 300 service ten days hence, citing "Other Adjustment/Prior Period Adjustments" as the sole reason.[13]

D. ROUTE 34

Mr. Freeman also worked Route 34 using a 16-foot truck that Capstone had approved.[14] The Route 34 agreement contains no specific truck-sizing requirements, but only that the route may "require[] a second trip in the event of increased volume or any other unforeseen circumstances."[15]

On October 11, 2023, Capstone's Warehouse Manager orally informed Mr. Freeman that he must upgrade to a 26-foot truck in order to stay on this route.[16] The next day, Capstone issued a 10-day notice making the same demand, effective October 23, 2023.[17] By that time, Mr. Freeman had operated his 16-foot truck for

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[11] Compl., 1 ¶ 6; *see* Ex. B (Notice of Material Breach and Requirement to Cure) (D.I. 61); *see* Ex. E, § 26.2.

[12] *See* Compl., 1 ¶ 6.

[13] *See id*. at 2 ¶ 7; Ex. C (Capstone 10-Day Notice) (D.I. 61).

[14] Compl., 2 ¶ 13.

[15] *Id*. at 2 ¶ 11.

[16] *See id*. at 2 ¶ 9.

[17] *See id*. at 2 ¶ 10; *see* Ex. D (Capstone 10 Day Notice) (D.I. 61). The notice stated the reason for removal was "Vehicle Requirement – 26Ft Box Truck," and that the affected route was "Same Day 34."

over 18 months without changes in service volume or contract terms.[18]

On an October 16th conference call, Capstone's terminal manager called Mr. Freeman's account of the original trucking-size requirement a "bold-faced lie" and said he had worked on that contract himself.[19] Mr. Freeman noted that the representative worked in a different division at the time.[20]

On October 23, Capstone reassigned Route 34 to another contractor.[21] Mr. Freeman's only notice of the reassignment was a phone call from Capstone's Warehouse Manager; Mr. Freeman received no written notice.[22]

E. PROCEDURAL BACKGROUND

Mr. Freeman initially filed this action against Capstone in December 2024.[23] Six months later, Mr. Freeman filed an amended complaint.[24] And upon Capstone's motion to dismiss,[25] he was granted leave to file a second amended complaint.[26] That is now the operative complaint.[27]

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[18] *See* Compl., 2 ¶ 10; *see* Ex. D.

[19] *See* Compl.,2 ¶ 12.

[20] *See id*.

[21] *Id*. at 2, ¶ 13.

[22] *See id*.

[23] Initial Compl. (D.I. 1).

[24] Amended Compl. (D.I. 53).

[25] Motion to Dismiss Amended Compl. (D.I. 59).

[26] *See* Motion for Leave to File an Amended Compl. (D.I. 61); *see* Order (D.I. 64).

[27] *See* Compl.

Mr. Freeman seeks, in total, $394,984.46 in damages from Capstone.[28] Specifically, Mr. Freeman seeks lost profits on Route 300 of $229,589.46 and $165,345 in lost income from Routes 300 and 34, respectively.[29] He also seeks an estimated $50,000 in consequential damages for alleged harmed reputation and lost business opportunities; punitive damages in an amount the Court deem fits; and costs, attorney's fees, and interest.[30] While seeking wholesale dismissal of his complaint, Capstone suggests that—should any of Mr. Freeman's claims survive—any recovery should be limited to damages suffered during the ICOA's 30-day notice period, *i.e.*, from October 11 to November 10, 2023.[31]

II. PARTIES' CONTENTIONS

Mr. Freeman pens four claims: breach of contract, breach of the implied covenant of good faith and fair dealing, tortious interference with business relations, and promissory estoppel.[32] Capstone moves to dismiss all four.[33]

A. BREACH OF CONTRACT (COUNT I)

In Count I, Mr. Freeman alleges Capstone breached the ICOA by: (1) adding

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[28] Compl., 6.

[29] *Id*. at 5-6.

[30] *Id*.

[31] Defendant's Opening Brief in Support of Motion to Dismiss Mr. Freeman's Second Amended Complaint (hereafter "Opening Br."), 16-17 (citing *J.E. Rhoads & Sons, Inc. v. Ammeraal, Inc.*, 1988 WL 32012, at *10 (Del. Super. Ct. Mar. 30, 1988)).

[32] *See* Compl., 3-4.

[33] *See generally* Opening Br.

a delivery obligation without giving written confirmation, even though Mr. Freeman asked for it; (2) cutting his route rate without written notice or Mr. Freeman's consent; (3) falsely accusing Mr. Freeman to failing to cover the route; and (4) terminating Route 300 without "substantiated cause."[34]

Capstone moves to dismiss Count I under Rule 12(b)(6).[35]

First, Capstone maintains that § 3.3 of the ICOA was not triggered.[36] According to Capstone, § 3.3 defines "gross compensation" by an attached rate sheet ("Rate Sheet"),[37] and because neither the ICOA nor the Rate Sheet sets a day rate for Route 300, cutting that rate did not change Mr. Freeman's "gross compensation."[38] Capstone argues that § 3.3 says nothing about route changes, so Capstone didn't need to provide notice nor seek consent.[39] Even if § 3.3 applies, says Capstone, it requires only advance notice, and Capstone may terminate if Mr. Freeman declines.[40] Capstone argues its 10-day notice complied with ICOA § 8.7 and thus there can be no breach found.[41]

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[34] *See* Compl., 2 ¶ 8, 3.

[35] Opening Br., 8.

[36] *Id*. at 9-10.

[37] *Id*. at 10.

[38] *Id*. at 10-11.

[39] *Id.* at 11.

[40] *Id.* at 3.

[41] *Id.* at 11-12; Ex. E, § 8.7.

In response, Mr. Freeman posits that "gross compensation" should be construed to include all monetary forms of payment, not just base pay.[42] Because the Route 300 Agreement is an integrated component of the ICOA, Mr. Freeman contends, Route 300 pay is part of his gross compensation.[43] To him, Capstone's narrow reading contradicts both the term's plain meaning and Delaware's statutory approach.[44] Accordingly, Mr. Freeman argues that Capstone's unilateral cut triggered § 3.3 and, because it was made without notice or consent, was a material breach.[45]

Capstone replies that § 3.3 clearly defines "gross compensation" and the Court cannot rewrite this defined, unambiguous term "simply to placate Mr. Freeman."[46] Even if the term were ambiguous, says Capstone, Mr. Freeman has offered no evidence of prior trade usage or course of dealing to support his reading.[47]

Second is Mr. Freeman's contention that Capstone's imposition of an overflow requirement without notice or the opportunity to cure was a breach.[48] Capstone

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[42] Answering Br., 6 (no citation of authority provided).

[43] *Id.*

[44] *Id*. (citing 19 *Del. C.* § 709B, Delaware Department of Labor Regulation WP-101, and Delaware Compensation Rating Bureau Rule 2-C).

[45] *Id*. at 7.

[46] Reply Brief in Further Support of Defendant Capstone Logistics, LLC's Motion to Dismiss Plaintiff's Second Amended Complaint (hereafter, "Reply Br."), 2 (citing *Paul v. Deloitte & Touche, LLP*, 974 A.2d 140, 145 (Del. 2009)).

[47] Reply Br., 3.

[48] Compl., 3; Answering Br., 8-9.

counters that ICOA § 8.7 requires Mr. Freeman to comply with all specifications dictated by Capstone's customers.[49] Mr. Freeman maintains that the parties never agreed to an overflow requirement.[50]

Third, Capstone asserts that it did not maliciously or falsely accuse Mr. Freeman of breach.[51]

Fourth, Capstone argues that it did not materially breach by terminating the Route 300 Agreement.[52]

Fifth, Capstone charges that Mr. Freeman breached the contract, and so any breach that Capstone may be found to have committed is excused.[53] Capstone says that Mr. Freeman admitted to noncompliance with delivery and equipment requirements, which is enough to excuse Capstone's performance.[54] Mr. Freeman responds that Capstone has not pointed to any material provision of the ICOA that he breached.[55]

Sixth, Capstone contends that Mr. Freeman waived his right to claim Capstone

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[49] Reply Br., 5.

[50] Sur-Reply Brief in Opposition to Capstone Logistics, LLC's Reply Brief Motion to Dismiss (hereafter, "Sur-Reply"), 3-4.

[51] Answering Br., 11-12.

[52] *Id.* at 12.

[53] Opening Br., 13-14.

