

RAJA VENKATESH,

Plaintiff Below/Appellant,

V.

PRASAD GUNDUMOGULA,

Defendant Below/Appellee.

No. 181, 2026

Court Below: Court of Chancery of
the State of Delaware, C.A. No. 2025-
1216-MTZ

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Dated: July 27, 2026

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NATURE OF PROCEEDINGS

As the first of three courts to hear Plaintiff's allegations noted, this dispute is nothing more than a "plain vanilla breach of contract claim" between Mondee and Mondee's predecessor's ex-CFO. *See Venkatesh v. Mondee Holdings, Inc.*, 2024 WL 3904592, at *5 n.4 (S.D.N.Y. Aug. 21, 2024). Yet, through his Complaint and appeal, Plaintiff seeks to circumvent the "well-settled principle that where a dispute arises from obligations that are expressly addressed by contract, that dispute will be treated as a breach of contract claim." *Nemec v. Shrader*, 991 A.2d 1120, 1129 (Del. 2010). The Chancery Court's Order¹ was a straightforward application of that principle and should be affirmed.

Plaintiff, the ex-CFO of Mondee's predecessor, entered into several contracts with Mondee in 2023, including the RRA, Joinder, and Redemption Agreement. Those contracts—to which Gundumogula was not a party—allegedly required Mondee to remove the Restrictive Legends and provide freely tradeable shares. Plaintiff alleges Mondee failed to do so, the same conduct underlying his breach of contract claims against Mondee in two prior actions elsewhere. Unable to recover from Mondee, Plaintiff now recasts his claims to circumvent those contracts and

¹ Capitalized terms not defined herein have the meaning ascribed to them in the Opening Brief of Appellant, Dkt. 10 ("OB"). "A__" refers to pages in the Appendix to Appellant's Opening Brief, Dkt. 13. "B__" refers to pages in the Appendix to Appellee's Answering Brief.

hold Gundumogula personally liable for obligations under contracts to which he is not a party.

Plaintiff argues that the Chancery Court erred because: (1) the RRA does not expressly address the transferability of Plaintiff's Shares; (2) his fiduciary duty claim arises from rights independent of the contracts at issue; and (3) the Court improperly relied on his prior, contradictory allegations elsewhere that Mondee breached the RRA and Redemption Agreement through the same conduct. None of these arguments has merit. The RRA governs Mondee's obligations—and Plaintiff's rights—with regard to his Shares and forecloses the fiduciary duty claim. While the Chancery Court reached that conclusion independently, it appropriately took judicial notice of Plaintiff's contradictory pleadings.

Plaintiff also asks this Court to rule on the sufficiency of his pleadings, which the Chancery Court did not reach. But, the insufficiency of Plaintiff's pleadings is an alternative basis for this Court to affirm the Order. Plaintiff pleads no facts suggesting Gundumogula had anything to do with Mondee's alleged failure to provide freely tradeable shares. Instead, Plaintiff relies on Gundumogula's senior position as CEO, hearsay about his interactions with *other* Mondee shareholders (*not* Plaintiff), and conclusory, speculative allegations. Such allegations are not a substitute for well-pled, particularized facts showing that Gundumogula took action

with respect to Plaintiff's Shares. Plaintiff's claim is thus both foreclosed by Delaware law and unsupported by the Complaint's allegations.

SUMMARY OF ARGUMENT

1. *Denied.* The RRA “expressly addressed” Plaintiff’s rights and Mondee’s obligations regarding his Shares, foreclosing the fiduciary duty claim. *See Nemec*, 991 A.2d at 1129. Plaintiff’s view that the RRA required only that Mondee file a registration statement is inconsistent with its terms, which also require Mondee to register the Shares for resale, use “commercially reasonable efforts . . . to permit the sale” of the Shares, and “in good faith, cooperate reasonably with, and take such customary actions as may reasonably be requested by Plaintiff” in connection therewith. A139 (§ 2.1.1); A144-A145 (§§ 3.1, 3.1.16). Plaintiff’s reading also would impermissibly render most of the RRA’s terms meaningless.

