EFiled: Oct 07 2025 12:12PM EDT
Filing ID 77252766
Case Number 269,2025

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAVID A. HANDLER, Defendant-Counterclaim and Third-Party Plaintiff Below, Appellant, v. CENTERVIEW PARTNERS HOLDINGS LP, Plaintiff-Counterclaim Defendant Below, Appellee, and CENTERVIEW PARTNERS ADVISORY HOLDINGS LLC, CENTERVIEW HOLDINGS GP LLC, ROBERT PRUZAN, and BLAIR EFFRON, Third-Party Defendants Below, Appellees.	C.A. No. 269, 2025 Court Below: Court of Chancery of the State of Delaware C.A. No. 2022-0767-BWD **PUBLIC VERSION** **EFILED: October 7, 2025**

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Dated: September 22, 2025

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NATURE OF PROCEEDINGS[1]

This appeal regards Appellant David Handler's attempt to circumvent issue preclusive findings made by Vice Chancellor Glasscock in a post-trial opinion. Handler is a disgruntled former employee of Centerview Partners LLC ("CP LLC") who spent nearly two years in litigation asserting that he had an oral agreement that made him a partner in Appellee Centerview Partners Holdings L.P. ("Topco" and together with CP LLC and Centerview Partners Advisory Holdings LLC, "Centerview"). He claimed in a verified books and records complaint, verified counterclaims in this action,[2] verified interrogatory responses, sworn deposition testimony, and under oath at trial that this purported oral partnership agreement governed all aspects of his employment at Centerview, including his compensation. As part of this theory, Handler testified under oath that the employment agreement that initially governed his employment at Centerview (the "2008 Letter") was "gone"

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[1] Citations to "MTD Op. __" or "Motion to Dismiss Opinion" refer to the Court of Chancery's motion to dismiss ruling. *Centerview Partners Holdings LP v. Handler*, 2025 WL 1720039 (Del. Ch. June 20, 2025), which is attached as Exhibit A to Appellant's Opening Brief "OB"). Citations to "Partnership Op. __" or "Partnership Opinion" refer to the Court's ruling on Handler's partnership status, *Handler v. Centerview Partners Holdings L.P.*, 2024 WL 1775269 (Del. Ch. Apr. 24, 2024) (A00032).

[2] In response to Handler initiating the books and records action, Topco filed a plenary action seeking a declaratory judgment that Handler was not a Topco partner. Handler then counterclaimed for damages under his alleged oral partnership agreement. Dismissal of those counterclaims is at issue in this appeal.

after this purported oral partnership agreement was reached at a meeting on November 8, 2012 (the "November 8 Meeting"). The gravamen of this oral partnership theory was that Handler was owed enormous amounts of unpaid compensation, including equity in Topco.

The Court of Chancery stayed Topco's declaratory judgment claim and Handler's counterclaims (the "Plenary Action") to first determine whether Handler was a partner in Topco under an oral partnership agreement (the "Partnership Action"). The Partnership Action involved extensive discovery, including multiple depositions. After holding a two-day trial, which included testimony from Handler and Robert Pruzan, Centerview's co-founder and one of alleged counter-parties to the purported oral partnership agreement, the Court rejected Handler's oral partnership claim. Specifically, the Court found that the credible evidence showed the parties did not reach an oral partnership agreement at the November 8 Meeting, and that Handler himself did not actually believe such agreement existed. Indeed, the Court of Chancery highlighted the evidence showing that Handler had represented to numerous third parties, including the IRS and his own accountant, that he was not a Topco partner and that he did not have any partnership agreement. Handler did not appeal the Partnership Opinion.

At the core of Handler's partnership claim was his assertion that his oral partnership agreement included a rigid compensation structure that the parties

followed each year from the November 8 Meeting until Handler resigned from Centerview to form a competing advisory firm in 2022. Accordingly, in the Partnership Action, the Court of Chancery took great care in reviewing the evidence of his compensation. The Court of Chancery's findings are unambiguous—at the November 8 Meeting, Handler and Appellees Blair Effron and Robert Pruzan, two of Centerview's co-founders (the "Founders"), agreed to alter the compensation arrangement in the 2008 Letter into a more flexible structure that was ultimately at the Founders' discretion. This compensation arrangement increased Handler's compensation, but it was not governed by any written contract or oral partnership agreement.

Handler's initial counterclaims in the Plenary Action relied almost exclusively on his oral partnership theory as a basis for relief—mentioning that alleged agreement one hundred and eleven times. With this theory expressly rejected by the Court in the Partnership Opinion, Handler did not simply pivot to an alternative *theory* of liability—rather, he made completely new and contradictory *factual allegations*. In amended counterclaims filed in the Plenary Action, Handler claimed he was entitled to essentially the same unpaid compensation and equity he had sought under his fictitious oral partnership agreement, but that he was entitled to this relief under the 2008 Letter, which he now claims always governed his compensation (despite his sworn testimony to the contrary in the Partnership Action).

After Appellees moved to dismiss, Handler filed his Second Amended Counterclaims ("SAC"), which dropped certain frivolous claims regarding his exit from Centerview, but still asserted that Handler was owed unpaid compensation under the 2008 Letter he testified under oath was "gone."

The Court of Chancery correctly rejected Handler's attempted do-over and dismissed the SAC under the doctrine of collateral estoppel. Specifically, the Court of Chancery explained how the allegations underlying Handler's SAC were directly contrary to the unchallenged factual and legal findings in the Partnership Opinion. As relevant to this appeal, the Court dismissed Handler's breach of contract, breach of the implied covenant of good faith and fair dealing, and unjust enrichment claims because "[t]he factual premise underlying each of these counts—that the 2008 Letter continued to govern after the November 8 Meeting—directly contradicts Vice Chancellor Glasscock's finding that the parties agreed to modify the 2008 Letter to change Handler's compensation structure." MTD Op. 17. The Court then found, contrary to Handler's claims, that "Vice Chancellor Glasscock's detailed factual findings were not *dicta*; they were essential to—the very basis for—his ultimate holding on standing." *Id.* at 13

Handler's Opening Brief On Appeal ("OB") misreads the Partnership Opinion and misstates Delaware law in an attempt to avoid issue preclusion. The Motion to Dismiss Opinion should be affirmed.

SUMMARY OF ARGUMENT

1. Denied. The Court of Chancery properly relied on the unambiguous holdings of the Partnership Opinion as barring Handler's claims in this case. In response, Handler emphasizes one phrase in the Partnership Opinion that the 2008 Letter "remained operative" in March 2013, and claims this snippet nullifies the Partnership Opinion's extensive findings that Handler's compensation was at the Founders' discretion and not governed by any other agreement. But as the Court of Chancery in the Motion to Dismiss Opinion correctly observed, this finding meant that "the parties operated under the 2008 Letter *as modified* by Handler's new discretionary compensation arrangement." MTD Op. 18. In other words, the parties' agreement to change Handler's compensation at the November 8 Meeting superseded the compensation formula in the 2008 Letter. This finding does not "rewrite" the Partnership Opinion as Handler claims, but is instead directly in line with that opinion's finding that, ahead of the November 8 Meeting, Handler was "focused on changing [his] employment terms under the 2008 Letter, instead of negotiating the proposed Topco partnership agreement." A00039.