[54] *Id*.

[55] Answering Br., 12.

breached, and so the claim is estopped.[56] As support, Capstone points out that Mr. Freeman waited more than 117 days to object to the rate change.[57] In Capstone's view, by continuing to work, he acquiesced to the "new" rate and route terms.[58] But, Mr. Freeman responds that waiver is inapplicable here because of a lack of evidence that Mr. Freeman expressed an intent to waive his right to this claim.[59]

Seventh, Capstone argues that the ICOA expired well before the conduct at the heart of this lawsuit.[60] Capstone says that ICOA expired on December 31, 2021, before the conduct giving rise to this action occurred.[61] Mr. Freeman responds that the parties continued performing under the ICOA well after that date, and so the ICOA was extended beyond its term.[62]

Lastly, Capstone suggests that if dismissal isn't warranted, Mr. Freeman's damages should be limited to what was accrued during the notice period.[63] Capstone was able to terminate the ICOA with 30 days' written notice, and so Capstone contends that Mr. Freeman should be limited to the damages accrued during those

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[56] Opening Br., 14-15.

[57] *Id*.

[58] *Id*.

[59] Answering Br., 15.

[60] Opening Br., 15.

[61] *Id.*

[62] Answering Br., 5.

[63] Opening Br., 16.

30 days.[64]

Mr. Freeman says this is inconsistent with Delaware law. He insists that he is entitled to damages that would restore him to a position as if the contract was fully performed, not solely the damages arising from the 30-day window.[65] Further, Mr. Freeman avers that he wasn't even provided 30 days' notice of the ICOA's termination, but rather received only a 10-day notice that threatened termination if alleged noncompliance with Captone's specifications persisted.[66]

The parties also dispute whether the Route 300 Agreement is part of the ICOA. Capstone contends they are standalone agreements and that Mr. Freeman offers no support otherwise.[67] Mr. Freeman calls out ICOA § 2.1, the duration and termination provision, which states: "Each party agrees to satisfy all of its obligations incurred hereunder prior to the effective termination date, including but not limited to obligations related to any accepted dispatch."[68] Mr. Freeman argues that "accepted dispatch" refers to the route agreement for each dispatchment.[69]

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[64] *Id.* at 17.

[65] Answering Br., 17-18.

[66] *Id.* at 18.

[67] Reply Br., 3-4.

[68] Sur-Reply, 3.

[69] *Id.*

B. IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING (COUNT II)

Mr. Freeman claims that Capstone breached the implied covenant of good faith and fair dealing by acting arbitrarily and in bad faith.[70] Capstone seeks dismissal of Count II.[71] Capstone contends that Mr. Freeman has identified no gap in the operative contract for the implied covenant to fill.[72]

Mr. Freeman counters that there was a binding agreement between himself and Capstone and that Capstone unilaterally altered or terminated said contract without notice to Mr. Freeman.[73] Specifically, Mr. Freeman argues that Capstone modified his compensation and the trucking requirements without opportunity for negotiation or cure.[74] Mr. Freeman asserts that Capstone's actions were arbitrary and caused financial harm, which, to him, constitutes a breach of the implied covenant of good faith and fair dealing.[75]

C. TORTIOUS INTERFERENCE (COUNT III)

Capstone argues two bases for Count III's dismissal. First, it says,

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[70] Compl., 3.

[71] Opening Br., 18.

[72] *Id.* at 18-19 (arguing that the Court cannot use the implied covenant to rewrite the contract especially when the contract's express term provides answers).

[73] Answering Br., 19.

[74] *Id*.

[75] *Id.* at 19-20.

Mr. Freeman failed to plead Capstone's alleged interference was intentional.[76] Second, Mr. Freeman failed to demonstrate that Capstone's conduct caused any disruption to any relationships.[77] Mr. Freeman responds that Capstone's termination of the agreement disrupted his business relationship with his subcontractors, and that Capstone did, in fact, act intentionally in doing so.[78] Mr. Freeman emphasizes that the contract's termination was pretextual, and the threat of termination was a bad faith attempt to force Mr. Freeman to comply with Capstone's unilateral modifications.[79]

D. PROMISSORY ESTOPPEL (COUNT IV)

Capstone argues that Mr. Freeman failed to identify the specific promises, express or implied, that his service would continue, and so, with only the Complaint's conclusory allegations, the Court must dismiss Mr. Freeman's promissory estoppel claim.[80]

Mr. Freeman echoes his original argument for promissory estoppel: (1) Capstone made "clear and definite promises" of continued route assignments,

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[76] Opening Br., 20.

[77] *Id.* at 21; Reply Br., 6.

[78] Answering Br., 20-21.

[79] *Id.* at 21.

[80] Opening Br., 22; Reply Br., 6.

compensation, and authorized equipment use;[81] (2) Mr. Freeman reasonably relied upon those promises; and (3) Capstone's termination is unjust.[82] He contends that reliance on Capstone's promises is demonstrated through hiring subcontractors to operate the agreed-upon routes, maintaining business operations, and giving up different opportunities because of his commitment to Capstone.[83]

E. DAMAGES

Capstone says that Mr. Freeman's claim for punitive damages must be dismissed since a claim for punitive damages cannot stand without a tort counterpart.[84] In Capstone's view, there is no tort either alleged or surviving, the call for punitive damages falls.[85]

Mr. Freeman again complains that Capstone acted in bad faith by interfering with his business relations, arbitrarily terminated the instant contract as leverage, and induced reliance on the agreement.[86] According to Mr. Freeman, such conduct warrants punitive damages.[87]

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[81] Compl., 3.

[82] *See* Answering Br., 22; Compl., 4.

[83] Answering Br., 22.

[84] Opening Br., 23.

[85] *Id*.

[86] Answering Br., 22.

[87] *Id.* at 22-23.

III. STANDARD OF REVIEW

Under this Court's Rule 12(b)(6), a party can move to dismiss a case for failure to state a claim.[88] In its review of such motions, the Court "(1) accepts as true all well-pleaded factual allegations in the complaint; (2) credits vague allegations if they give opposing party notice of the claim; (3) draws all reasonable factual inferences in favor of the non-movant; and (4) denies dismissal if recovery on the claim is reasonably conceivable."[89] The Court need not "accept every strained interpretation of the allegations proposed by [Mr. Freeman], but the [he] is entitled to all reasonable inferences that logically flow from the face of [his] complaint."[90]

"The complaint generally defines the universe of facts that the trial court may consider in ruling on a Rule 12(b)(6) motion to dismiss."[91] But, there are some circumstances where "it may be proper for a trial court to decide a motion to dismiss by considering documents referred to in a complaint."[92] And the Court might also consider documents external to the complaint in three situations: "(1) when a document is integral to a claim and incorporated into a complaint; (2) when the document is not being relied upon to prove the truths of its contents; or (3) when the

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[88] Del. Super. Ct. Civ. R. 12(b)(6).

[89] *Doe for Doe v. Snap, Inc.*, 2025 WL 2926161, at *3 (Del. Super. October 15, 2025) (citing *Cent. Mortg. Co. v. Morgan Stanley Mortg. Cap. Holdings LLC*, 27A.3d 531, 535 (Del. 2011)).

[90] *Malpiede v. Townson*, 780 A.2d 1075, 1083 (Del. 2001).

[91] *In re Gen. Motors (Hughes) S'holder Litig.*, 897 A.2d 162, 168 (Del. 2006).

[92] *Id.* at 169.

document is an adjudicative fact subject to judicial notice."[93] The pleading standard under Delaware law is "minimal."[94]

IV. DISCUSSION[95]

A. MR. FREEMAN'S BREACH-OF-CONTRACT CLAIM SURVIVES DISMISSAL.

"To prevail on a breach-of-contract claim, one must show: (1) a contractual

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[93] *Murray v. Mason*, 244 A.3d 187, 192 (Del. Super. Ct. 2020), *modified* (Jan. 5, 2021) (citing *In re Gardner Denver, Inc.*, 2014 WL 715705, at *2 (Del. Ch. Feb. 21, 2014)).

[94] *Doe for Doe*, 2025 WL 2926161, at *3 (citing *Cent. Mortg. Co.*, 27A.3d at 536).