2. *Denied.* The Chancery Court correctly applied *Nemec* and its progeny in holding that Plaintiff’s fiduciary duty claim was foreclosed. Plaintiff’s entitlement to freely tradeable shares is “solely a creature of contract,” *Nemec*, 991 A.2d at 1129, and the Chancery Court correctly dismissed Plaintiff’s fiduciary duty claim on that ground. Plaintiff’s right to freely tradeable shares arose from and was limited by contract—it was not absolute—and Plaintiff cannot resort to general principles of fiduciary law to rescue a deficient contract claim.

3. *Denied.* The Chancery Court appropriately took judicial notice of Plaintiff’s contradictory pleadings in other jurisdictions after independently determining that the RRA governed the conduct at issue in the Complaint.

4. *Denied.* Plaintiff's insufficient pleading of his fiduciary duty claim is an alternative ground to affirm the Order because the Complaint contains no particularized allegations demonstrating Gundumogula's actions with respect to Plaintiff's Shares. Rather, Plaintiff's allegations as to Gundumogula relate almost entirely to other Mondee shareholders and rely on unsupported inferences and speculation.

STATEMENT OF FACTS

A. Legacy Mondee, the Merger, and the RRA

At all times relevant to the Complaint, Gundumogula served as Chairman of the Board and CEO of Mondee and its operational predecessor, Legacy Mondee. A17-A19. Plaintiff was employed by Legacy Mondee as its CFO and was later demoted to head of Mergers & Acquisitions. A18. He briefly held that same title at Mondee before departing in September 2022. A19. Part of Plaintiff's compensation came in the form of equity in Legacy Mondee under a management incentive plan. A18.

Legacy Mondee became a public company through a merger with SPAC ITHAX Acquisition Corp. in July 2022. A18-A19. As is typical with such a merger, Legacy Mondee equity holders had their illiquid equity positions converted into shares of the newly formed public company. *Id.* That conversion was operationalized by, among other documents, the RRA, dated July 18, 2022, under which Mondee agreed to file a registration statement for the sale of its common stock with the SEC. A18-A19; A135-A156. The RRA was entered into by Mondee and a limited group of investors, but it expressly contemplated that other holders of illiquid Legacy Mondee units would later join it through a joinder to the RRA. A135.

The RRA provides its signatories with certain rights and obligates Mondee to effectuate those rights. Specifically, Section 2.1.1 requires Mondee to file with the

SEC a registration statement covering the resale of Mondee common stock held at the time of the Merger. A139. Section 3.1 requires Mondee to “use its commercially reasonable efforts to effect such Registration to permit the sale of such [stock] in accordance with the intended plan of distribution thereof.” A144. Section 3.1.16 requires Mondee to “in good faith, cooperate reasonably with, and take such customary actions as may reasonably be requested by participating [stockholders], consistent with the terms of [the RRA], in connection with such Registration.” A145-A146. In addition, Section 5.1.1 contains a lock-up provision (the “Lock-Up”) prohibiting the resale of Mondee common stock until the earliest of (i) six months following the closing of the Merger, (ii) the date Mondee’s stock price reached \$12.00 for a specified number of trading days in a given period, or (iii) the date of a change in Mondee ownership (the “Lock-Up Period”). A149.

On October 3, 2022, Mondee filed the Registration Statement with the SEC, effectuating the registration of Mondee common stock for resale as required by Section 2.1.1 of the RRA. A18-A19; A139 (RRA § 2.1.1). The Registration Statement lists Plaintiff as a “Selling Securityholder.” A18-A19; B203. The Registration Statement states that the RRA would be entered into “concurrently” with the closing of the Merger and that holders of Mondee stock would be subject to the Lock-Up contained in the RRA. B173. The Registration Statement was declared effective on or about October 12, 2022. A18-A19.

B. The Redemption Agreement and the Joinder to the RRA

On January 18, 2023, six months after the Merger's closing, the RRA's Lock-Up Period ended and Mondee common stock could be resold. A136; A149 (RRA § 5.1.1). At that time, because Plaintiff had received equity in Legacy Mondee through his employee compensation package, he still held illiquid Legacy Mondee equity units that would only become liquid if converted to Mondee stock. A18; A21-A22.