2. Denied. Handler's argument that a finding in an action must be outcome determinative to be "necessary" for collateral estoppel is wrong. Under Delaware law, a finding is essential to an opinion when "there is an obvious causal relationship" between the finding and the judgment. *Rogers v. Morgan*, 208 A.3d

342, 353 (Del. 2019). That test is plainly met here. Handler relied on his purported compensation formula as key evidence of his Topco partnership. Specifically, Handler urged the Court to find that there was a meeting of the minds on his compensation, which Handler contended was a material term of the partnership agreement. The Court thus made detailed findings regarding this compensation, with such findings laying the foundation for the Court's rejection of Handler's partnership claim. This satisfies the "necessary" element of collateral estoppel. Regardless, even applying Handler's improper outcome determinative test, the compensation findings *were* outcome determinative in the Partnership Action. Handler claimed his alleged compensation formula was a material term of the oral partnership agreement. The court in the Partnership Action rejected that claim. Thus, there was no meeting of the minds on all material terms of Handler's alleged partnership agreement and no contract could have been formed as a matter of law.

3. Denied. Handler's attempt to carve out his 2022 bonus and certain receipt of deferred compensation from the Partnership Opinion's finding that his compensation was discretionary must be rejected. In the Partnership Opinion, the Court found that both of these forms of compensation were discretionary, which clearly means that Appellees were permitted to not pay Handler these amounts at the end of any given year. Centerview's Founders exercised that discretion at year-end 2022 when Handler left in August of that year to found an advisory firm that

competes with Centerview, soliciting Centerview's employees and clients in the process. Handler decrying this result as "unreasonable" is an improper, substantive attack on the Partnership Opinion's findings, not a basis to not apply collateral estoppel. Last, Handler's previous claim regarding receipt of certain terminal value interests is waived on appeal.

STATEMENT OF FACTS

A. Handler Joins Centerview Under The 2008 Letter

Centerview Partners LLC ("CP LLC") is an independent investment banking advisory firm. A00035. It is 99% owned by Centerview Partners Advisory Holdings LLC ("CPAH"), which is controlled by its manager, Topco. MTD Op. 2. Centerview was co-founded by Blair Effron and Robert Pruzan. *Id.* The Partnership Opinion found that the Founders are Topco's only two partners. *See* A00059-60 n.158.

David Handler joined Centerview in 2008 alongside non-party David St. Jean. A00037. Handler and St. Jean were hired to co-head Centerview's technology banking group and were both given the title of "partner." *Id.* This title did not endow either with a formal partnership interest in Topco. *Id.* Handler and St. Jean were hired under the 2008 Letter. *Id.* The 2008 Letter provided that Handler and St. Jean would receive "35% of revenues they generated up to $25 million, 40% of all revenues between $25 to $40 million, and 50% above the $40 million threshold." *Id.* Handler and St. Jean would also receive a collective 6.5% "interest in the terminal value of Centerview upon a liquidity event (sale, IPO etc.) ("TVIs")." *Id*. (internal quotations omitted). The 2008 Letter provided that "[i]n the event of a termination of any of your employment for any reason prior to a Liquidity Event, the [TVIs] held

by that individual will be subject to a repurchase right at its tax value at the date of grant plus interest at 2.5%." A00604; A00038.

B. Handler Declines To Become A Topco Partner, And The Parties Renegotiate His Compensation

Beginning in 2010, the Founders, Handler, and St. Jean attempted to renegotiate the terms of Handler's and St. Jean's employment at Centerview. MTD Op. at 3. These negotiations were triggered by Handler and St. Jean's displeasure with their compensation under the 2008 Letter. A00038. In the fall of 2012 the Founders sent Handler and St. Jean a draft limited partnership agreement that, if executed, would have brought Handler and St. Jean into Topco as partners. *Id.* Handler rejected this proposal "without offering a counterproposal." A00039.

The Founders followed up by sending Handler and St. Jean a term sheet that outlined, in broad strokes, what Handler and St. Jean joining Topco as partners would entail. *Id.* This term sheet included a revised compensation structure that would govern if the parties reached a partnership agreement; "Handler and St. Jean conveyed to Effron that they were focused on changing their employment terms under the 2008 Letter, instead of negotiating the proposed Topco partnership agreement." *Id*.

Handler, St. Jean, and the Founders then met on November 8, 2012 at the University Club in New York City to discuss the term sheet and Handler and St. Jean potentially joining Topco as partners (the "November 8 Meeting"). A00040.

Handler claimed throughout the Partnership Action and in his initial counterclaims in this action that he, St. Jean, and the Founders reached an oral partnership agreement at this meeting. The contemporaneous evidence contradicts this claim. As the Court of Chancery noted, "the day after the purported oral agreement" Handler emailed Effron stating "[w]e need to absorb what you've put in front of us ... We'll look to schedule some time to get together once we've had a chance to go through everything." A00042. About two months later, "Handler wrote the Founders via email stating he wanted to discuss with the Founders 'a go forward agreement *in the similar spirit* that [the Founders] laid ... out in November.'" A00043 (alteration and ellipsis in original). During 2013 Handler repeatedly emailed third parties "that the partnership agreement had not been executed." A00044.

Accordingly, the Court rejected Handler's claim that an oral partnership agreement was reached at the November 8 Meeting. A00059. Instead, the Court found, consistent with Handler's contemporaneously stated goals, that the parties renegotiated the terms of Handler's compensation and "came to an agreement about the terms of Handler's and St. Jean's continued employment at Centerview." A00056.

C. Handler Is Compensated At The Founders' Discretion And Later Voluntarily Resigns To Found A Competing Firm

Consistent with the agreement to alter Handler's compensation, at year-end 2012 Handler was not compensated under the 2008 Letter; instead his compensation "increased" under a new, discretionary scheme. A00046. Handler did not contemporaneously object to this increased compensation despite his current claim (over a decade later) that it breached the 2008 Letter. MTD Op. 4. This new compensation framework included Handler receiving so-called "priority amounts," a form of deferred compensation that was at the Founders' discretion. *See* A00063 ("Handler's Priority Capital Amounts were a part of his annual compensation discussions, which were subject to the Founder's discretion....").

In November 2013, the Founders executed a Limited Partnership Agreement for Topco. MTD Op. 4. Handler did not sign this agreement, but the Founders continued to negotiate with Handler regarding his admission to Topco as a partner. *Id.* "Although Handler alleges that the Founders 'did not tell [him] that they had executed the [Topco] LPA' or provide a copy of the executed document, the draft limited partnership agreement he received in May 2014 clearly stated that the Founders had executed the [Topco] LPA." *Id.* (alterations in original).

After refusing to join Topco as a partner, Handler elected to receive TVIs in CPAH, the entity through which nearly all Centerview employees with the title of "partner" receive such interests. A00047-48. The form 83(b) that Handler signed

to receive those TVIs expressly stated that "[u]pon termination of service, the Interest is subject to repurchase by the Company." A00132; A00048. Additionally, "[a] memorandum attached to the 83(b) form also specified that '[Handler's] interests [were] subject to a substantial risk of forfeiture as a result of the Company's right to repurchase [Handler's] interests for the original fair market value as of the grant date, plus 2.5% per annum thereon, upon a termination of [Handler's] employment.'" A00048 (alterations in original).[3] Thereafter Handler received Form K-1s each year from CPAH reflecting his TVIs in that entity, but never received a K-1 from Topco. *Id.* Handler's annual compensation was reflected on form W-2s from CP LLC. A00046.