[95] Throughout its examination the Court remains mindful that it and its sisters prefer to hear cases on their merits rather than dismissing them for procedural reasons. *See In re Asbestos Litig.*, 228 A.3d 676, 685 (Del. 2020) ("A court . . . should be especially mindful of one overarching consideration—Delaware's strong judicial policy that courts should decide cases on their merits." (citations omitted)); *Beckett v. Beebe Med. Ctr., Inc.*, 897 A.2d 753, 757-58 (Del. 2006) ("In Delaware, public policy favors permitting a litigant a right to a day in court. Courts should apply [the Civil Rules] with a liberal construction because of the underlying policy that favors a trial on the merits, as distinguished from a judgment based on a default." (internal quotation marks and citations omitted)).

It remains mindful also of the treatment our courts afford one who represents himself. *See Johnson v. State*, 442 A.2d 1362, 1364 (Del. 1982) ("First, we adopt the view that a *pro se* pleading is judged by a less stringent standard than a pleading or document filed by an attorney.").

Still, though "the Court is cognizant of the difficulties faced by *pro se* litigants, it cannot sacrifice the orderly and efficient administration of justice or impair the substantive rights of represented parties to save their claims when their claims plainly have no merit." *Mikkilineni v. PayPal, Inc.*, 2021 WL 2763903, at *5 (Del. Super. Ct. July 1, 2021) (cleaned up). And so, to provide each side here the fairest possible treatment and greatest guidance going forward, the Court—though it normally need not under Rule 12(b)(6)—has examined and passed on each count and its varied articulated theories of liability as best it can divine them from Mr. Freeman's pleadings. *See inVentiv Health Clinical, LLC v. Odonate Therapeutics, Inc.*, 2021 WL 252823, at *4-6 (Del. Super. Ct. Jan. 26, 2021) (Explaining that "at the pleading stage of a case, a trial judge is not a robed gardener employing Rule 12(b)(6) as a judicial shear to prune individual theories from an otherwise healthily pled claim or counterclaim."); *see also Envolve Pharm. Sols., Inc. v. Rite Aid Hdqtrs. Corp.*, 2021 WL 855866, at *4 n.45 (Del. Super. Ct. Mar. 8, 2021) ("[I]t is not generally the Court's duty to dissect a single claim for either dismissal or rescue of its constituent theories of liability.").

obligation; (2) a breach of that obligation; and (3) resulting damages."[96] The Court will generally prioritize "the parties' intentions contained in the four corners of the contract."[97] In doing so, the Court will decide "whether the intent of the parties can be determined from its express language."[98] The Court will examine the contract as a whole, as the meaning of terms can be deciphered in the context of the entire agreement.[99] "Specific language in a contract controls over general language, and where specific and general provisions conflict, the specific provision ordinarily qualifies the meaning of the general one."[100] "When construing a contract, and unless a contrary intent appears, [courts] will give words their ordinary meaning."[101] Where a "contract's language is plain and unambiguous, it must be enforced as written."[102]

Mr. Freeman, in his breach-of-contract claim, alleges that Capstone breached the ICOA by "unilaterally altering compensation, imposing unauthorized delivery

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[96] *Jiggy Puzzles, LLC v. Steelhead Acquisition EE, Inc.*, 2026 WL 465112, at *5 (Del. Super. Ct. Feb. 18, 2026); *VLIW Tech., LLC v. Hewlett-Packard, Co.*, 840 A.2d 606, 612 (Del. 2003).

[97] *Jiggy Puzzles*, 2026 WL 465112, at *5; *Paul*, 974 A.2d at 145.

[98] *Paul*, 974 A.2d at 145.

[99] *Riverbend Cmty., LLC v. Green Stone Eng'g, LLC*, 55 A.3d 330, 334-335 (Del. 2012) ("The meaning inferred from a particular provision cannot control the meaning of the entire agreement if such an inference conflicts with the agreement's overall scheme or plan.").

[100] *Jiggy Puzzles*, 2026 WL 465112, at *5 (cleaned up).

[101] *Id.*; *Citadel Hldg. Corp. v. Roven*, 603 A.2d 818, 824 (Del. 1992).

[102] *Jiggy Puzzles*, 2026 WL 465112, at *6; *Lorillard Tobacco Co. v. Am. Legacy Found.*, 903 A.2d 728, 740 (Del. 2006).

requirements, and terminating the contract without justification or adherence to contractual notice provisions."[103]

Capstone's motion to dismiss Mr. Freeman's breach-of-contract claim is **DENIED, in part,** and **GRANTED, in part,** for the foregoing reasons.

1. It is reasonably conceivable that the ICOA was in effect at the time of the breaches alleged.

According to Capstone, the ICOA expired in 2021 and no longer governed the parties' dealings in 2023.[104] To Capstone, that expired contract cannot be the basis of these breach-of-contract claims.[105] And so, the issue is whether the parties' continued performance created an implied contract incorporating substantially the same terms as the ICOA.

When a written contract expires by its terms and the parties continue to perform as before, their conduct may establish an implied contract on substantially the same terms.[106] In *P.C. Connection, Inc. v. Synygy Ltd.*, a provider continued supplying software services for fourteen months after the alleged expiration date of

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[103] Compl., 3.

[104] Opening Br., 15; Ex. E, § 2.1, 20.

[105] Opening Br., 15.

[106] *P.C. Connection, Inc. v. Synygy Ltd.*, 2021 WL 57016 at *19-20 (Del. Ch. Jan. 7, 2021.) ("After a contract expires, 'one party's continued rendition of services' and 'the other's acceptances of those services and payment in accordance with the terms of the written contract can establish a contract implied in fact with substantially the same terms and conditions as embodied in the expired written contract.'").

and demanded payment under a prior agreement; the Court found an implied contract existed between the parties after the expiration date.[107]

Here, neither party identifies an automatic renewal provision. But the complaint does allege that the parties kept performing under the ICOA after December 2021.[108] It appears Capstone's own conduct confirms this. In 2023, Capstone invoked ICOA § 3.3 to remove Mr. Freeman from Route 300.[109] Like *P.C. Connection*, where continued services and reliance on prior contractual rates supported an implied contract,[110] here, the parties' continued performance and Capstone's reliance on § 3.3 may support an implied contract under the same terms as the ICOA. The ICOA's alleged expiration does not, by itself, establish that its terms ceased to govern the parties' relationship in 2023. At this point in the litigation, the record demonstrates that both Mr. Freeman and Capstone continued their relationship with one another. Capstone's motion to dismiss based on expiration of the ICOA is **DENIED**.

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[107] *P.C. Connection*, 2021 WL 57016 at *19-20.

[108] *See* Compl., 1.

[109] *Id.* at 2, ¶¶ 3, 4, 7.

[110] *P.C. Connection*, 2021 WL 57016 at *19-20.

2. Capstone's unilateral reduction of Mr. Freeman's daily rate and delivery requirements without adequate notice may be a breach of the ICOA.

a. Mr. Freeman has adequately alleged a breach of contract regarding the unilateral modification of his compensation.

Mr. Freeman argues that Capstone breached the ICOA when it unilaterally altered reduced his compensation.[111] Compensation is detailed in ICOA § 3.[112] Section 3.1 of the ICOA reads as follows:

> Contractor's gross compensation is set forth in Appendix A and constitutes the total compensation for the use of the Equipment and for everything furnished, done by, or required of Contractor's workers in connection with this Agreement, including (but not limited to) driving the Equipment and performing all non-driving activities, such as pre- and post-trip inspections, waiting to load or unload (detention), loading or unloading (if required), fueling, repairing and maintaining the Equipment, hooking and unhooking trailers (loaded or empty), preparing records of duty status and other paperwork, communicating with dispatch, and other services. Contractor—as an independent contractor, not an employee—agrees that Contractor is responsible for paying all operating expenses. Contractor acknowledges and understands, unless otherwise agreed to by the parties, Carrier's compensation obligation hereunder applies only to the extent of full and complete performance of any dispatch accepted by Contractor.[113]

Section 3.2 of the ICOA reads:

> Carrier and Contractor may agree in advance on gross

[111] Compl., 3; Opening Br., 9.

[112] *See* Ex. E, § 3.

[113] Ex. E, § 3.1.