On April 25, 2023, Plaintiff executed the Redemption Agreement, under which he agreed to redeem his Legacy Mondee equity units for Shares of Mondee common stock. A21-A22; A157-A163. Under the Redemption Agreement, Mondee agreed to “distribute[], transfer[], assign[], and deliver[] to [Plaintiff] . . . all of [Mondee's] right, title and interest” in the Shares. A158 (§ 1). Plaintiff acknowledged that the Shares were “restricted securities” that could not be “resold unless pursuant to an effective registration statement” and were “subject to certain lock-up obligations set forth in the Registration Rights Agreement.” A159-A160 (§ 5). Plaintiff further agreed to, concurrently with execution of the Redemption Agreement, deliver to Mondee a duly executed joinder to the RRA (the “Joinder”), in the form attached to the Redemption Agreement as Exhibit B. A158 (Redemption Agreement § 2).

Plaintiff executed the Joinder on April 24, 2023, contemporaneously with his execution of the Redemption Agreement. A165-A166. Under the Joinder, Plaintiff

agreed “to become a party to, to be bound by, and to comply with the Registration Rights Agreement . . . in the same manner as if [Plaintiff] were an original signatory to the Registration Rights Agreement.” A166. A customary letter (the “Legend Removal Letter”) authorizing Mondee’s stock transfer agent, Continental, to remove the Restrictive Legends on Plaintiff’s Shares is attached to the Joinder, and Plaintiff executed it on April 24, 2023. A20; A170-A171.

Gundumogula is not a party to the Redemption Agreement, Joinder, or RRA. Plaintiff does not allege that Gundumogula had a role in negotiating any of these agreements or made representations to Plaintiff in connection with his decision to enter into them. Rather, as alleged, in the months leading up to Plaintiff’s execution of the Redemption Agreement and Joinder: Mondee’s then-CFO emailed Plaintiff copies of the draft agreements and certain other ancillary documentation he would need to execute to redeem his shares, including a draft of the Legend Removal Letter (A20); Plaintiff corresponded with an attorney employed by Mondee’s outside counsel to ask whether he would receive unrestricted Shares (A21); and an administrative assistant employed by Mondee’s outside counsel emailed Plaintiff the Redemption Agreement and Legend Removal Letter, and confirmed that the required documentation was complete (A21-A22). Plaintiff did not rely on anything Gundumogula did or did not do; rather, he entered into the Redemption Agreement

based on the Legend Removal Letter and “indications” from Mondee’s outside counsel that his Shares would be freely tradeable. A22-A23.

As alleged, after Plaintiff and Mondee executed the Redemption Agreement (which required execution of the Joinder), Plaintiff was entitled to freely tradeable shares that were not encumbered by the Restrictive Legends. A23. Plaintiff has not alleged that he ever owned any Shares in Mondee unencumbered by the Restrictive Legends.

C. Procedural Background

On December 8, 2023, Plaintiff filed a complaint in New York federal court (the “Federal Action”) bringing federal securities fraud and breach of contract claims against Mondee, and a breach of fiduciary duty claim against Mondee and Gundumogula. A77-A100. On August 21, 2024, Judge Caproni dismissed Plaintiff’s securities fraud claims and “urge[d] Plaintiff to consider whether a more direct route to vindication of his rights is a plain vanilla breach of contract claim,” but granted leave to amend to cure jurisdictional deficiencies because the securities fraud claims were the only basis for subject matter jurisdiction. *Venkatesh v. Mondee Holdings, Inc.*, 2024 WL 3904592, at *5-6 & n.4 (S.D.N.Y. Aug. 21, 2024).

Rather than amend his complaint in the Federal Action, on October 21, 2024, Plaintiff filed a complaint in New York state court (the “New York State Action”) bringing, among other things, breach of contract claims against Mondee and a breach

of fiduciary duty claim against Gundumogula. A104-A133 (New York State Action complaint). On April 28, 2025, Justice Patel dismissed the breach of fiduciary duty claim against Gundumogula for lack of personal jurisdiction. A173-A191 (Apr. 28, 2025 Hearing Transcript). On June 5, 2025, Plaintiff moved for leave to reargue, and on July 22, 2025, Justice Patel denied that motion. B6-B8.