Handler's compensation varied in the years after 2012, though his compensation was always at the discretion of the Founders. *Id.* Handler was never compensated under the 2008 Letter after the November 8 Meeting. *Id.* Handler did not receive priority amounts as deferred compensation after 2015, and he acknowledged this fact (without objecting) in communications with the Founders as early as 2018. A00047.

In January 2022 Handler expressed dissatisfaction with his compensation, stating "that his compensation was well below what he was owed pursuant to 'any

[3] Despite this finding, Handler sought the fair market value of his TVIs in his prayer for relief. A00344. Handler has not argued on appeal that he is entitled to this relief.

standard ... and ... the 2008 [employee] [L]etter agreement.'" A00049 (alteration and ellipses in original). That email was the first time Handler had mentioned the 2008 Letter "in ten years." A00647.

Handler served a books and records request (the "Demand") on Topco on May 23, 2022. MTD Op. 5. The Demand stated that Handler was a partner in Topco under an oral partnership agreement reached at the November 8 Meeting. Topco rejected this request because Handler never was a Topco partner. *Id.* Handler then sent a litigation demand on July 15, 2022 that expanded on his baseless oral partnership theory and demanded an enormous payout. A00329 ¶ 115.

On August 1, 2022, Handler initiated the Partnership Action. MTD Op. 5. His Complaint in that action alleged that since 2012 he had been compensated under an oral partnership agreement, not the 2008 Letter. *Id.* That same day he resigned from Centerview and announced his founding of a competing advisory firm. A00329 ¶ 116; A00518. In doing so Handler solicited Centerview employees and clients in breach of his contractual and fiduciary obligations. A00518-19. While Handler has since claimed that he was forced out of Centerview, in reality Handler had been plotting his competing enterprise for months, including meeting with investors and touring potential office space. *Id.*

D. The Court of Chancery Rejects Handler's Partnership Claim After A Trial On The Merits

On August 29, 2022 Topco filed an action in the Court of Chancery seeking a declaration that Handler was not a Topco partner. MTD. Op. 5. On October 5, 2022, Handler asserted eighteen counterclaims, nearly all of which were based on the theory that he had an oral partnership agreement that entitled him to enormous amounts of unpaid compensation. A00204-37. These counterclaims mentioned his purported oral partnership agreement one hundred and eleven times, and repeatedly claimed the 2008 Letter did not govern his compensation. *See, e.g.*, A00160-61 ¶ 10 ("[T]he new partners immediately began to operate under the Oral Partnership Agreement's economic terms and not the previously existing terms of the 2008 Letter, with Handler's annual compensation calculated according to the new agreement, not the 2008 Letter...."); A00186-87 ¶ 66 ("And, at year-end 2018 ... Pruzan again acknowledged that a select group of 'senior partners' were operating under an oral agreement concerning annual compensation completely inconsistent with the 2008 Letter...."). On November 3, 2022, Vice Chancellor Glasscock stayed the Plenary Action to first adjudicate whether Handler was a Topco partner. MTD Op. 6; A00050. The Court of Chancery made this determination because whether Handler had an oral partnership agreement was a predicate question for both the Partnership Action and the Plenary Action. B3-4.

The parties conducted substantial discovery in the Partnership Action, including multiple depositions, and a two-day trial was held on July 25 and 26, 2023. MTD Op. 6. During his deposition and at trial, Handler continued asserting that the 2008 Letter did not govern his compensation after 2012:

- Q: "Now when you left in 2022, Mr. Handler, is it your contention that [the 2008 Letter] was still in effect or not?" A: "It was not." Q. "It was no longer in effect?" A. "No." Q. "When did it cease to be in effect?" A. "2012." A00798-99.

- "The '08 agreement was gone, and we were moving forward on this basis." A00619.

- Q: "[I]n November, when you walked out of that University Club meeting after the handshake and the hug, the 2008 agreement was gone. A: It was." A00647.

After reviewing all the evidence, Vice Chancellor Glasscock found that Handler was not a Topco partner because there was no oral partnership agreement reached at the November 8 Meeting. A00034. Instead, the Court found that:

- "[T]he objective contemporaneous evidence demonstrates that Handler and Centerview did not reach an agreement on the essential terms to create a partnership in Topco at the November 8th Meeting." A00055.

- "[T]he trial record (including third-party communications conceding that the Topco partnership agreement was still 'not done') 'strongly indicate[d] that neither Handler nor St. Jean considered that they had entered an oral partnership agreement.'" MTD. Op. 7 (quoting A00056-67)).

- Instead, the parties "came to an agreement about the terms of Handler's and St. Jean's continued employment at Centerview." *Id.* 6-7. This new arrangement provided that Handler's compensation, including his receipt of Priority Amounts, was flexible and at the Founders'

discretion. *Id.*; A00057-58 ("Handler's compensation remained at the discretion of the Founders, and not the terms set forth in the purported oral partnership agreement.").

- "Handler's Priority Capital Amounts were a part of his annual compensation discussions, which were subject to the Founder's discretion, and not provided by the purported oral partnership agreement." A00063.

- Handler's Centerview TVIs were held in CPAH, not Topco (or any other entity), and Handler knew this. A00047-48; A00058.

Handler did not appeal the Partnership Opinion and a final judgment was entered for Topco on June 12, 2024. *Handler v. Centerview Partners Holdings L.P.*, 2024 WL 2999676 (Del. Ch. June 12, 2024) (ORDER).

E. The Court of Chancery Dismisses Handler's Second Amended Counterclaims

Handler's initial counterclaims were premised on the notion that he had an oral partnership agreement that governed all aspects of his employment at Centerview. *See* A00183 ¶ 57 ("The partners immediately began operating under the terms of the Oral Partnership Agreement, including following its new annual revenue sharing and compensation terms at the 2012 year-end instead of the 2008 Letter."). On August 2, 2024, after Vice Chancellor Glasscock rejected Handler's oral partnership theory in the Partnership Opinion, Handler filed his First Amended Counterclaims. B84. These amended counterclaims sought essentially the same relief he sought in his initial counterclaims. However, in an attempt to circumvent the Partnership Opinion, which ruled that Handler's compensation was at the

Founder's discretion, Handler dramatically changed tack and alleged that, contrary to his sworn testimony, the 2008 Letter had always governed his compensation, not the fictional oral partnership agreement. B119-20 ¶ 2. In other words, after two years of arguing and testifying under oath that the 2008 Letter did not govern his compensation, Handler simply changed his mind and alleged breach of that agreement in his verified amended counterclaims. He then asserted breach of fiduciary duty and fraud claims, alleging he was tricked into abandoning the 2008 Letter, as well as various claims related to his resignation from Centerview. B155-164 ¶¶ 82-114.

Appellees moved to dismiss on September 3, 2024 and Handler filed his Second Amended Counterclaims ("SAC") on October 7, 2024. A00239. In the SAC, Handler doubled down on claims that he was undercompensated under the 2008 Letter—asserting overlapping claims for breach of contract, breach of the implied covenant, and unjust enrichment all based on that letter (the "Compensation Claims"). And, while Handler dropped certain frivolous claims, he still asserted claims for constructive fraud, breach of fiduciary duty, and constructive termination. A00346.