> compensation to be paid for services relating to one or more specific shipments by both signing an addendum to that effect. The gross compensation described in such an addendum will constitute the total gross compensation Contractor is entitled to for all services performed with respect to those shipment(s). Contractor agrees not to load any shipment or start any trip to which a proposed compensation addendum relates until Contractor has signed that addendum. Contractor authorizes its drivers to sign compensation-related addendums on its behalf under this section.[114]

And Section 3.3 of the ICOA provides:

> Carrier will provide Contractor with a proposed addendum containing any change to Contractor's gross compensation at least 10 days in advance. If Contractor wishes to continue operating on Carrier's behalf, Contractor may consent to the change by signing the addendum. If Contractor does not consent to the change before the date indicated on the addendum, this Agreement may be terminated on the date set forth on the addendum, and Contractor will not be subject to the change proposed in the addendum.[115]

Capstone contends that this breach claim should be dismissed because "neither the rate sheet nor the ICOA contain a promised day rate for the Route 300 assignment[,]" and so Capstone's modification of such day rate didn't breach any provision dictating a specific rate.[116] Further, Capstone argues that any change to Mr. Freeman's day rate did not impact Mr. Freeman's gross compensation, and as

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[114] Ex. E, § 3.2.

[115] Ex. E, § 3.3.

[116] Opening Br., 10.

such, § 3.3 was not materially breached.[117] Mr. Freeman counters, arguing that a change to the day rate did indeed impact gross compensation.[118]

When viewing the allegations in the light most favorable to the non-movant, it can be understood that a day rate for working a particular route will be factored into gross compensation. A reasonable read of ICOA § 3.3 obligates the Carrier—Capstone—to provide the Contractor—Mr. Freeman—with 10 days' notice if his gross compensation were to be changed, and the Contractor is obligated to sign the addendum should the Contractor desire to consent to the change.[119] Mr. Freeman alleges in his complaint that Capstone did not provide 10 days' notice, but instead unilaterally modified his daily rate to $485 without notice, and made the change effective immediately.[120] Generally, absent a contract term allowing it, one party cannot change any term thereof without the other's consent.[121] This change in compensation is a material modification of the ICOA; compensation is the key consideration Mr. Freeman received in return for his delivery and trucking

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[117] *Id.*

[118] Answering Br., 6.

[119] *See* Ex. E, § 3.3.

[120] Compl., 1.

[121] *See De Cecchis v. Evers*, 174 A.2d 463, 464 (Del. Super. Ct. 1961) ("A contract having been made, no modification of it could be brought about without consent of both parties and without consideration."); *Sersun v. Morello*, 1999 WL 350476, at *2 (Del. Ch. Mar. 29, 1999) ("When a contract is validly made, it cannot be modified without the consent of all parties and an exchange of consideration.").

services.[122] Not abiding by the notice requirement for a pay change is sufficient for an allegation of breach of contract on this point.

Accordingly, Capstone's motion to dismiss regarding the breach-of-contract claim relating to compensation is **DENIED**.

b. Mr. Freeman's claim relating to Capstone's modifications to delivery requirements does not survive.[123]

Mr. Freeman alleges that Capstone breached its contract with him by creating unauthorized delivery requirements.[124] Specifically, Mr. Freeman says that the freight manager of Capstone imposed an additional overflow delivery requirement that was not in the original terms.[125] Capstone argues that Mr. Freeman wrongly relies on § 3.3 in his argument because that specific provision does not address delivery requirements, but only compensation.[126] Capstone contends that this provision cannot be read to impose delivery requirements when it only references

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[122] *See Material*, BLACK'S LAW DICTIONARY 1166 (12th Ed. 2024) (defining "material" as "having some logical connection with the consequential facts [or] of such a nature that knowledge of the item would affect a person's decision-making; significant; essential[.]").

[123] The Court notes here that as a question of law, a contract's proper interpretation can be resolved on a motion to dismiss. *Blue Cube Spinco LLC v. Dow Chemical Co.*, 2021 WL 4453460, at *7 (Del. Super. Ct. Sept. 29, 2021) (citing *Allied Cap. Corp. v. GC-Sun Holdings, L.P.*, 910 A.2d 1020, 1030 (Del. Ch. 2006) ("Under Delaware law, the proper interpretation of language in a contract is a question of law. Accordingly, a motion to dismiss is a proper framework for determining the meaning of contract language.")). And when doing so, "the Court's contract interpretation must be reasonable, reading the agreement in full and situated in the commercial context between the parties." *Id.* at *6 (cleaned up) (quoting *Chi. Bridge & Iron Co. N.V. v. Westinghouse Elec. Co. LLC*, 166 A.3d 912, 926–27 (Del. 2017)).

[124] Compl., 3.

[125] *Id.* at 1.

[126] Opening Br., 11; Ex. E, § 3.3.

compensation.[127] In his answering brief, Mr. Freeman further argues that the unilateral decision to change the delivery requirements constitutes a breach of the ICOA.[128]

"Under Delaware law, simply referring to the parties' contract will not sustain a claim for breach of contract."[129] "A party must identify the particular contractual terms that were breached."[130] That is, a plaintiff must "identify a provision of the relevant contract that allegedly was breached and provide a basic explanation [of] why a breach occurred" to sufficiently put the defendant on notice of his claim.[131]

In *Marydale Preservation Associates* the plaintiffs' breach-of-contract claim failed because they failed to identify a specific applicable contractual provision that was breached but baldly alleged a breach of the controlling contract.[132] This is slightly distinguishable from the instant matter. It is true that Mr. Freeman—unlike the plaintiff in *Marydale Preservation Associates*—identified a provision that he claimed was breached, but the named provision does not support this specific breach

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[127] Opening Br., 11.

[128] Answering Br., 8.

[129] *Marydale Pres. Associates, LLC v. Leon N. Weiner & Associates, Inc.*, 2022 WL 4446275, at *17 (Del. Super. Ct. Sept. 23, 2022).

[130] *Marydale Pres. Associates*, 2022 WL 4446275, at *17.

[131] *An v. Cosman*, 2025 WL 2180575, at *10 (Del. Ch. July 31, 2025) (quoting *IAC Search, LLC v. Conversant LLC*, 2017 WL 3500244, at *1 (Del. Ch. Jan. 13, 2017)).

[132] *Marydale Pres. Associates*, 2022 WL 4446275, at *17.

claim.[133] Section 3.3 only addresses changes in compensation, but adding a route or delivery duty is a change in workload, not compensation.[134] Mr. Freeman's reliance on § 3.3 is mislaid, and provides no proper basis for his breach-of-contract claim on this basis.

Accordingly, Mr. Freeman's claim for breach of contract as to the delivery requirements is dismissed, and Capstone's motion to dismiss this specific breach allegation is **GRANTED**.

c. At this stage, Mr. Freeman has sufficiently alleged that Capstone's termination of Route 300 was a breach.

Mr. Freeman alleges that Capstone breached their contract when Capstone terminated his operation of Route 300 without reason and did not abide by the termination notice provisions.[135] Capstone counters by arguing that the ICOA only defines and explains the parties' rights and obligations when they desire to terminate the ICOA, and not how specific route agreements are terminated.[136]

Section 26 governs breaches of the ICOA.[137] This provision provides that, if the Contractor—here, Mr. Freeman—commits a material or non-material breach of the agreement, then Capstone will investigate the circumstances to determine

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[133] Compl., 1.

[134] *See* Ex. E, § 3.3.

[135] Compl., 2, 3; *see* Ex. A.

[136] Opening Br., 12; *see* Ex. E, §§ 2.1-2.3.

[137] Ex. E, § 26.

whether to continue the contractual relationship or terminate.[138] During that investigation, the Contractor's responsibilities are effectively suspended, and his or her services will not be used.[139] But, § 2.1 requires the party terminating the ICOA to provide 30 days' written notice to the other party.[140] Here, Capstone issued a termination notice to Mr. Freeman with only a 10-day written notice.[141]

Using the proper standard, it is reasonably conceivable that Capstone breached the ICOA in terminating Mr. Freeman's route with only a 10-day written notice. Mr. Freeman sufficiently alleges a breach-of-contract claim regarding the termination of his Route 300 operation; accordingly, Capstone's motion to dismiss this breach allegation is **DENIED**.

d. Mr. Freeman has sufficiently alleged bad faith such that Capstone's defense regarding the same is defeated.

In his complaint, Mr. Freeman alleges that Capstone accused Mr. Freeman in writing of failure to respond and provide coverage, and that this accusation was "knowingly false and made in bad faith."[142] Capstone argues that dismissal is warranted, even if the Court does accept Mr. Freeman's contention that the accusation was knowingly false and in bad faith, because the ICOA permitted

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[138] Ex. E, § 26.1, 26.2.

[139] Ex. E, § 26.1, 26.2.