On October 23, 2025, Plaintiff filed the Complaint in this action. A12-A44. The Complaint alleges that Gundumogula maintained the Restrictive Legends on Plaintiff's Shares due to "his desire to inflate the price of Mondee stock and thereby increase the value of his own Mondee stock holding" and "increase his personal sale proceeds in connection with a secondary stock offering that Mondee closed on June 9, 2023" (the "Secondary Offering"), in which Gundumogula participated. A38. The first particularized allegation of Gundumogula having any knowledge of the Restrictive Legends on Plaintiff's Shares is dated October 30, 2023—more than four months after the Secondary Offering. A36-A37.

The Complaint alleges one breach of fiduciary duty count (the "Fiduciary Duty Claim") against Gundumogula, based on a theory that he allegedly "caus[ed] Mondee to wrongfully maintain the Restrictive Legends on the Shares and refuse

Plaintiff’s request that they be removed, thereby preventing Plaintiff from disposing of the Shares.” A41-A42.²

On November 24, 2025, Gundumogula moved to dismiss the Complaint in its entirety under Court of Chancery Rule 12(b)(6). B1. Gundumogula argued the Fiduciary Duty Claim should be dismissed because (i) Plaintiff’s entitlement to freely tradeable Shares, and any duty to remove the Restrictive Legends, was governed by the RRA, Joinder, and Redemption Agreement, such that any dispute over Mondee’s performance sounded in contract rather than fiduciary duty; and (ii) the Complaint failed to allege particularized facts showing Gundumogula’s personal involvement in maintaining the Restrictive Legends on Plaintiff’s Shares specifically, as distinct from his alleged interactions with other Mondee stockholders regarding their own shares. A62-A73.

The motion was fully briefed as of February 9, 2026 (B9-B45), and the Chancery Court heard oral argument on April 17, 2026. A238-A301. The Chancery Court granted the motion and dismissed the Complaint, holding that Mondee’s “duty to respond to Plaintiff’s request arose in contract” and that this “contractual obligation preempt[ed] Plaintiff’s breach of fiduciary duty claim of the same scope

² Plaintiff initially alleged Gundumogula breached his fiduciary duty by “inducing Plaintiff to redeem his Legacy Mondee units based on false representations that they would be converted to freely transferable Mondee shares,” (A41; A73-A75), but later abandoned that claim (A213 n.4; B17 n.2).

and on the same facts.” A11. Having resolved the motion on that independently sufficient basis, the Chancery Court did not separately rule on Gundumogula’s alternative argument regarding the sufficiency of Plaintiff’s pleading. *See infra* Arg. § IV. Plaintiff now seeks to disturb that decision in arguing that the Chancery Court erred in: (1) determining that the RRA “expressly addressed” Mondee’s obligation to remove the Restrictive Legends from Plaintiff’s Shares; (2) holding that the Fiduciary Duty Claim is preempted by the RRA even though Plaintiff contends it independently arises from basic fiduciary duty principles; (3) taking judicial notice of Plaintiff’s prior pleadings; and (4) declining to hold that the Complaint adequately alleges Gundumogula’s involvement in the restriction of Plaintiff’s Shares. *See* OB at 9-11.

ARGUMENT

I. THE CHANCERY COURT PROPERLY DETERMINED THAT THE CONDUCT AT ISSUE WAS GOVERNED BY CONTRACT.

A. Question Presented

Whether the Chancery Court correctly determined that the RRA expressly addressed Mondee’s “obligation to support Plaintiff in selling his” Shares. A10.

B. Scope Of Review

The 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*, 991 A.2d at 1125 (cleaned up).

C. Merits Of Argument

Plaintiff does not dispute that “where a dispute arises from obligations that are expressly addressed by contract, that dispute will be treated as a breach of contract claim.” *Nemec*, 991 A.2d at 1129.³ Instead, he argues that the Chancery Court erred in treating the RRA as addressing Mondee’s duty to remove the Restrictive Legends, because the RRA’s “specific purpose” was only to provide “assurance that Mondee would register their shares with the SEC,” and that neither

³ Plaintiff’s argument that the Chancery Court’s application of exceptions to this principle was overly “narrow” (OB at 23 n.5) is discussed *infra* Arg. § II.