Appellees moved to dismiss on October 21, 2024. A00490. Therein, Appellees asserted numerous, independent bases for dismissing each Counterclaim. *Id.* Specifically, Appellees argued that each Compensation Claim was barred by

collateral estoppel because the Partnership Opinion specifically found that Handler was compensated under the Founders' discretion, not the 2008 Letter (or any other agreement). A00523-531. Appellees next argued that the constructive fraud, breach of fiduciary duty, and unjust enrichment claims all required dismissal under collateral estoppel because each was premised on the argument that Appellees misled Handler into believing he had an oral partnership agreement despite Vice Chancellor Glasscock's finding in the Partnership Opinion that Handler never held this belief. *Id.* Separately, Appellees asserted that each counterclaim (except the claim for constructive termination) was barred by laches because each of those claims accrued long before the three-year limitations period expired. A00532-540. Next, Appellees argued that each Compensation Claim was barred by acquiescence because Handler accepted his compensation each year without complaint. A00540-41. Last, Appellees argued that the constructive fraud, breach of fiduciary duty, breach of implied covenant, unjust enrichment, and constructive termination counterclaims all failed to state a claim under Rule 12(b)(6). A00541-59.

The Court granted the motion to dismiss on June 20, 2025, finding that the Compensation Claims, constructive fraud claim, and breach of fiduciary duty claim were all barred by collateral estoppel. First, the Court found that the constructive fraud, breach of fiduciary duty, and unjust enrichment claims all required dismissal because they were "inconsistent with the Court's prior finding that Handler did not

believe the parties entered into a partnership agreement." MTD Op. 14. Accordingly, the Court found that "[b]ecause Handler did not honestly believe that the parties had entered into a partnership agreement, the Court cannot credit his allegation that he was misled into believing such." *Id.* at 15.

The Court similarly dismissed the Compensation Claims because "[t]he factual premise underlying each of these counts—that the 2008 Letter continued to govern after the November 8 Meeting—directly contradicts Vice Chancellor Glasscock's finding that the parties agreed to modify the 2008 Letter to change Handler's compensation structure." *Id.* at 17.

Next, the Court separately held the constructive fraud and breach of fiduciary duty claims required dismissal under Rule 12(b)(6). *Id.* at 16 n.10.

Last, the Court dismissed the constructive discharge claim for lack of subject matter jurisdiction. *Id.* at 20. The Court of Chancery thus did not reach Appellee's laches and acquiescence arguments, which provide an independent basis to dismiss each Compensation Claim.

Handler does not appeal the Court of Chancery's dismissal of his constructive fraud, breach of fiduciary duty, or constructive discharge claims. Instead, he appeals the Court of Chancery's application of collateral estoppel to dismiss the Compensation Claims.

ARGUMENT

I. THE COURT OF CHANCERY PROPERLY DISMISSED THE COMPENSATION CLAIMS UNDER THE DOCTRINE OF COLLATERAL ESTOPPEL BECAUSE THEY ARE IRRECONCILABLE WITH THE PARTNERSHIP OPINION'S HOLDINGS

A. Question Presented

Did the Court of Chancery err in applying the doctrine of collateral estoppel to reject Handler's Compensation Claims because they rely on allegations that directly contradict the Partnership Opinion's legal and factual findings? MTD Op. 7-20.

B. Scope Of Review

"This Court reviews *de novo* the grant of a motion to dismiss under Court of Chancery Rule 12(b)(6), to determine whether the trial judge erred as a matter of law in formulating or applying legal precepts." *Nemec v. Shrader*, 991 A.2d 1120, 1125 (Del. 2010) (quotation omitted). This Court also reviews a trial court's application of collateral estoppel under *de novo* review. *Rogers*, 208 A.3d at 346. Because the Partnership Opinion was not appealed, that opinion's legal and factual findings may not be disturbed in this appeal. *See Brittingham v. Unemployment Ins. Appeal Bd.*, 302 A.3d 429 (Del. July 24, 2023) (TABLE).

C. Merits Of Argument

"The rule of collateral estoppel is a rule of repose designed to end litigation. Among its worthy purposes is the avoidance of conflicting judicial

determinations upon the same facts in different cases between the same parties." *Tyndall v. Tyndall*, 238 A.2d 343, 346 (Del. 1968) (citation omitted). The doctrine thus "provides that once an issue is actually and necessarily determined by a court of competent jurisdiction, that determination is conclusive in subsequent suits based on a different cause of action involving a party to the prior litigation." *Hercules Inc. v. AIU Ins. Co.*, 783 A.2d 1275, 1278 (Del. 2000). This doctrine "applies broadly to a court's determinations of rights, questions, or facts." *PVP Aston, LLC v. Fin. Structures Ltd.*, 2023 WL 2728775, at *7 (Del. Super. Ct. Mar. 31, 2023) (quotation omitted). "The test for applying the collateral estoppel doctrine requires that (1) a question of fact essential to the judgment (2) be litigated and (3) determined (4) by a valid and final judgment." *M.G. Bancorporation, Inc. v. Le Beau*, 737 A.2d 513, 520 (Del. 1999), *as modified on denial of reargument* (May 27, 1999).

On a motion to dismiss under Rule 12(b)(6), the Court must "(1) accept all well pleaded factual allegations as true, (2) accept even vague allegations as 'well pleaded' if they give the opposing party notice of the claim, [and] (3) draw all reasonable inferences in favor of the non-moving party." *Cent. Mortg. Co. v. Morgan Stanley Mortg. Cap. Holdings LLC*, 27 A.3d 531, 535 (Del. 2011) (citing *Savor, Inc. v. FMR Corp.*, 812 A.2d 894, 896-97 (Del. 2002)). But, this rule does not prohibit a Court from considering a prior action when determining a motion to dismiss for collateral estoppel. "[I]t is axiomatic that a court must still

consider the prior adjudication in order to determine whether issue preclusion bars that plaintiff's claims." *In re Wal-Mart Stores, Inc. Del. Derivative Litig.*, 2016 WL 2908344, at *8 (Del. Ch. May 13, 2016) (*quoting M & M Stone Co. v. Pa.*, 388 F. App'x 156, 162 (3d Cir. 2010)). Accordingly, the key question when weighing the application of collateral estoppel is whether "the contentions raised in the second proceeding are necessarily inconsistent with the previously adjudicated issues." *PVP Aston*, 2023 WL 2728775, at *8.

1. The Findings In The Partnership Decision Directly Contradict Handler's Second Amended Counterclaims

The Partnership Opinion's findings regarding Handler's compensation are consistent and unambiguous. The Court noted that Handler's compensation was governed by the 2008 Letter from his hiring until November 8, 2012. A00037-38. The Court then, in a section of the factual background titled "Handler's Compensation Increases and Varies," specifically found that "[a]fter the November 8th Meeting, ***Handler's compensation at the Company increased***.... From 2012 to 2018, ***Handler's compensation varied, as Handler's compensation remained subject to year-end negotiations with the Founders***. ***The Founders had discretion to implement compensation principles flexibly***...." A00046 (emphasis added).