[140] Ex. E, § 2.1.

[141] Compl., 2 ¶ 7; Ex. C.

[142] Compl., 1 ¶ 6.

Capstone to alert Mr. Freeman of and investigate any material breach.[143] Capstone contends that the notice issued to Mr. Freeman on September 21, 2023, aligned with the procedure set forth in § 26 of the ICOA after it was determined by Capstone that Mr. Freeman breached ICOA § 8.7.[144]

Section 8.7 of the ICOA reads as follows:

> Contractor agrees to comply with all specifications dictated by shippers, cosignees, cosignors, brokers, logistics companies, freight forwarders, other carriers, or other customers (referred to collectively as "Carrier's Customer" throughout this Agreement) communicated to Contractor with which Contractor may safely comply without violating Applicable Law or Carrier's Policies and Procedures, and without endangering the public, Contractor's workers, and the property being transported ("Customer Specifications"). If Carrier's Customer conditions access to its facilities or freight upon compliance with any Customer Specification that Contractor does not assent to, Contractor may categorically opt out of receiving Carrier's offer of shipments from such customer.[145]

"[F]or a contractual bad faith claim to survive a motion to dismiss, the plaintiff must only allege 'facts related to the alleged act taken in bad faith, and a plausible motivation for it.'"[146] This pleading standard is minimal and serves to put the

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[143] Opening Br., 11.

[144] *Id.* at 12.

[145] Ex. E, § 8.7.

[146] *Flannery v. London Stock Exchange Group PLC*, 2026 WL 3151965, at *16 (Del. Ch. Oct. 16, 2026) (quoting *Stewart v. BF Bolthouse Holdco, LLC*, 2013 WL 5210220, at *7 (Del. Ch. Aug. 30, 2013)).

defendants on notice of the claims against them.[147] This relatively low pleading standard permits the Court to accept as true allegations or inferences of bad faith even without extensive factual support.[148]

Even though Capstone contends that it was merely following ICOA § 8.7's procedures, at this early stage Mr. Freeman has sufficiently alleged evidence of Capstone's bad faith. Mr. Freeman identifies Capstone's "shifting justifications" and "retaliatory contract enforcement" which, for now, is sufficient support for his bad faith allegation. Mr. Freeman further says that Capstone terminated their contractual relationship one day after warning "a second Material Breach within next six months, or three material breaches in total during the term of the ICOA" could trigger termination, without documenting breaches meeting those conditions.[149] Mr. Freeman characterizes the breach allegation and termination as false and malicious.[150] Though, after discovery, the Court may find otherwise, Mr. Freeman's contention that Capstone acted in bad faith survives dismissal now.

Accordingly, Capstone's motion to dismiss thereon is **DENIED**.

e. Capstone's defense of excuse cannot be resolved now.

Capstone calls for dismissal by saying that even if it did breach the ICOA, any

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[147] *Flannery*, 2026 WL 3151965, at *16; *Stewart*, 2013 WL 5210220, at *7; *Clean Harbors, Inc. v. Safety-Kleen, Inc.*, 2011 WL 6793718, at *7 (Del. Ch. Dec. 9, 2011).

[148] *Clean Harbors*, 2011 WL 6793718, at *7.

[149] Answering Br., 10.

[150] *Id.*

breach on Capstone's part is excused by Mr. Freeman's preceding breaches.[151] Capstone contends that Mr. Freeman's failure to upgrade to a 26-foot box truck was a breach.[152]

"A party is excused from performance under a contract if the other party is in material breach thereof."[153] "A party clearly in material breach cannot thereafter complain of the other party's failure to perform."[154] A material breach is one that is "significant enough to permit the aggrieved party to elect to treat the breach as total."[155] But, "a slight breach by one party, while giving rise to an action for damages, will not necessarily terminate the obligations of the injured party to perform under the contract[,]" and the injured party must still perform or else non-performance will constitute breach.[156] "Parties suffering non-material breaches are not excused from performance as they would be had they suffered a material breach."[157] "The question of whether a breach is material sufficient to justify non-

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[151] Opening Br., 13.

[152] *Id.*; Compl., 2, ¶ 13.

[153] *BioLife Sols., Inc. v. Endocare, Inc.*, 838 A.2d 268, 278 (Del. Ch. 2003), *as revised* (Oct. 6, 2003); *Facilities Holdings, LLC v. ASM Global Parent, LLC*, 2026 WL 1815842, at *23 (Del. Ch. June 24, 2026).

[154] *Estate of Buller v. Montague*, 2020 WL 996883, at *4 (Del. Super. Ct. Mar. 2, 2020) (quoting *SLMSoft.Com, Inc. v. Cross Country Bank*, 2003 WL 1769770, at *13 (Del. Super. Ct. Apr. 2, 2003)).

[155] *Relax Ltd. v. ANIP Acquisition Co.*, 2011 WL 2162915, at *3 (Del. Super. Ct. May 26, 2011); *Material breach*, BLACK'S LAW DICTIONARY 232 (12th Ed. 2024).

[156] *BioLife Sols.*, 838 A.2d at 278.

[157] *Estate of Buller*, 2020 WL 996883, at *4 (quoting *Clean Harbors*, 2011 WL 6793718, at *4,

performance entails a fact-specific weighing analysis."[158]

In turn, the Court would now be tasked with determining if Mr. Freeman's breaches of the ICOA are material such that Capstone's alleged breaches are excused. Capstone says Mr. Freeman violated § 8.7 of the ICOA which details customer specifications that Mr. Freeman agreed to abide by.[159] Even viewed in the light most favorable to Mr. Freeman at this motion to dismiss stage, Mr. Freeman admitted to noncompliance with this provision.[160]

But the ICOA provides examples of what would constitute a material versus a non-material breach.[161] Examples of a material breach under the ICOA include, "without limitation: Contractor's failure to comply with any aspect of Applicable Law related to the safe operation of the Equipment; Contractor's failure to ensure full compliance with FMCSA requirements; etc."[162] Examples of a non-material breach under the ICOA include, "without limitation: failure to ensure bills of lading are signed and timely submitted; failure to complete an offered-and-accepted service

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aff'd, 201 A.3d 1161 (Del. 2019)).

[158] *Simon-Mills II, LLC v. Kan Am USA XVI Ltd. P'ship*, 2017 WL 1191061, at *29 (Del. Ch. Mar. 30, 2017).

[159] Opening Br., 13; Ex. E, § 8.7.

[160] Compl., 2 ¶ 10, 13 (describing how Mr. Freeman was alerted of the need to upgrade to a 26-foot truck or forfeit his route, and that Mr. Freeman appears to not have upgraded).

[161] Ex. E, §§ 26.1, 26.2.

[162] Ex. E, § 26.1.

request; etc."[163]

Mr. Freeman has alleged that Capstone breached the ICOA by unilaterally modifying both compensation and delivery requirements.[164] Whether the breaches that Capstone alleges Mr. Freeman committed—noncompliance with trucking specifications and failure to respond and provide coverage for his routes—are considered material such that Capstone's performance is excused cannot be resolved on this motion. Further factual inquiry is needed to determine the nature of these named breaches. Such an inquiry just isn't feasible on a motion to dismiss.

Accordingly, Capstone's motion to dismiss based on excuse of performance is **DENIED**.

3. Even though Capstone's unilateral modification to compensation likely constitutes a material breach, Mr. Freeman's continued performance after any of the breaches he alleges might effectively act as an election to continue the contract and forego the right to sue on these bases.

Capstone further argues for the dismissal of Mr. Freeman's breach-of-contract claim because Mr. Freeman waived the right to claim breach.[165] Capstone contends that waiver occurred because Mr. Freeman continued operating his assigned routes and accepting compensation after he claims Capstone breached the ICOA.[166]

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[163] Ex. E, § 26.2.

[164] Compl., 2 ¶ 8; Compl., 3.

[165] Opening Br., 14.

[166] *Id.*

Capstone argues that his continued performance shows acquiescence to the modified terms that Mr. Freeman complains of, and that such continued performance estops Mr. Freeman from asserting a breach of contract.[167]

Contractual requirements and conditions can be waived.[168] "Waiver is the voluntary and intentional relinquishment of a known right" and it requires "knowledge of all material facts and an intent to waive, together with a willingness to refrain from enforcing those contractual rights."[169] There are three elements of waiver: "(1) there is a requirement or condition to be waived; (2) the waiving party knew of the requirement or condition; and (3) the waiving party intended to waive that requirement or condition."[170] The facts required "to prove waiver must be unequivocal."[171] And that is an exacting standard.[172]

"When a party suffers a material breach by the other party, they must choose to continue performing the contract or cease performing and sue for total breach."[173] When "the [other] party has the choice to continue to perform under the contract or

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[167] *Id.* at 15.