Section 2.1.1 nor Section 3.1.16 obligated Mondee to take any steps after registration to ensure the Shares were freely tradeable. OB at 24-26. Plaintiff is wrong.⁴

First, beyond requiring registration *for resale*, the RRA required Mondee to “use its commercially reasonable efforts to effect such Registration *to permit the sale of*” the Shares and “in good faith, cooperate reasonably with, and *take such customary actions as may reasonably be requested*” by Plaintiff. A139 (§ 2.1.1); A144-A145 (§§ 3.1, 3.1.16) (emphases added). And it capped the Lock-Up Period at six months following the Merger. A149 (§ 5.1.1). In other words, the RRA required Mondee to register the Shares for resale and use “commercially reasonable efforts” and take “customary actions” to allow their resale once the Lock-Up Period ended. The Complaint’s gravamen is that Mondee failed to observe that expiration

⁴ In its opposition to Gundumogula’s motion to dismiss, Plaintiff argued that the Chancery Court could not consider the RRA because he had not referenced it in the Complaint. A220-A223. In his reply, Gundumogula explained that the RRA’s omission from the Complaint was the deliberate result of artful pleading and, in any event, the RRA was judicially noticeable. B24-B29. The Chancery Court agreed: “A plaintiff may not attempt to fashion a claim that is actually based in, and preempted by, contract by avoiding the contract altogether and prevent the court from reviewing the plain terms of that agreement.” A11. Plaintiff (wisely) does not challenge that conclusion here.

by maintaining the Restrictive Legends, preventing *immediate* resale⁵ as the RRA promised.⁶ Any such failure is addressed by the RRA and sounds in contract.⁷

Second, Plaintiff became a party to the RRA six months after Mondee filed the Registration Statement, thereby registering the Shares with the SEC. A19; A166 (Joinder). The RRA would be meaningless as applied to Plaintiff if registration were all it required; indeed, if registration were Mondee's only obligation, it is unclear what "commercially reasonable efforts" or "customary actions" Mondee could have been required to take. A144-A145 (RRA §§ 3.1, 3.1.16). Plaintiff's interpretation of the RRA therefore is contrary to Delaware law. *See, e.g., Stonewall Ins. Co. v. E.I. du Pont de Nemours & Co.*, 996 A.2d 1254, 1258 (Del. 2010) (rejecting interpretation rendering contract meaningless); *Manti Holdings, LLC v. Authentix*

⁵ *E.g.*, A14 ("[I]n late May 2023, when Plaintiff sought to sell his shares . . . Plaintiff discovered that he was unable to do so because of certain restrictive legends . . .").

⁶ In the Federal Action, Judge Caproni suggested Plaintiff's proper claim was "a plain vanilla breach of contract claim." *Venkatesh*, 2024 WL 3904592, at *5 n.4.

⁷ The cases Plaintiff cites (OB at 26-27), where the fiduciary duty claims were distinct from any contract, are therefore irrelevant. *See Sorrento Therapeutics, Inc. v. Mack*, 2023 WL 5670689, at *24 (Del. Ch. Sep. 1, 2023) (noncompete had "no bearing" on fiduciary duty claim unrelated to whether actions were competitive with plaintiff); *Artoss, Inc. v. Artoss GmbH*, 2021 WL 706345, at *7 (D. Del. Feb. 23, 2021) (directors misappropriated confidential information and acted against the company's interest in causing another company they owned to breach contract with plaintiff), *R&R adopted*, 2021 WL 2138544 (D. Del. Mar. 11, 2021); *Diem-II, LLC v. Maisonette Inc.*, 2026 WL 922982, at *15 (Del. Ch. Apr. 6, 2026) (directors' disclosure of "false information when requesting stockholder action to amend the certificate of incorporation" was breach of duty of disclosure independent from company's false representation in share purchase agreement).

Acquisition Co., 261 A.3d 1199, 1208 (Del. 2021) (“Contracts will be interpreted to give each provision and term effect and not render any terms meaningless or illusory.” (cleaned up)).

