IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHP III, L.P.,	§	
	§	No. 70, 2026
Plaintiff-Below,	§	
Appellant,	§	
	§	Court Below: Court of Chancery
v.	§	of the State of Delaware
	§	
BENJAMIN F. CRAVATT,	§	C.A. No. 2024-0867
THOMAS WOIWODE,	§	
CHRISTOPHER G. PARKER,	§	
BELHARRA THERAPEUTICS,	§	
INC., VERSANT VENTURE	§	
MANAGEMENT, LLC,	§	
INCEPTION THERAPEUTICS,	§	
INC.,	§	
	§	
Defendants-Below,	§	
Appellees.	§	

Submitted: September 23, 2026
Decided: November 19, 2026

Before **SEITZ**, Chief Justice; **TRAYNOR**, **LEGROW**, **GRIFFITHS**, and **ZURN**, Justices, constituting the Court *En Banc*.

O R D E R

After consideration of the parties' briefs, oral arguments, and the record on appeal, it appears to the Court that:[1]

1. In 2014, Benjamin Cravatt founded Vividion Therapeutics, Inc. ("Vividion") along with two colleagues at the Scripps Research Institute ("Scripps")

[1] Citations in the form "A—" refer to the Appendix to Appellant's Opening Brief.

and the managing member of CHP III, L.P. ("Cardinal"), an investor in Vividion.[2] In 2016, Vividion agreed to fund Cravatt's research at Scripps in exchange for an option to exclusively license his discoveries (the "License Agreement").[3] The License Agreement required Vividion to use commercially reasonable efforts to meet developmental milestones and to make milestone and royalty payments to Scripps.[4] Among the intellectual property that Vividion licensed from Scripps was U.S. Patent Application 16/478,444, entitled "Photoreactive Ligands and Uses Thereof" (the "'444 Application").[5]

2. On June 1, 2021, Bayer Corporation offered to acquire all Vividion's equity for $2 billion.[6] During negotiations, Bayer conducted full, unrestricted due diligence into Vividion and all its intellectual property rights, including the Scripps licenses.[7] Vividion did not conduct independent market checks on the value of its intellectual property or negotiate Bayer's offer, following its financial advisor's

[2] A56 ¶¶ 24–26.

[3] A58 ¶ 30.

[4] A589–91.

[5] A61 ¶ 40; A63 ¶¶ 42–43; A615; A626.

[6] A47 ¶ 2; A68 ¶ 54.

[7] *See* A51 ¶ 12; A68 ¶ 54.

advice.[8] The parties negotiated and signed a merger agreement on July 9 at that $2 billion price.[9]

3. To minimize royalty and milestone payments Bayer would owe Scripps under the License Agreement, the merger agreement required Vividion to use "commercially reasonable efforts to amend" the License Agreement with Scripps, specifically to relinquish its rights to immaterial intellectual property.[10] Bayer and Vividion agreed Vividion would retain its material intellectual property.[11] Regardless of whether and to what extent Vividion released intellectual property, the merger consideration would stay the same.[12] Before the merger closed, Vividion and Scripps agreed Vividion would release the license to the '444 Application.[13]

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[8] A75 ¶ 68 ("Centerview [Partners LLC], which did not itself conduct any independent analysis of the released rights, feared that information about Bayer's offer would leak and affect the IPO's timing if the Bayer transaction fell through.").

[9] A69 ¶ 55.

[10] A173 § 5.20; A187–202.

[11] *See* A160 § 5.1; A161 § 5.1(j). In Section 5.1(j) of the merger agreement Vividion covenanted that it would not "amend in any material respect," or "knowingly waive, release or assign any material right of the Company under . . . any material IP Agreements," other than "as set forth in Section 5.1 of the [disclosure schedule]." A160 § 5.1; A161 § 5.1(j).

[12] The merger agreement did not contain a provision providing for an increase in merger consideration if Vividion failed to release intellectual property rights.

[13] A73–74 ¶¶ 64–66; A616–24.