[168] *In re Coinmint, LLC*, 261 A.3d 867, 893 (Del. Ch. 2021).

[169] *Id.* (quoting *AeroGlobal Capital Management, LLC v. Cirrus Industries, Inc.*, 871 A.2d 428, 444 (Del. 2005)).

[170] *In re Coinmint*, 261 A.3d at 893; *AeroGlobal Capital Management*, 871 A.2d at 444.

[171] *AeroGlobal Capital Management*, 871 A.2d at 444.

[172] *In re Coinmint*, 261 A.3d at 867.

[173] *Prosser v. PharmaLogic Holdings Corp.*, 2026 WL 1958134, at *14 (Del. Super. Ct. July 7, 2026) (citing *Post Holdings, Inc. v. NPE Seller Rep LLC*, 2018 WL 5429833, at *5 (Del. Ch. Oct. 29, 2018)); 14 WILLISTON ON CONTRACTS § 43.15 (4th ed. 2018).

to cease to perform" and that other party acts with "an intention to continue the contract[, it] will constitute a conclusive election," which effectively acts as waiver "to assert that the breach discharged any obligation to perform."[174] This means that continued performance under a contract that has been breached by the other party can prevent the initial party from terminating the contract based on the other party's breach.

Prosser v. PharmaLogic Holdings Corp. is instructive here. As a general matter, a plaintiff cannot argue that a material breach occurred if the plaintiff continues to operate under the contract after it was allegedly breached.[175] In *Prosser*, the plaintiffs argued that the applicable alternative dispute resolution procedure was not enforceable against them because the defendant breached the agreement.[176] But, the plaintiffs acted as though the contract was still in place by negotiating with the defendant and instructed the defendant that they did not want to accept an earnout statement.[177] The Court found that the "plaintiffs [could not] seek to have their obligations under the [agreement] lifted by reason of [the d]efendant's purported material breach" because "they … waived that power, to the extent they had it."[178]

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[174] *Post Holdings*, 2018 WL 5429833, at *5.

[175] *Prosser*, 2026 WL 1958134, at *14.

[176] *Id.*

[177] *Id.*

[178] *Id.*

Too, *Post Holdings, Inc. v. NPE Seller Rep LLC* is demonstrative of the principle that continued conduct under the contract might be deemed a waiver of any future termination on that same basis.[179] There, the buyers acted as though the contract was continuing by using the indemnification process and seeking the funds in an escrow account that were to be used for indemnification.[180] The buyers even expressed that the controlling contract was binding and legally enforceable.[181] The Court of Chancery determined that the buyers were acting with intent to continue operating under the contract, and so they "must continue to be bound by and to perform under the contract as well, irrespective of whether Sellers materially breached the Agreement."[182]

Importantly, a party that purportedly waived its claims regarding non-performance based on breach can still seek damages for the breach; that right is not barred by the fact that the party continued performing under the agreement that was breached by the other party.[183]

Here, based on the facts laid out in the Second Amended Complaint, Mr. Freeman continued working with Capstone even after Capstone's alleged

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[179] 2018 WL 5429833, at *5.

[180] *Id.*

[181] *Id.*

[182] *Id.*

[183] WILLISTON, at § 43:15 (The effect of an election to proceed).

material breaches. First, on June 28, 2023, Capstone imposed an additional delivery requirement that was not in the original agreement; this one of the breaches that Mr. Freeman complains of.[184] But, Mr. Freeman continued operating his routes and accepting payment after that alleged breach.[185] Second, Capstone unilaterally modified Mr. Freeman's compensation on September 19, 2023, but Mr. Freeman, again, continued operating his routes.[186] Then, on September 25, 2023, Capstone provided only a 10-day written notice that Mr. Freeman's operation on Route 300 would be terminated with little to no reason justifying that termination.[187] Mr. Freeman continued working under the ICOA with Capstone into late October 2023 when his operation of Route 34 was terminated because of an alleged noncompliance with equipment specifications.[188]

Continued performance following a material breach may be an indication of acceptance. And a party may be deemed to have waived its rights to terminate the contract based on the same conduct that the party later alleges is a material breach. Even in the light most favorable to Mr. Freeman, his actions might be seen as indicating an intent to continue the contract after Capstone allegedly breached on

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[184] Compl., 1 ¶ 4.

[185] *See id.* at 1, 2.

[186] *See id.*

[187] *Id.* at 2 ¶ 7.

[188] *Id.* at 2 ¶¶ 9, 10, 13.

multiple occasions. If so, Mr. Freeman might be deemed to have waived his right to declare that Capstone breached the contract such that his performance was then discharged. But for now, it appears Mr. Freeman did not waive his right to sue for breach of contract and he still may be able to seek damages for the breaches alleged. As such, Mr. Freeman's continued performance under the contract is not fatal to his breach-of-contract claim at this point. It might only bar him from arguing that Capstone's breaches no longer bound him. Capstone's motion to dismiss based on continued performance following breach is therefore **DENIED**.

4. Whether damages are limited to the ICOA's notice period cannot be determined on this motion, as further factual inquiry into the nature of the termination is required.

Capstone argues that, if the Court denies its motion to dismiss, Mr. Freeman's damages must be limited to what would accrue during the notice period.[189] Capstone argues that any damages beyond those accrued within the notice period would place Mr. Freeman in a better position than if the contract had been fully performed, and not just in the same position had performance occurred.[190] Mr. Freeman rejects this argument and counters that any damages should be sufficient to restore Mr. Freeman to the position he would be in if performance occurred.[191] Mr. Freeman further argues that the measure of damages should not be limited to the length of the notice

[189] Opening Br., 16.

[190] *Id.* at 17.

[191] Answering Br., 17.

period.[192]

"Under Delaware law, the standard remedy for breach of contract is based on the reasonable expectations of the parties that existed before or at the time of the breach."[193] The goal of expectation damages is "to place the injured party . . . in the same place as he would have been if the contract had been performed."[194] "[T]he non-breaching party is entitled to recover 'damages that arise naturally from the breach or that were reasonably foreseeable at the time the contract was made.'"[195]

"[A]s a matter of law, . . . a . . . notice provision in a termination clause limits the terminated party's damages to the benefits he is entitled to receive under the contract during the notice period."[196] But, when a contract is wrongfully terminated, the injured party may recover damages through the end of the contract's terms.[197] In other words, if the contract is wrongfully terminated, then the injured party's damages might not be limited to the notice period that the contract requires for proper termination.

Here, ICOA § 2.1 provides that "either party may terminate [the] Agreement

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[192] *Id.* at 18.

[193] *Diamond Fortress Technologies, Inc. v. EverID, Inc.*, 274 A.3d 287, 305 (Del. Super. Ct. 2022) (quoting *Siga Tech., Inc. v. PharmAthene, Inc.*, 132 A.3d 1108, 1132-33 (Del. 2015)).

[194] *Diamond Fortress*, 274 A.3d at 305 (quoting *Paul*, 974 A.2d at 146).

[195] *Id.*

[196] *Velocity Exp., Inc. v. Office Depot, Inc.*, 2009 WL 2415482, at *11 (Del. Super. Ct. Aug. 7, 2009) (quoting *Reiver v. Murdoch & Walsh, P.A.*, 625 F.Supp. 998, 1010 (D. Del. 1985)).

[197] *Honeywell Int'l Inc. v. Air Products & Chemicals, Inc.*, 872 A.2d 944, 958 (Del. 2005).

at any time for any reason by giving 30 days' written notice to the other party."[198] Mr. Freeman was issued a notice on October 12, 2023, that he was to upgrade to a 26-foot truck or his contract would be terminated. The ICOA was then terminated on October 23, 2023.[199] Mr. Freeman contends that this timeframe does not comport with § 2.1 of the ICOA, as Capstone did not provide 30 days' written notice, but only 10 days' notice.[200] But, § 26 of the ICOA permits Capstone to investigate the situation before actually terminating the contract because of a material breach.[201] Section 26 of the ICOA reads as follows:

> Upon Contractor's commission of a material breach of this Agreement, Carrier reserves the right to terminate the Agreement for cause in its sole discretion, pursuant to Section 2.2 of this Agreement. When Contractor commits a material breach of this Agreement, Carrier will investigate the circumstances surrounding the breach and make a determination whether the Agreement is to be terminated or continued. While the investigation is underway, Contractor will not be eligible for dispatch and Carrier will not assign Contractor any shipments, packages, routes, etc. Contractor will only become eligible for dispatch when Carrier completes its investigation and determines to continue under the Agreement with Contractor. Examples of material breaches of the Agreement include, without limitation: Contractor's failure to comply with any aspect of Applicable Law as related to the safe operation of the Equipment; Contractor's failure to ensure full compliance with FMCSA hours-of-service

[198] Ex. E, § 2.1.