Third, the RRA should be read “in light of the entire contract” and interpreted as “best aligned with” its overarching purpose. *Weinberg v. Waystar, Inc.*, 294 A.3d 1039, 1044, 1060 (Del. 2023) (cleaned up). Read as a whole, the RRA indisputably addresses Mondee’s obligation to facilitate resale of the Shares.⁸ Section 2.1.1 establishes that purpose,⁹ and Sections 3.1, 3.1.16, and 5.1.1 set forth the contractual structure effectuating it. *Weinberg*, 294 A.3d at 1060. As the Chancery Court

⁸ Plaintiff’s citation to actions premised on failure to file registration statements is a red herring. OB at 25 (citing *BioLife Sols., Inc. v. Endocare, Inc.*, 838 A.2d 268, 281-82 (Del. Ch. 2003); *In re Stillwater Cap. Partners Inc. Litig.*, 851 F. Supp. 2d 556, 574 (S.D.N.Y. 2012)). That an agreement creates one obligation (registration statement filing) is immaterial to whether it creates another (facilitating share resale).

⁹ See A139 (RRA § 2.1.1) (“the Company shall . . . file . . . a Registration Statement . . . covering the resale of all the Registrable Securities Such shelf shall *provide for the resale* of the Registrable Securities” (emphasis added)).

explained, Mondee’s “obligation to support Plaintiff in selling his shares is set forth in the RRA. If [Mondee] did not perform, it breached the RRA.” A10.¹⁰

¹⁰ The Chancery Court did not “ignore[]” the RRA’s language tying Mondee’s obligations to Share registration. OB at 26 n.6. Rather, it correctly recognized that the express purpose of that registration and the RRA was to permit share resale. A10 (RRA required Mondee “*to file a registration statement that would allow stockholders who joined the RRA to sell their shares*” and “use commercially reasonable efforts to *effect the Registration to permit the sale*” of Shares.” (emphasis added)). By contrast, Plaintiff never references RRA Section 3.1’s requirement that Mondee undertake “commercially reasonable efforts to effect such Registration to permit the sale” of the Shares. A144; *see also* A10 (Order paraphrasing RRA § 3.1).

II. THE CHANCERY COURT PROPERLY DETERMINED THAT THE CONTRACTS AT ISSUE FORECLOSE THE FIDUCIARY DUTY CLAIM

A. Question Presented

Whether the Chancery Court, in dismissing the Fiduciary Duty Claim, correctly applied “the well-settled principle that where a dispute arises from obligations that are expressly addressed by contract, that dispute will be treated as a breach of contract claim.” *Nemec*, 991 A.2d at 1129.

B. Scope Of Review

The 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*, 991 A.2d at 1125 (internal quotation marks omitted). “Only questions fairly presented to the trial court may be presented for review” unless “the interests of justice so require.” Del. Supr. Ct. R. 8.

C. Merits Of Argument

In *Nemec*, this Court articulated longstanding, settled Delaware law that where a dispute arises from contractual obligations, “any fiduciary claims arising out of the same facts that underlie the contract obligations would be foreclosed as superfluous.” *See* 991 A.2d at 1129 (citing *Blue Chip Cap. Fund II Ltd. P’ship v. Tubergen*, 906 A.2d 827, 833 (Del. Ch. 2006); *Gale v. Bershad*, 1998 WL 118022,

at *5 (Del. Ch. Mar. 4, 1998)). Courts have applied *Nemec* consistently since then to dismiss fiduciary duty claims where the underlying obligations are contractual.¹¹

The Order was a straightforward application of these settled principles.¹² Indeed, the factual allegations supporting¹³ and damages alleged¹⁴ for the Fiduciary

¹¹ See, e.g., *McKenzie v. BDO USA, P.C.*, 2026 WL 191010, at *7 (Del. Ch. Jan. 26, 2026); *Borsody v. Gibson*, 2025 WL 1650395, at *6 (Del. Ch. June 11, 2025); *P-5 GRA, LLC v. Ivankovich*, 2025 WL 1483625, at *5 (Del. Ch. May 23, 2025); *In re WeWork Litig.*, 2020 WL 6375438, at *14 (Del. Ch. Oct. 30, 2020); *Ogus v. SportTechie, Inc.*, 2020 WL 502996, at *11 (Del. Ch. Jan. 31, 2020); *Veloric v. J.G. Wentworth, Inc.*, 2014 WL 4639217, at *18 (Del. Ch. Sept. 18, 2014); *Grayson v. Imagination Station, Inc.*, 2010 WL 3221951, at *7-8 (Del. Ch. Aug. 16, 2010); *MCG Cap. Corp. v. Maginn*, 2010 WL 1782271, at *15 (Del. Ch. May 5, 2010).