Handler's Opening Brief repeatedly insinuates that this sentence was the sum total of the Vice Chancellor Glasscock's findings as to Handler's compensation at Centerview. Not so. The Court made other, detailed findings that Handler's

compensation was at the Founders' discretion, not subject to any formula (let alone the 2008 Letter). Specifically, Vice Chancellor Glasscock also found:

- "At the November 8th Meeting, the parties ***came to an agreement about the terms of Handler's and St. Jean's continued employment*** at Centerview." A00056 (emphasis added).
- "The parties also did not perform in accordance with the terms identified in the purported oral partnership agreement. For example, ***Handler's compensation remained at the discretion of the Founders***, and not the terms set forth in the purported oral partnership agreement." A00057-58 (emphasis added).
- "[A]s evidenced in the record, Handler's Priority Capital Amounts were a part of his annual compensation discussions, ***which were subject to the Founder's discretion***, and not provided by the purported oral partnership agreement." A00063 (emphasis added).
- "[T]he record demonstrates that ***the changes in Handler's compensation***, post the November 8th Meeting, merely indicate ***Handler accomplished his purpose at the meeting, to increase his compensation at Centerview***...." A00064-64 (emphasis added).
- The Partnership Opinion also repeatedly detailed that, during Handler's year-end compensation negotiations, the parties would exchange compensation proposals and negotiate a final amount rather than pay Handler based on the formula set forth in the 2008 Letter. A00046-47.

These holdings are unambiguous. Handler was compensated under the 2008 Letter until the November 8 Meeting. Handler negotiated for a compensation change at that meeting. After that meeting, Handler was not compensated under the 2008 Letter, but instead was compensated at the discretion of the Founders. Handler agreed to this compensation change because it increased his pay in 2012 and resulted in a potential for significant compensation increases moving forward.

These findings are incompatible with Handler's Compensation Claims, which assert that he was entitled to be compensated under the formula set forth in the 2008 Letter. Handler makes three primary arguments to avoid this inescapable conclusion.

First, he points to an out-of-context snippet from the Partnership Opinion that the 2008 Letter "remained operative" in March 2013—after the November 8 Meeting. This language appeared in the factual background of the Partnership Opinion wherein Vice Chancellor Glasscock detailed evidence showing Handler did not have an oral partnership agreement at Topco. A00044. In reciting that background, the Court of Chancery noted that the parties met to discuss open issues regarding their negotiation of a written partnership agreement in March 2013 (with such meeting rebutting Handler's argument that he already had a partnership agreement at this time). *Id.* Centerview's counsel prepared a memorandum summarizing the state of the partnership negotiations after that meeting. A00044; A00070. Among other matters, that memorandum noted that, upon execution of a written partnership agreement, the 2008 Letter as a whole would be terminated and replaced by that partnership agreement. A00073

Handler claims that Vice Chancellor David should have found that this "remained operative" language overrode the Partnership Opinion's repeated holding that the compensation terms of the 2008 Letter were replaced at the November 8 Meeting with a new discretionary structure. OB 26-29. This argument was properly

rejected by the Court of Chancery. In the Motion to Dismiss Opinion, the Court of Chancery described the Partnership Opinion's specific findings that Handler's compensation was "modified" at the November 8 Meeting from a rigid formula to a discretionary structure that had the effect of increasing Handler's compensation. MTD Op. 11-12. Against this context, the Court wrote that "the Memorandum Opinion is clear that at the November 8 Meeting, the parties agreed to modify Handler's compensation structure under the 2008 Letter; thereafter, rather than form an oral partnership, the parties operated under the 2008 Letter *as modified* by Handler's new discretionary compensation arrangement. The Memorandum Opinion did not find that the original 2008 Letter governed Handler's compensation after November 8, 2012." MTD Op. 18 (emphasis in original) (citing Partnership Op. at *5).[4]

Handler is thus wrong that the Motion to Dismiss Opinion "rewrote" the Partnership Opinion. OB 27. Instead, the Motion to Dismiss Opinion identified the only reasonable interpretation of the Partnership Opinion—that the parties modified the 2008 Letter at the November 8 Meeting to change Handler's compensation, but

[4] The memorandum, A00070, is thus entirely consistent with both the Partnership Opinion and Motion to Dismiss Opinion. The written partnership agreement the parties were negotiating would have governed all aspects of Handler's employment, and thus fully superseded the 2008 Letter. A00038-39. That would have resulted in the 2008 Letter's termination, rather than the modification that occurred at the November 8 Meeting. MTD Op. 17-19; A00043-45.

left the rest of his employment agreement in place. MTD Op. 17-18. This precisely aligns with what the Partnership Opinion found to be Handler's (and St. Jean's) motivations entering the November 8 Meeting, "changing their employment terms under the 2008 Letter." A00039. And it precisely aligns with the Partnership Opinion's express finding that Handler's compensation changed after the November 8 Meeting and "[i]ncreas[ed] and [v]arie[d]" from the 2008 Letter. A00046.

The contrary interpretation that Handler advocates—that the "remained operative" language means that the 2008 Letter as a whole remained unmodified after the November 8 Meeting, and thus he is owed compensation under that Letter—is plainly in conflict with the voluminous compensation-related findings in the Partnership Opinion. *Supra* 22-23. Handler simply cannot reconcile this interpretation with the Partnership's repeated finding (supported by the evidence and unchallenged on appeal) that Handler's compensation changed after the November 8 Meeting such as to not follow that agreement's strict formula. *See PVP Aston*, 2023 WL 2728775, at *8 (collateral estoppel applies when "the contentions raised in the second proceeding are necessarily inconsistent with the previously adjudicated issues."). Thus, while Handler argues that "if an inference or conclusion sought to be drawn from a judgment 'is the product of one of several possible constructions of the' ruling, then it 'does not have collateral estoppel effect[,]'" there is only one possible construction of the Partnership Opinion. OB 25 (quoting *Brandwine 100*

Corp. v. New Castle Cnty., 1984 WL 484491, at *1 (Del. Super. Ct. Oct. 1, 1984)).[5] Because the Partnership Opinion unambiguously bars Handler's claims, there was no reversible error.[6] *Cf. Dennis v. State*, 41 A.3d 391, 393 (Del. 2012) (defining statutory ambiguity as "reasonably susceptible to different interpretations, or if giving a literal interpretation to the words of the statute would lead to an unreasonable or absurd result").

Handler's argument is also entirely inconsistent with his own SAC. Handler asserts in his counterclaims that, after the November 8 Meeting, the parties no longer operated under the compensation terms of the 2008 Letter, and instead "immediately began operating under the economic terms upon which Handler believed he had reached an agreement with Centerview as part of an Oral Partnership Agreement." A00305 ¶ 63. This allegation formed the basis of his dismissed (and abandoned on appeal) fraud and breach of fiduciary duty claims. *Id.*; A00330-36 ¶¶ 118-39. Thus, an argument that the 2008 Letter "remained operative" in 2013 directly contradicts his allegations that he was not paid under that agreement in 2012. This further supports the Motion to Dismiss Opinion's holding.

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[5] Further, *Brandwine* regarded possible inferences from a jury award, not a lengthy, well-reasoned judicial opinion. 1984 WL 484491, at *1.

[6] *Salt Pond Inv. Co. v. Wilgus*, (OB 26) is thus inapposite because the parties in that case agreed the prior ruling was ambiguous. 1987 WL 20183, at *3 (Del. Ch. Nov. 16, 1987). Not so here.