4. The merger closed on August 19, 2021.[14] Scripps then licensed the '444 Application to Cravatt's own startup, Belharra Therapeutics, Inc. ("Belharra").[15] Cravatt had formed Belharra shortly before Bayer had made its offer but had not told anyone at Vividion.[16] In January 2023, Belharra emerged with "a novel-photoaffinity-based chemoproteomics platform capable of identifying non-covalent, small molecule drug candidates for any protein" consistent with the '444 Application, and received $130 million in financing.[17]

5. On August 19, 2024, Cardinal sued to recover the value of the '444 Application directly.[18] It contends Cravatt manipulated the merger process by concealing the value of the '444 Application, which deprived Vividion's stockholders of increased merger consideration.[19] Its operative complaint asserts four causes of action: (1) breach of fiduciary duty; (2) aiding and abetting breach of fiduciary duty; (3) fraud; and (4) unjust enrichment.[20] The defendants moved to dismiss, asserting

[14] A50–51 ¶ 11.

[15] A84 ¶ 87.

[16] A67 ¶¶ 48–50; A82 ¶ 83; *see* A75–78 ¶¶ 70–73; A81 ¶ 81.

[17] A66–67 ¶¶ 50–51; A81–82 ¶ 82.

[18] *See* A1.

[19] *See generally* A46–95.

[20] A85–94.

that the claims are derivative and Cardinal's standing to bring them was extinguished by the merger and that the complaint fails to state a claim.[21]

6. The Court of Chancery granted the motion, dismissing the appellant's claims as derivative.[22] The trial court found the "crux of Plaintiff's claim" constituted misrepresentations "during negotiations with Scripps concerning material and immaterial IP," which "occurred after the parties signed the merger agreement."[23] The trial court concluded that conduct after the merger agreement was signed could not "affect[] the merger consideration in any way."[24] Then the trial court evaluated that narrow claim under *Primedia*, reasoned the claim failed *Primedia*'s materiality prong, and concluded Cardinal failed to plead a direct claim.[25]

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[21] *See generally* A207–76.

[22] *CHP III, L.P. v. Cravatt*, 2026 WL 112789, at *4–7 (Del. Ch. Jan. 15, 2026).

[23] *Id.* at *5–6.

[24] *Id.* at *5.

[25] *Id.* (applying *Primedia, Inc. S'holder Litig.*, 67 A.3d 455 (Del. Ch. 2013)). The trial court wrote:

> That test asks:
>
> > First, has the plaintiff pled an underlying derivative claim that has survived a motion to dismiss or otherwise could state a claim on which relief could be granted?
> >
> > Second, is the value of the derivative claim material in the context of the merger?
> >
> > Third, does the complaint support a pleading-stage inference that the acquirer would not assert the underlying derivative claim and did not provide value for it?

7. Cardinal appeals the trial court's order of dismissal on two grounds. First, it asserts the trial court failed to credit the complaint's allegations and therefore mischaracterized the "crux" of the claim as occurring after the merger. Second, it argues that its claim as pled is direct under *Parnes v. Bally Entertainment*.[26]

8. This Court reviews a decision to grant a motion to dismiss *de novo*.[27] When considering a Rule 12(b)(6) motion, the court must "accept all well-pleaded factual allegations in the [c]omplaint as true . . ., draw all reasonable inferences in favor of the plaintiff, and deny the motion unless the plaintiff could not recover under any reasonably conceivable set of circumstances susceptible of proof."[28] But the court

> *See Goldstein* [*v. Denner*], 2022 WL 1797224, at *10 [(Del. Ch. June 2, 2022)] (summarizing the *Primedia* factors as endorsed by the high court in *Morris v. Spectra Energy P'rs (DE) GP, LP*, 426 A.3d 121, 129 (Del. 2021)).
>
> Plaintiff must meet all elements of the test. Plaintiff cannot meet the second element because Plaintiff cannot demonstrate that the derivative claim was material in the context of the merger.

Id.

[26] 722 A.2d 1243 (Del. 1999).

[27] *City of Fort Myers Gen. Emps. Pension Fund v. Haley*, 235 A.3d 702, 716 (Del. 2020); *Morrison v. Berry*, 191 A.3d 268, 282 (Del. 2018); *Cent. Mortg. Co. v. Morgan Stanley Mortg. Capital Hldgs. LLC*, 27 A.3d 531, 535 (Del. 2011); *Allen v. Encore Energy P'rs, L.P.*, 72 A.3d 93, 100 (Del. 2013).