[199] Compl., 2 ¶ 9, 10, 13.

[200] Answering Br., 18.

[201] Ex. E, § 26.

requirements; etc..[202]

Whether Capstone properly or improperly terminated the ICOA or any other contractual relationship because of an alleged material breach is a factual question that the Court cannot now answer. Discovery is needed to inquire further into the ICOA or other agreement's termination and the events leading up to it. Simply put, whether Mr. Freeman could recover damages through the end of the ICOA's term or his damages are limited to the notice period can't be decided now.

In sum, Capstone's motion to dismiss Mr. Freeman's Count I alleging breach of contract is **GRANTED, in part,** and **DENIED, in part**.

B. MR. FREEMAN'S BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING CLAIM FAILS TO SURVIVE DISMISSAL BECAUSE THE ICOA'S AND OTHER AGREEMENTS' EXPRESS TERMS AND CONTROLLING EXISTENCE OVERRIDE THE NEED FOR THE IMPLIED COVENANT.

"Every contract contains an implied covenant of good faith and fair dealing."[203] "The covenant is 'best understood as a way of implying terms in the agreement,' whether employed to analyze unanticipated developments or to fill in gaps in the contract's provisions."[204]

"Beyond its gap filling function, the implied covenant applies 'when a party to the contract is given discretion to act as a certain subject and it is argued that the

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[202] Ex. E, § 26.

[203] *Jiggy Puzzles, LLC*, 2026 WL 465112, at *6.

[204] *Dunlap v. State Farm Fire & Cas. Co.*, 878 A.2d 434, 441 (Del. 2005).

discretion has been used in a way that is impliedly proscribed by the contract's express terms.'"[205] Parties engaged in contracts must "refrain from arbitrary or unreasonable conduct which has the effect of preventing the other party to the contract from receiving the fruits of the bargain."[206] In other words, neither party can engage in behavior that frustrates the overall purpose of the contract.[207]

That said, the implied covenant of good faith and fair dealing "cannot be used to circumvent the parties' bargain" by overriding existing contract terms.[208] Nor can a breach of the implied covenant of good faith and fair dealing "be based on conduct that the contract expressly addresses[.]"[209] "Express contractual language is more persuasive than a party's actions implementing a contract."[210] And the implied covenant is not a means for "post contractual rebalancing of the economic benefits flowing to the contracting parties."[211] Rather, "the covenant applies 'only in that narrow band of cases where the contract as a whole speaks sufficiently to suggest an obligation and point to a result, but does not speak directly enough to provide an

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[205] *Jiggy Puzzles, LLC*, 2026 WL 465112, at *6 (cleaned up).

[206] *Id.*

[207] *Dunlap*, 878 A.2d at 442.

[208] *Id.* at 441.

[209] *Khushaim v. Tullow Inc.*, 2016 WL 3594752, at *4 (Del. Super. Ct. June 27, 2016).

[210] *Jiggy Puzzles, LLC*, 2026 WL 465112, at *7.

[211] *Id.* (quoting *Nemec v. Shrader*, 991 A.2d 1120, 1128 (Del. 2010)).

explicit answer."[212] That means that the covenant will apply primarily in instances where the contract is silent on a certain matter—not when the contract specifically speaks to a certain conduct.[213]

"To sufficiently plead [a] breach of the implied covenant of good faith and fair dealing, a complaint 'must allege a specific implied contractual obligation, a breach of that obligation by the defendant, and resulting damage to the plaintiff.'"[214] The party asserting breach has the burden to show that the other party acted in a way that frustrates the purpose of the contract.[215] "[M]erely repeating the defendant's allegedly improper acts or omissions already the subject of a separate breach of contract claim is insufficient to support a claim for reach of the implied covenant of good faith and fair dealing."[216]

In *Kuroda v. SPJS Holdings, L.L.C.*, the Court of Chancery found that the plaintiff failed to successfully plead a breach of the implied covenant of good faith and fair dealing.[217] The Court emphasized how this implied covenant cannot override express contractual provisions, and also how that plaintiff failed to connect

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[212] *Id.* (quoting *Airborne Health, Inc. v. Squid Soap, LP*, 984 A.2d 126, 146 (Del. Ch.2009)).

[213] *Khushaim*, 2016 WL 3594752, at *4.

[214] *Baldwin v. New Wood Resources LLC*, 283 A.3d 1099, 1117-1118 (Del. 2022) (cleaned up).

[215] *Baldwin*, 283 A.3d at 1118; *Nemec*, 991 A.2d at 1126.

[216] *Khushaim*, 2016 WL 3594752, at *4 (quoting *Haney v. Blackhawk Network Holdings, Inc.*, 2016 WL 769595, at *9 (Del. Ch. Feb. 26, 2016)).

[217] 971 A.2d 872, 888 (Del. Ch. 2009).

the alleged breaches of the implied covenant and a certain implied duty in the parties' agreement, stating merely that "SPJS Holdings', WGL Capital's, and Liberty Square's wrongful conduct has prevented [him] from realizing the full benefits of his contractual relationships with the Steel Partners Japan Entities."[218] The Court of Chancery instructed that a party's claim for breach of the implied covenant must be both specific and not governed by the controlling agreement.[219]

Gener8, LLC v. Castanon is helpful here in explaining that an implied covenant of good faith and fair dealing claim cannot stand where there is an agreement between parties that references the challenged conduct.[220] The *Gener8* court determined that a plaintiff advancing a breach of implied covenant claim must be specific and not present vague arguments.[221]

Mr. Freeman pleads a breach of the implied covenant of good faith and fair dealing claim.[222] He alleges that Capstone "act[ed] arbitrarily and in bad faith" and that such conduct "undermin[ed Mr. Freeman's] contractual rights through false allegations and retaliatory actions."[223] Mr. Freeman's contentions are conclusory,

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[218] *Id.* (citing Compl., ¶ 139).

[219] *Kuroda*, 971 A.2d at 888.

[220] *Gener8, LLC v. Castanon*, 2023 WL 6381635, at *27 (Del. Ch. Sep. 29, 2023).

[221] *Id.* (explaining that specific arguments are required after the Gener8 vaguely argued that Castanon was to develop a "new and improved molding method" for Gener8 to use after Castanon left Symbient).

[222] Compl., 3.

[223] *Id.*

and merely parrot the same allegations set forth in his breach-of-contract claim.[224] He doesn't elaborate on Capstone's alleged actions besides labeling them both arbitrary and in bad faith. Mr. Freeman also fails to identify any gap in the ICOA or any other alleged agreement that the implied covenant of good faith and fair dealing would fill. In fact, ICOA § 17.2 might override any alleged gaps regarding non-compensation terms, such as the truck size requirements.[225] Section 17.2 reads as follows:

> Subject only to Applicable Law, it will be the sole responsibility of Contractor to: (i) select, purchase or lease, and finance the Equipment; (ii) to decide when, where, and how maintenance and repairs are to be performed; and (iii) to select all routes and decide all meal, rest, and refueling stops, provided that to meet Carrier's Customers' demands, Contractor agrees to make timely and safe deliveries of all loads, and to notify Carrier when delivery has been made or will be delayed for any reason.[226]

This provision provides the Contractor with the "sole responsibility" to select equipment, so long as it meets the requirements of the Customer Carrier.[227] The ICOA governs here, and there are provisions that address any potential gaps that Mr. Freeman might suggest.

Capstone's motion to dismiss Mr. Freeman's Count II claiming a breach of the

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[224] *Id.*

[225] Ex. E, § 17.2.

[226] Ex. E, § 17.2.

[227] Ex. E, § 17.2.

implied covenant of good faith and fair dealing is **GRANTED**.