Second, Handler interprets Vice Chancellor Glasscock's conclusion that the stay of the Plenary Action was lifted as meaning he was free to make claims under the 2008 Letter. A00065; OB 30. Handler never explains how this summary of the procedural posture of the case—made over a year before Handler even filed the SAC—could possibly serve to override the Partnership Opinion's detailed findings regarding his compensation or endorse Handler's SAC. Instead, as the Court of Chancery in the Motion to Dismiss Opinion noted, the Partnership Opinion "simply summarize[d] the Court's finding that Handler's Oral Partnership story was a fiction, while leaving open the possibility that Handler could assert claims in this action that do not contradict the findings of the [Partnership] Opinion." MTD Op. 19 (first alteration in original) (quotations omitted). Accordingly, after reviewing the SAC and the Partnership Opinion, the Court of Chancery determined that the allegations underlying each Compensation Claim "contradict[ed] the findings of the [Partnership Opinion]," and thus were dismissed. *Id.* This was not error.

Last, Handler argues that the Partnership Opinion found that a compensation "addendum" to the 2008 Letter that Handler sent to the Founders before the November 8 meeting governed his compensation after that meeting, and that the Court of Chancery erred in not considering the "potential ambiguity" this creates. OB 27-29. This argument fails.

At the threshold, Handler has waived this argument and not preserved it for appeal. Handler does not claim in the SAC that the addendum governed his compensation and does not assert any claims in his SAC based on the addendum. Instead, he exclusively alleges that the 2008 Letter in its original form governs, and seeks damages under that agreement. A00274 ¶ 2 ("Handler now seeks to be compensated ... under the terms of the 2008 Letter Agreement that brought him to the firm, which was never repudiated, rescinded or replaced...."); A00336-41 ¶¶ 140-64. Accordingly, Handler did not argue in his Motion to Dismiss Answering Brief that the Partnership Opinion's discussion of the addendum had any relevance to this case, let alone precluded application of collateral estoppel. Indeed, the only time the word "addendum" appears in that brief is in the midst of a block quote from the Partnership Opinion, with no supporting argument. A00999.

Failure to brief the issue results in waiver. *Emerald Partners v. Berlin*, 726 A.2d 1215, 1224 (Del. 1999) ("Issues not briefed are deemed waived."). That Handler's counsel belatedly raised the issue at oral argument does not prevent waiver. *In re Nat'l City Corp. S'holders Litig.*, 998 A.2d 851 (Del. 2010) (TABLE) ("New legal arguments cannot be presented for the first time at oral argument."); *Matrix Parent, Inc. v. Audax Mgmt. Co., LLC*, 319 A.3d 909, 932 n.198 (Del. Super. Ct. 2024) ("It is well-settled that issues not addressed in briefing, and raised for the first time during oral argument, are deemed waived.") (quotation omitted). As

Handler did not present the Court of Chancery with this argument, he cannot raise it now on appeal. Supr. Ct. R. 8.

Regardless, the fact that Court of Chancery did not address the addendum in the Motion to Dismiss Opinion (because Handler did not raise the point in his SAC or briefing) does not warrant reversal. Handler's Compensation Claims all seek damages under the 2008 Letter, not the addendum. Handler never explains how a finding that the addendum governed Handler's compensation after 2012 would have any relevance to his current claims for breach of the 2008 Letter.[7]

Handler repeatedly claimed under oath that the 2008 Letter did not govern his compensation. He put all his eggs in the oral partnership basket. That gambit failed, and the Court of Chancery found in the Partnership Opinion that the evidence showed his compensation was at the discretion of the Founders. Those findings preclude his Compensation Claims here.

[7] Neither party took the position in the Partnership Action that the addendum controlled Handler's compensation. *See In re MFW S'holders Litig.*, 67 A.3d 496, 521 (Del. Ch. 2013) ("If an issue is not presented to a court with the benefit of full argument and record, any statement on that issue by that court is not a holding with binding force.").

II. THE COURT OF CHANCERY CORRECTLY DETERMINED THAT THE PARTNERSHIP OPINION'S FINDINGS ON HANDLER'S COMPENSATION WERE ESSENTIAL TO THAT OPINION

A. Question Presented

Did the Court of Chancery err in relying on Handler's arguments in the Partnership Action that his compensation was key evidence of his oral partnership agreement in determining that the Partnership Opinion's detailed findings regarding Handler's compensation were "essential" to the conclusion that he was not a Topco partner?

B. Scope Of Review

This Court reviews the trial court's application of collateral estoppel under *de novo* review. *Rogers*, 208 A.3d at 346. A dismissal under Rule 12(b)(6) is also reviewed *de novo*. *Nemec*, 991 A.2d at 1125. The findings in the Partnership Opinion are final and not to be disturbed on this appeal. *Brittingham*, 302 A.3d at 429.

C. Merits Of Argument

1. Handler's Compensation Was Essential To the Partnership Decision.

Handler does not dispute on appeal that the issues in the Partnership Opinion are identical to those in the Plenary Action, and that those issues were litigated and determined in a "valid and final judgment." *M.G. Bancorporation*, 737 A.2d at 520. Instead, he argues that the Partnership Opinion's factual findings as to his

compensation were mere *dicta*, and not essential to that opinion. OB 32-37. Handler focuses on this point on appeal despite devoting almost no argument to it in the Court of Chancery. A00997-01000. In doing so, Handler misconstrues the collateral estoppel doctrine, misreads the Partnership Opinion, and contradicts his own contentions in the Partnership Action.

First, Handler claims that none of the compensation findings were essential to the Partnership Opinion because they "[did] not address in any way the narrow standing question of either whether (1) the parties have made a bargain with 'sufficiently definite' terms, or (2) the parties have manifested mutual assent to be bound by that bargain." OB 37 (quotations omitted). This misstates the relevant test (and, as discussed *infra*, is plainly wrong). It is not correct, as Handler claims, that the compensation findings needed to be outcome determinative to the ultimate legal question in order to be necessary for issue preclusion purposes. Instead, an "obvious causal relationship" between a finding in a prior case and the judgment "renders the determinations on the [prior judgment] sufficiently necessary for collateral estoppel to apply." *Rogers*, 208 A.3d at 353; *see Lane v. Cancer Treatment Ctrs. of Am., Inc.*, 2002 WL 1732381, at *1 (Del. Ch. July 3, 2002) ("Thus, the facts that must be resolved are the same in both fora and merely because the 'ultimate issue' is different does not compel a finding that collateral estoppel cannot properly be applied in these circumstances."); *Stephenson v. Capano Dev., Inc.*, 462 A.2d 1069, 1073 (Del. 1983)

(when new legal claims arise from previously litigated facts, "the trial judge was required to determine from the previously established facts" whether the new claim is meritorious).

Such "causal relationship" is present here. *Rogers*, 208 A.3d at 353. Handler relied heavily on his compensation as evidence of his Topco partnership in the Partnership Action. A00287-288 ¶¶ 30-31; B50-56; A00181-87 ¶¶52-57, 60, 63-67.[8] He argued that the change in his compensation after the November 8 Meeting reflected a meeting of the minds on a partnership agreement. In particular, he repeatedly identified a rigid compensation formula as a "material" term of his partnership agreement, and claimed the parties adherence to that structure proved his partnership. B48; B50-56.