[28] *Cent. Mortg.*, 27 A.3d at 536.

need not "accept conclusory allegations unsupported by specific facts or . . . draw unreasonable inferences in favor of the non-moving party."[29]

9. We read the complaint to allege misconduct during merger negotiations, in addition to after the merger agreement was signed. First, Cardinal alleges that Cravatt "knowingly misrepresented the value and utility of Vividion's intellectual property to Vividion's other directors" before the parties signed the merger agreement.[30] Second, Cardinal alleges that Cravatt concealed the existence of Belharra throughout merger negotiations.[31] Third, Cardinal alleges that during negotiations Cravatt approved two representations in the merger agreement that he knew were false.[32]

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[29] *Price v. E.I. du Pont de Nemours & Co.*, 26 A.3d 162, 166 (Del. 2011), *overruled on other grounds by Ramsey v. Georgia S. Univ. Advanced Dev. Ctr.*, 189 A.3d 1255, 1277 (Del. 2018) (citing *Clinton v. Enter. Rent-A-Car Co.*, 977 A.2d 892, 895 (Del. 2009)).

[30] A90 ¶ 107; *accord* A48 ¶ 6; A82 ¶ 83. The amended complaint alleges that Vividion and Bayer "consult[ed] with Cravatt about Vividion's intellectual property . . . throughout the merger negotiations" and that Cravatt used those consultations to "shape both sides' thinking about the value and utility" of the '444 Application. A71 ¶ 61. Cardinal then explained that Cravatt's "lies . . . about the materiality of the '444 application and related intellectual property occurred during negotiations over Vividion's representations and culminated in the amended license agreement entered on July 13, 2021." A81 ¶ 81; *accord* A92–93 ¶ 111.

[31] The amended complaint alleges that the "concealment of Belharra continued throughout the parties' negotiations from June 23, 2021, until July 9, 2021." A81 ¶ 81; *accord* A77 ¶ 72 (alleging that "Cravatt and Woiwode did not disclose Belharra to Vividion's directors before the Bayer transaction closed (or otherwise)"); A91 ¶ 109.

[32] A79–80 ¶¶ 76–78; A81 ¶ 81 (Cravatt's and Woiwode's "false approval of Vividion's representations in the Merger Agreement occurred during the [merger] negotiations and was complete on July 9, 2021, when Cravatt and Woiwode . . . approved the Merger Agreement").

10. We next assess whether those allegations state a direct claim. We apply *Parnes*, not *Primedia*. While both *Parnes* and *Primedia* address direct harms that can arise within the merger context, they address different harms.[33] Under *Parnes*, "a target stockholder retains direct standing after a merger has closed to challenge the fairness or validity of the merger itself."[34] *Primedia* applies specifically when a stockholder claims she was not fairly compensated in a merger for the value of an underlying derivative claim.[35] Cardinal challenges the undervaluation of the '444 Application and its release to Scripps on the basis that it diverted merger consideration from stockholders, addressable under *Parnes*.[36] Cardinal does not assert stockholders were not paid for a derivative claim under *Primedia*.

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[33] In assessing whether the plaintiff has pled a direct harm, this Court must examine the "body of the complaint and consider[] the nature of the wrong alleged and the relief requested." *Tooley v. Donaldson, Lufkin & Jenrette, Inc.*, 845 A.2d 1031, 1036 (quoting *Agostino v. Hicks*, 2004 WL 443987, at *7 (Del. Ch. Mar. 11, 2004)); *id.* at 1033, 1035 (asking "(1) who suffered the alleged harm (the corporation or the suing stockholders, individually); and (2) who would receive the benefit of any recovery or other remedy (the corporation or the stockholders, individually)"); *see also Brookfield Asset Mgmt., Inc. v. Rosson*, 261 A.3d 1251, 1263 (Del. 2021).

[34] *Blue v. Fireman*, 2022 WL 593899, at *11 (Del. Ch. Feb. 28, 2022).

[35] *Morris v. Spectra Energy P'rs (DE) GP, LP*, 246 A.3d 121, 128 (Del. 2021) ("[U]nder *Primedia's* three-part test, which applies to claims alleging an unfair merger because the price does not reflect the value of derivative claims, the plaintiff must allege a viable derivative claim assessed by a motion to dismiss standard.").