C. MR. FREEMAN'S TORTIOUS INTERFERENCE WITH BUSINESS RELATIONSHIPS CLAIM FAILS BECAUSE IT IS CONCLUSORY.

"To survive dismissal, a claim for tortious interference with business relations must allege: '(a) the reasonable probability of a business opportunity, (b) the intentional interference by Capstone with that opportunity, (c) proximate causation, and (d) damages.'"[228] These elements must be "considered in light of [Capstone's] privilege to compete or protect [its] business interests in a fair and lawful manner[.]"[229]

Here, Mr. Freeman alleges that he had relationships that were "vital" to the contract's performance, and that Capstone disrupted those relationships by abruptly terminating the contract with Mr. Freeman, which caused financial harm.[230] Mr. Freeman charges that Capstone intended to damage Mr. Freeman's business relations.[231]

Under the motion to dismiss standard, the Court will accept reasonable allegations in the complaint as true so long as they are not conclusory.[232] In *Kuroda*,

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[228] *Malpiede*, 780 A.2d at 1099 (quoting *DeBonaventura v. Nationwide Mut. Ins. Co.*, 428 A.2d 1151, 1153 (Del. 1981)).

[229] *DeBonaventura*, 428 A.2d at 1153.

[230] Compl., 3.

[231] *Id.*

[232] *Kuroda*, 971 A.2d at 880.

the complaint merely stated conclusory allegations that the defendants "intentionally interfered with Mr. Kuroda's" business relations and operations without proffering factual circumstances that support such notions.[233] The court found that his claim for tortious interference with prospective economic advantage could not survive dismissal.[234]

Mr. Freeman's claim for tortious interference with business relationships is no different than *Kuroda*'s. Mr. Freeman merely asserts that his business relations have been interfered with and that Capstone did so on purpose. But his allegations otherwise are bare. Even under the lenient motion to dismiss standard, Mr. Freeman's allegations lack adequate substance. Mr. Freeman's claim for tortious interference fails.

Accordingly, Capstone's motion to dismiss the tortious interference claim (Count III) is **GRANTED**.

D. MR. FREEMAN'S PROMISSORY ESTOPPEL CLAIM FAILS BECAUSE THE ICOA, A FULLY ENFORCEABLE CONTRACT, GOVERNS THE INSTANT MATTER.

In the proper circumstances, this Court might exercise jurisdiction over promissory estoppel claims.[235] The elements of promissory estoppel are as follows: "(1) a promise was made; (2) the promisor reasonably expected to induce action or

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[233] *Id.* at 887.

[234] *Id.*

[235] *Alltrista Plastics, LLC v. Rockline Industries*, 2013 WL 5210255, at *9 (Del. Super. Ct. Sep. 4, 2013).

forbearance on the part of the promisee; (3) the promisee reasonably relied on the promise and took action to his detriment; and (4) the promise is binding 'because injustice can be avoided only by enforcement of the promise.'"[236]

"Promissory estoppel involves 'informal promises for which there was no bargained-for exchange but which may be enforceable because of antecedent factors that caused them to be made or because of subsequent action that they caused to be taken in reliance.'"[237] Generally, promissory estoppel is only employed when the parties' agreement lacks consideration.[238] It might be applied where an enforceable contract exists, but only when "the contract governs other aspects of the parties' relationship and not when the relied-upon promises were incorporated into the contract."[239] And courts "must be careful that they do not apply the doctrine of promissory estoppel when there is an existing contract that governs the issue before the Court."[240]

In *Everphone, Inc. v. Go Technology Management, LLC*, this Court determined that there was a controlling agreement between the parties that

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[236] *Spence v. Cherian*, 135 A.3d 1282, 1291 (Del. Super. Ct. 2016), *as corrected* (May 25, 2016) (quoting *Chrysler Corp. v. Chaplake Holdings, Ltd.*, 822 A.2d 1024, 1032 (Del. 2003)).

[237] *Alltrista Plastics, LLC*, 2013 WL 5210255, at *9.

[238] *Id.*

[239] *Id.*

[240] *Everphone, Inc. v. Go Technology Management, LLC*, 2023 WL 7996560, at *9 (Del. Super. Ct. Nov. 17, 2023) (quoting *Alltrista Plastics, LLC*, 2013 WL 5210255, at *9).

prohibited the plaintiff from bringing a promissory estoppel claim.[241] Everphone claimed that Go Technology promised to pay it for all payable and owed amounts under the controlling contract, including Everphone's losses and devices that purportedly were contracted for.[242] Everphone alleged that the promises to pay under the contract were more extensive than the contract demonstrates.[243] The agreement required the purchase of 60,000 devices and dictated the costs and fees.[244] The Guaranty that accompanied the agreement provided that the "Guarantor hereby irrevocably, absolutely, and unconditionally guarantees to Everphone the full and prompt payment when due of the rent and any other sum of money due under the Rental Agreement…"[245] This Court determined that, since Everphone's promissory estoppel claim was governed by both the Guaranty and controlling contract,[246] the claim was subject to dismissal.

Mr. Freeman alleges that Capstone clearly and definitively contracted—through more than one instrument—with him on specific continued route assignments, compensation, and use of certain equipment.[247] Mr. Freeman asserts

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[241] *Everphone, Inc.*, 2023 WL 7996560, at *9-10.

[242] *Id.* at *9.

[243] *Id.*

[244] *Id.* at *10.

[245] *Id.* (citing Guaranty § 1).

[246] *Everphone, Inc.*, 2023 WL 7996560, at *10.

[247] Compl., 3.

that he relied on these contractual promises by obtaining the required vehicles and maintaining a subcontractor workforce to complete the jobs.[248] Mr. Freeman argues that Capstone's sudden termination of this agreement caused him financial harm.[249] Mr. Freeman's reliance on the governing nature of the ICOA (and other writings) is fatal to his promissory estoppel claim.

Mr. Freeman's promissory estoppel claim concerns the instruments that governed the relationship between Capstone and him.[250] Promissory estoppel cannot exist where there is a fully enforceable contract governing the at-issue promise.[251] And here, the ICOA (and possibly the Route Agreements, too) does, in fact, govern Mr. Freeman's specific claims regarding route assignments, compensation, and equipment use.[252] This itself bars Mr. Freeman's promissory estoppel claim. But further, Mr. Freeman makes only vague allegations about "promises" that were not fulfilled and claims he suffered "financial harm" with no additional specifics.[253] Such vagueness is not sufficient to support a promissory estoppel claim, even with the minimal pleading standard applicable when proceeding on a motion to dismiss.

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[248] *Id.* at 4.

[249] *Id.*

[250] *Id.* at 1; *see* Ex. E.

[251] *SIGA Tech., Inc.*, 67 A.3d at 348.

[252] *See* Ex. E, §§ 3.3, 15.1, 15.2, 17.2.

[253] Compl., 3-4.

Accordingly, Capstone's motion to dismiss regarding the promissory estoppel claim (Count IV) is **GRANTED**.

E. THERE IS NO ADEQUATE LEGAL BASIS FOR A PUNITIVE DAMAGES AWARD.

Mr. Freeman requests punitive damages because, he alleges, Capstone's "conduct was willful, reckless, and in bad faith."[254] Those incantations are not enough to support a reward of punitive damages.

"[P]unitive damages are not recoverable for breach of contract unless the conduct also amounts independently to a tort."[255]

Here, there is no independent tort that Mr. Freeman has or can assert against Capstone. And where there is no independent tort committed by one of the parties, "there is no legal basis to award punitive damages."[256] As such, Mr. Freeman's punitive damages request fails. Capstone's motion to dismiss the punitive damages request is **GRANTED**.

V. CONCLUSION

For the foregoing reasons, Capstone's Motion to Dismiss is **GRANTED, in part,** and **DENIED, in part.**

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[254] *Id.* at 5.

[255] *Bhole, Inc. v. Shore Investments, Inc.*, 67 A.3d 444, 454 (Del. 2013); *E.I. DuPont de Nemours and Co. v. Pressman*, 679 A.2d 436, 445 (Del. 1996); Restatement (Second) of Contracts § 355 (1981); Farnsworth, *Contracts* § 12.8 ("[N]o matter how reprehensible the breach, damages that are punitive, in the sense of being in excess of those required to compensate the injured party for lost expectation, are not ordinarily awarded for breach of contract.").

[256] *Bhole, Inc.*, 67 A.3d at 454.

IT IS SO ORDERED.

/s/ Paul R. Wallace

Paul R. Wallace, Judge