Handler's focus on his compensation in the Partnership Action is why the Court of Chancery went to great lengths to address Handler's compensation. After weighing the evidence, the Court of Chancery rejected Handler's claims and found that Handler was not compensated as a Topco partner (or under the 2008 Letter), but instead at the Founders' discretion. *Supra* 22-23. That finding led directly to the ultimate conclusion that Handler had not proven he was a Topco partner. *See*

[8] The Court may consider these submissions from the "prior litigation" in order to determine whether collateral estoppel is appropriate here. *In re Wal-Mart*, 2016 WL 2908344, at *9 (evaluating complaint from "prior litigation" in collateral estoppel analysis).

A00057-58 ("The parties also did not perform in accordance with the terms identified in the purported oral partnership agreement. For example, Handler's compensation remained at the discretion of the Founders, and not the terms set forth in the purported oral partnership agreement.") (footnote omitted). Thus, even if Handler is correct that "technically and strictly speaking" the compensation findings were not outcome determinative, they still bore a "causal relationship" to the Court's partnership judgment. *Rogers*, 208 A.3d at 353-54. Collateral estoppel thus applies. *See Lane*, 2002 WL 173281, at *1; *Stevanov v. O'Connor*, 2009 WL 1059640, at *11 (Del. Ch. Apr. 21, 2009) (applying issue preclusion to factual allegations inconsistent with prior judgment); *PVP Aston*, 2023 WL 2728775, at *8.

Stephenson v. Capano Development, Inc. is also instructive. 462 A.2d at 1071-73. There a plaintiff previously sued for specific performance of a real estate contract. *Id.* at 1072. In a subsequent fraud suit, the Superior Court found that the factual findings in the specific performance action could not be relitigated by the defendant despite the fact that issues regarding the fraud alleged in that action—misleading promises regarding an interest rate—did not impact the ultimate conclusion of whether the contract should be specifically enforced. *Id.* The Delaware Supreme Court affirmed, holding that "Chancery's findings of fact must be given collateral estoppel effect," and that "the trial judge was required to

determine from the previously established facts whether [the defendant] had engaged in consumer fraud or deceptive trade practices." *Id.* at 1073.

The Restatement (Second) of Judgments (the "Restatement"), which is "regularly followed by Delaware courts" also confirms that the Partnership Opinion's compensation findings were essential to the ruling. *Zohar II 2005-1, Ltd. v. FSAR Holdings, Inc.*, 2017 WL 5956877, at *35 n.321 (Del. Ch. Nov. 30, 2017); *see Cal. State Teachers' Ret. Sys. v. Alvarez*, 179 A.3d 824, 852-54 (Del. 2018) (citing the Restatement); *Pyott v. La. Mun. Police Emps. Ret. Sys.*, 74 A.3d 612, 618 n.21 (Del. 2013) (same); *Messick v. Star Enter.*, 655 A.2d 1209, 1213 (Del. 1995) (same). Under the Restatement "[t]he appropriate question" for determining whether a judicial finding was essential to that ruling "is whether the issue was actually recognized by the parties as important and by the trier as necessary to the first judgment. If so, the determination is conclusive between the parties in a subsequent action, unless there is a basis for an exception."[9] Restatement § 27(j).

That test is plainly met here. Handler recognized the importance of his compensation arrangement by making that compensation his flagship evidence of partnership. *Supra* 33. The parties then took substantial discovery on the issue of

[9] Handler has never identified such an exception (or otherwise cited to the Restatement) in either the Court of Chancery or this appeal. Such argument is thus waived.

Handler's compensation. *Supra* 15. The Court weighed this evidence and made detailed findings regarding Handler's compensation in rejecting his partnership claim. *Supra* 22-23. Those findings were necessary to the ruling and have preclusive effect. Restatement § 27(j); *see ASC Intermediate Holding Co. v. Jammet*, 2025 WL 2160687, at *5 (Del. Ch. July 30, 2025) (previous factual determination "bars" claims that "rely on the same underlying conduct").

Ignoring governing authority in *Rogers*, Handler relies on two non-controlling decisions for his outcome determinative rule—though he cited neither in the motion to dismiss briefing or at oral argument. *Bobby v. Bies* (OB 32), Handler's flagship authority on appeal, does not control because that case applied federal law. 556 U.S. 825, 836 (2009). "The law of the rendering jurisdiction governs the preclusion analysis." *InterMune, Inc. v. Harkonen*, 2023 WL 3337212, at *17 (Del. Ch. May 10, 2023) (citation omitted). As the Partnership Opinion was decided under Delaware law, Delaware law governs issue preclusion. Similarly, the Court in *BuzzFeed Media Enterprises Inc. v. Anderson* (OB 32) relied on the issue preclusion analysis in *Bies* and did not cite to or discuss *Rogers.* 2024 WL 2187054, at *15 (Del. Ch. May 15, 2024). This Court's holding in *Rogers* controls.

Regardless, issue preclusion applies even under the test in *Bies* because Handler could not have prevailed in the Partnership Action without proving his compensation was governed by an oral partnership agreement. 556 U.S. at 835 ("A

determination ranks as necessary or essential only when the final outcome hinges on it."). "To form a contract, the parties must agree to all material terms of the contract." *Shilling v. Shilling*, 332 A.3d 453, 463 (Del. 2024). As discussed, Handler alleged an oral partnership agreement governed all aspects of his employment and resulted from a meeting of the minds on his compensation, equity, and governance rights at the November 8 Meeting. A00055-59. He alleged the purported oral partnership agreement's compensation terms included fixed percentages of revenue the technology team generated and a formulaic share of Centerview's profits, not a flexible amount subject to the Founders' discretion. A00181-87 ¶¶52-66. He alleged that these terms were material to the agreement. B48 ("The material terms of the Oral Partnership Agreement" included Handler's alleged fixed annual revenue share and share of firm profits, not a discretionary scheme).

Thus, by finding that the parties did not reach agreement on the compensation terms of Handler's alleged oral partnership agreement, the Court of Chancery could not have, as a matter of law, found a meeting of the minds on all material terms of that agreement. *See Shilling*, 332 A.3d at 463. As this oral partnership agreement was Handler's only alleged basis for Topco partnership, the Court of Chancery did not need to go further in rejecting Handler's partnership claim. *See Eagle Force Holdings, LLC v. Campbell*, 187 A.3d 1209, 1230 (Del. 2018) ("[A]ll essential or material terms must be agreed upon before a court can find that the parties intended

to be bound by it and, thus, enforce an agreement as a binding contract."); *Schaeffer v. Lockwood*, 2021 WL 5579050, at *16 (Del. Ch. Nov. 30, 2021) ("Even if the parties agree to be bound, where the[y] fail to agree on one or more essential terms, there is no binding contract.") (alteration in original) (quotation omitted). These findings were thus outcome determinative.

Handler's related argument that because the Court of Chancery in the Partnership Opinion found that compensation alone could not have established his Topco partnership, the findings of his compensation could not have been essential to that ruling fails for the same reason. OB 37-39. This is because while a finding that Handler was compensated under his alleged oral partnership agreement could not alone establish Topco partnership, the inverse is plainly true—a finding that Handler was ***not*** compensated in accord with his alleged oral partnership agreement ***did preclude*** a finding of partnership.