¹² See A10-A11 (“Whether [Mondee], through its fiduciary Defendant, should have caused [itself] to respond to Plaintiff’s requests is a matter of contract interpretation. . . . That contractual obligation preempts Plaintiff’s breach of fiduciary duty claim of the same scope and on the same facts . . .”).

¹³ Compare A41-A42 (Complaint) (“Defendant further breached his fiduciary duties to Plaintiff by causing Mondee to wrongfully maintain the Restrictive Legends on the Shares and refuse Plaintiff’s request that they be removed, thereby preventing Plaintiff from disposing of the shares as he was legally entitled to do.”) with A97-A98 (Federal Action complaint) (“Mondee breached Section 3.1.16 of the Registration Rights Agreement by, in bad faith, placing the Restrictive Legends on the Shares and refusing Plaintiff’s request that they be removed, thereby depriving Mr. Venkatesh of the benefit of the Shares’ registration as was contemplated in the Registration Rights Agreement.”) and A124 (New York State Complaint) (“Defendant Mondee breached the Registration Rights Agreement including, without limitation, Sections 2.1.1, 3.1, and 3.1.16 thereof, by failing to provide Plaintiff with freely tradeable shares as contemplated by and specified in the Registration Rights Agreement.”), A126 (same with respect to the Redemption Agreement). As discussed *infra* Arg. § III, the Chancery Court appropriately took “judicial notice of the fact of these public filings in a sister court.” A11.

¹⁴ Compare A42 (Complaint) (“Defendant’s breach of his fiduciary duties to Plaintiff has caused Plaintiff to suffer substantial damages, including, but not limited to, the lost value of the Shares.”) with A98 (Federal Action complaint) (“Mondee’s breach

Duty Claim are nearly identical to those that supported Plaintiff's breach of contract claims against Mondee in the Federal and New York State Actions. Nevertheless, Plaintiff argues that the *Nemec* principle does not apply here because (1) the Fiduciary Duty Claim "independently arises from basic fiduciary duties" and (2) the RRA is discretionary. OB at 28-29. Neither argument has merit.

1. Plaintiff's Entitlement to Freely Tradeable Shares Does Not Arise from Basic Fiduciary Duties

As Plaintiff notes, a fiduciary duty claim is precluded by contract where "the rights underlying the claim [are] based entirely on" and "solely the creature of" contract. See OB at 29-34 (quoting *Nemec*, 991 A.2d at 1129). This reflects Delaware's recognition of the "primacy of contract law over fiduciary law" and that, where a contract governs the conduct at issue, the court should "evaluate the parties' conduct within the framework created and crafted by the parties themselves." *Solow v. Aspect Res., LLC*, 2004 WL 2694916, at *4 (Del. Ch. Oct. 19, 2004). This rule "makes sense because a plaintiff cannot circumvent corporate separateness through a fiduciary duty claim that seeks to hold a director or officer personally liable on a contract to which he or she is not a party." *Borsody*, 2025 WL 1650395, at *6. As

of . . . the Registration Rights Agreement has caused Plaintiff to suffer substantial damages including, but not limited to, the lost value of the Shares.") and A124 (New York State Action complaint) ("Mondee's breach of the Registration Rights Agreement has caused Plaintiff to suffer substantial damages including, but not limited to, the lost value of the Shares."), A126 (same with respect to the Redemption Agreement).

a result, a breach of fiduciary duty claim may survive where the underlying obligations are contractual “only where it depends on additional facts, is broader in scope, and involves a different remedy” than would an actual or potential breach of contract claim. *Id.* “Put differently, the question is whether the plaintiff could bring an independent cause of action for breach of fiduciary duty if the parties had not signed a contract.” *Metro Storage Int’l LLC v. Harron*, 275 A.3d 810, 858 (Del. Ch. 2022).