[36] A82 ¶ 83 ("Cravatt's and Woiwode's lies thus fundamentally altered the merger negotiations and depressed the final merger consideration received by Vividion's stockholders."); A82–83 ¶ 84 ("Cravatt's and Woiwode's misconduct took the '444 application and related intellectual property 'off the table' in the merger transaction . . . . [I]n doing so, they deprived Vividion's other stockholders of greater merger consideration.").

11. Under *Parnes*, "[t]he Court must distinguish between direct challenges to a merger's fairness and derivative challenges to wrongs merely associated with the merger."[37] "[T]o be direct, the side transaction must divert merger consideration from stockholders, rather than from the acquirer; the diversion must be 'improper,' that is, the product of misconduct by the defendants; and the diversion must materially affect the merger's process or price, calling the merger's fairness or validity into question."[38]

12. We conclude Cardinal failed to state a direct claim under *Parnes*. The amended complaint fails to plead that the undervaluation and loss of the '444 Application depressed the merger price. Rather, Cardinal's allegations and the merger agreement make clear that the merger consideration would stay the same regardless of what intellectual property might be released. During negotiations, Bayer conducted full due diligence into Vividion's intellectual property, including the '444 Application. Vividion did not negotiate the merger price from Bayer's offer, following its financial advisor's advice. And the merger agreement only required Vividion to "use commercially reasonable efforts" to renegotiate the Scripps license.[39] Bayer would pay Vividion the same price for its remaining intellectual property rights regardless of what was, or was not, released. Thus, Cardinal failed to plead a direct

[37] *Blue*, 2022 WL 593899, at *11.

[38] *Id.*

[39] A173 § 5.20; A187–202.

harm under *Parnes*. Its breach of fiduciary duty and aiding-and-abetting claims are derivative, and Cardinal lost standing to bring them after the merger closed. Cardinal's claim for unjust enrichment also fails.[40]

13. We also conclude Cardinal does not allege that Cravatt fraudulently misrepresented the value of the '444 Application during negotiations. To state a claim for fraud, Cardinal must plead facts alleging the following elements:

> (1) a false representation, usually one of fact, made by the defendant; (2) the defendant's knowledge or belief that the representation was false, or was made with reckless indifference to the truth; (3) an intent to induce the plaintiff to act or to refrain from acting; (4) the plaintiff's action or inaction taken in justifiable reliance upon the representation; and (5) damage to the plaintiff as a result of such reliance.[41]

Court of Chancery Rule 9(b) imposes a heightened standard for pleading aspects of a fraud claim.[42] It requires that "[i]n alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake. Malice, intent, knowledge and other conditions of a person's mind may be alleged generally."[43]

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[40] Cardinal's unjust enrichment claim is entirely premised on the alleged misconduct underlying its breach of fiduciary duty claim. A94 ¶ 116–17 ("But for Cravatt's and Woiwode's breaches of fiduciary duty, Vividion's other stockholders, including Plaintiff, would have received additional merger consideration from Bayer. . . . Defendants deprived Plaintiff of that value by misappropriating it for themselves."). Because Cardinal alleges no additional facts demonstrating an independent direct harm, the unjust enrichment claim is likewise derivative and must be dismissed.

[41] *In re P3 Health Grp. Hldgs.*, 2022 WL 15035833, at *3 (Del. Ch. Oct. 26, 2022).

[42] *See* Ct. Ch. R. 9(b).

[43] *Id.*

14. Cardinal alleges that Cravatt misrepresented that the '444 Application was "immaterial and worthless" to Vividion's board during merger negotiations.[44] It speculates that Bayer might have paid more to acquire Vividion if it had known the "true value" of the '444 Application or that Belharra existed.[45] But Cardinal did not allege details of these misrepresentations or reliance upon them. Nor did Cardinal allege that Cravatt impeded Bayer's due diligence or otherwise prevented it from assessing the value of the '444 Application at all or in a way that resulted in a lower merger price. Thus, Cardinal failed to plead a claim for fraud.

NOW THEREFORE, IT IS ORDERED that the judgment of the Court of Chancery is AFFIRMED.

BY THE COURT:

/s/ Morgan T. Zurn
Justice

[44] A82 ¶ 83.

[45] A81–82 ¶ 82.