In the same vein, Handler argues the Court of Chancery erred by rejecting his characterization of the Partnership Opinion's compensation findings as *dicta*. OB 33-34; MTD Op. 12-13. But the authority on which Handler relies confirms these findings were not dicta. Delaware courts follow "the traditional definition of 'dictum,' describing it as judicial statements on issues that 'would have no effect on the outcome of [the] case.'" *In re MFW S'holders Litig.*, 67 A.3d 496, 521 (Del. Ch. 2013) (alteration in original) (quoting *Brown v. United Water Del., Inc.*, 3 A.3d 272,

276 & n.17 (Del. 2010)). As noted, the compensation findings not only had an "impact" on the outcome of the Partnership Action, they independently would have justified the Court of Chancery rejecting Handler's partnership claim. These findings were not dicta, and Handler's complaint that the Court of Chancery "summarily" rejected his arguments does not warrant reversal. OB 36.

2. Handler Is Estopped From Arguing His Compensation Was Inessential To The Partnership Opinion

Handler argued throughout the Partnership Action that his compensation at Centerview was key evidence of his Topco partnership. He made this claim in his books and records complaint, opposition to Topco's motion for judgment on the pleadings, in his interrogatory responses, during his deposition, in pre-and post-trial briefs, and in his trial testimony. He should not be permitted to argue the opposite now.

The doctrine of "[j]udicial estoppel acts to preclude a party from asserting a position inconsistent with a position previously taken in the same or earlier legal proceeding." *Motorola Inc. v. Amkor Tech., Inc.*, 958 A.2d 852, 859 (Del. 2008). Judicial estoppel applies here. Handler argued in the Partnership Action that Court of Chancery should look to his compensation to determine his Topco partnership status. The Court of Chancery did just that and found that this compensation was evidence against partnership. Having successfully convinced the Court of Chancery that his compensation was among the evidence most relevant to his partnership claim,

Handler cannot now change his mind and argue the opposite merely because the Court of Chancery determined this compensation evidence disproved Handler's partnership claim. *Id.*

III. THE COURT OF CHANCERY CORRECTLY DISMISSED HANDLER'S UNJUST ENRICHMENT CLAIM AS CONTRADICTING THE PARTNERSHIP OPINION'S FINDINGS

A. Question Presented

Whether the Court of Chancery erred in dismissing Handler's unjust enrichment claim regarding unpaid compensation and priority amounts because this claim contradicts the Partnership Opinion's finding that Handler's compensation and priority amounts were non-guaranteed and subject to the Founders' discretion.

B. Scope Of Review

This Court reviews *de novo* application of collateral estoppel and dismissal under Rule 12(b)(6). *Rogers*, 208 A.3d at 346; *Nemec*, 991 A.2d at 1125. The findings from the Partnership Opinion are final and not subject to appeal. *Brittingham*, 302 A.3d at 429.

C. Merits Of Argument

1. Handler Waived His Unjust Enrichment Claim Regarding CP LLC TVIs

Handler's SAC asserts that Appellees were unjustly enriched because they "unjustly and wrongfully failed to issue the equity awarded to Handler in the 2008 Letter Agreement." A00340 ¶ 161. Handler, however, does not present argument on this claim in this brief, only referring to it in passing in the factual background. OB 19. This argument is waived. *Emerald Partners*, 726 A.2d at 1224. Regardless, this argument is precluded by the Partnership Opinion's unambiguous finding that

the TVI grant in CP LLC was satisfied by the 2013 award of CPAH TVIs, which were awarded "pursuant to the 2008 Letter." A00047. Handler cannot have been wrongfully deprived of something he actually received.

2. Handler Was Not Owed A Discretionary 2022 Year-End Bonus

Handler was compensated on an annual basis through a salary and a year-end bonus. A01146-51. The year-end bonus comprised the lion's share of his compensation, and was at the Founders' discretion. *Id*. Handler left Centerview on August 1, 2022 to form a competing advisory firm. A00330 ¶ 116; A00518. That same day he filed his books and records complaint. A00518. On his way out the door Handler solicited Centerview's employees and clients and misappropriated its confidential information. A00518-519. Accordingly at year-end 2022 the Founders exercised their discretion to not pay Handler, a former employee, any bonus. A00312 ¶ 80.

Handler argues that the Court of Chancery erred in finding that the Partnership Opinion's holding that his compensation was discretionary means the Founders had discretion to deny him his year-end bonus when he was no longer employed by (and competing with) Centerview. OB 42. He claims that a finding that the Founders had discretion over Handler's compensation "cannot reasonably be understood to

mean that the Founders had the 'flexibility' to pay Handler nothing" in 2022. *Id*.[10] This contention can be readily dismissed. Discretion means "[f]reedom in the exercise of judgment; the power of free decision-making." *Discretion,* Black's Law Dictionary (12th ed. 2024); *Discretion*, Cambridge English Dictionary, https://dictionary.cambridge.org/dictionary/english/discretion (last visited September 19, 2025) (discretion means "the right or ability to decide something."); *see Lorillard Tobacco Co. v. Am. Legacy Found.*, 903 A.2d 728, 738 (Del. 2006) ("Under well-settled case law, Delaware courts look to dictionaries for assistance in determining the plain meaning of terms which are not defined in a contract."). It is self-evident that having discretion over Handler's annual bonus vests the Founders with power to not pay such a bonus, including when Handler had left Centerview to found a competing firm. The Court of Chancery did not err in concluding as much.

Handler then points to a document cited in the Partnership Opinion wherein Pruzan described Handler's general compensation framework as of 2016 as providing support for Handler's argument that his compensation was not at the Founders' discretion, and thus he should have been paid a bonus in 2022 four months

[10] Handler's counsel acknowledged at oral argument in the Court of Chancery that he received his 2022 salary, and thus the allegation that he was paid "nothing" in 2022 is false. A01146 ("THE COURT: He didn't earn a salary? ATTORNEY CLARK: He got $250,000 of salary. That's right. THE COURT: Okay. So he did earn something? ATTORNEY CLARK: Yes, he did.").

after his resignation. OB 42-43. This backdoor attempt to relitigate the Partnership Action should be rejected. Vice Chancellor Glasscock reviewed this evidence and found that it expressly supported his finding that "[t]he Founders had discretion to implement compensation principles flexibly." A00046. Handler chose not to appeal the Partnership Opinion and cannot now claim that the evidence in that case supports conclusions the Partnership Opinion expressly rejected.

3. Handler Is Not Owed Discretionary Priority Amounts

Handler next argues that the Partnership Opinion's "finding that '[t]he Founders had discretion to implement compensation principles flexibly, purportedly in a manner that benefited the firm and addressed issues for specific employees,' cannot reasonably be understood to mean" that Centerview could withhold Handler's priority amounts when he left Centerview to compete. OB 44. This argument simply ignores the most pertinent finding of the Partnership Opinion, which expressly held that "as evidenced in the record, Handler's Priority Capital Amounts were a part of his annual compensation discussions, which were subject to the Founder's discretion." A00063. The only reasonable interpretation of this finding was that Handler receiving any priority amounts at any time was subject to the Founders' discretion. *Id.* The Court of Chancery did not err in finding they could exercise that discretion to not pay Handler deferred compensation when he exited the firm to form a competitor. MTD Op. at 19-20. That Handler finds this

result unreasonable is a complaint about the findings in the Partnership Opinion that he did not appeal, not a valid basis to challenge the Court of Chancery's application of collateral estoppel.

CONCLUSION

The Court should affirm the Motion to Dismiss Opinion. In the event the Court reverses, it should remand to the Court of Chancery to consider Appellees' independent bases for dismissal.

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Dated: September 22, 2025