The Fiduciary Duty Claim is precisely the type of claim that Delaware courts consistently preclude under this doctrine. At the time of the Merger and for six months thereafter, Plaintiff’s Shares were shares held by Mondee and subject to the Lock-Up specified *in the RRA*; the Restrictive Legends were the means through which that contractual Lock-Up was enforced. A18-A19; A149 (RRA § 5.1.1). As a corporate insider of Legacy Mondee, Plaintiff acquired his Shares by converting his illiquid Legacy Mondee units *only through the Redemption Agreement*. A21-A23. Plaintiff executed that agreement because he understood that the Shares “would be freely tradeable upon receipt,” which required removal of the Restrictive Legends, as Plaintiff acknowledged that the Shares were “restricted securities” subject to the RRA’s Lock-Up. A158 (Redemption Agreement § 2); A23-A24. And, Plaintiff *could not enter into the Redemption Agreement* without simultaneously executing a Joinder to the RRA, which gave him registration *rights* and imposed

obligations on Mondee. A158 (Redemption Agreement § 2); A166 (Joinder); A135-A156 (RRA); *see also supra* Arg. § I.C.¹⁵ Plaintiff’s entitlement to freely tradeable shares—just like the Lock-Up that encumbered the Shares in the first place—is thus “solely a creature of contract.” *Nemec*, 991 A.2d at 1129; *see Blue Chip*, 906 A.2d at 833-34 (dismissing breach of fiduciary duty claim where plaintiff’s “right as a preferred stockholder to a larger distribution of the proceeds arises from contractual rights and obligations under the certificate of incorporation”).

The facts of *Nemec* are instructive. There, retired employees held stock under a “Stock Plan” giving the company a redemption right and alleged that directors breached their fiduciary duties by causing a self-interested redemption ahead of a lucrative transaction. 991 A.2d at 1123-25. The Court dismissed the claim because the parties’ redemption rights and obligations were governed by the Stock Plan and had to be “adjudicated within the analytical framework of a breach of contract

¹⁵ This contractual arrangement makes sense: a public company’s officers have no general fiduciary obligation to register securities for sale. Indeed, federal securities law devotes an entire regulatory regime to “restricted securities”—*i.e.*, previously issued securities not freely tradeable. *See* Frequently Asked Questions About Exempt Offerings, United States Securities & Exchange Commission, <https://www.sec.gov/resources-small-businesses/exemptofferings/frequently-asked-questions-about-exempt-offerings#faq4> (June 29, 2024); 17 C.F.R. § 230.144(a)(3); *United States v. Yeaman*, 194 F.3d 442, 455-56 (3d Cir. 1999) (restricted stock is “acquired directly or indirectly from an issuer in a transaction not involving any public offering” and is therefore subject to resale restrictions).

claim.” *Id.* at 1129. The company’s right to redeem shares—much like Plaintiff’s right to receive freely tradeable shares here—was a “creature of contract.” *Id.*

Borsody is directly on-point. There, a former founder attempted to exercise stock options under a “Stock Option Agreement” after being removed from the company and alleged that two directors breached their fiduciary duties by self-interestedly blocking that exercise, 2025 WL 1650395, at *2, *6-7, just as Plaintiff alleges Gundumogula self-interestedly interfered with his share redemption (A41-A42). The court dismissed the claim as foreclosed by the Stock Option Agreement because “[w]hether [defendants] should have caused the [c]ompany to honor [p]laintiff’s stock options . . . is a matter of contract interpretation, not fiduciary obligation,” expressly rejecting the argument that the directors’ “self-interest” converted the claim into a fiduciary one. *Borsody*, 2025 WL 1650395, at *6 & n.6. The result is the same here: whether Gundumogula should have caused Mondee to permit resale of Plaintiff’s Shares is a question of contract interpretation, not fiduciary obligation.¹⁶

¹⁶ Plaintiff’s attempt to distinguish *Borsody* because “Plaintiff’s claim has nothing to do with the RRA” is unavailing. OB at 33 n.11. As the Chancery Court recognized, “[a] plaintiff may not attempt to fashion a claim that is actually based in, and preempted by, contract by avoiding the contract altogether[,]” as Plaintiff attempts to do here. A11; *see also Cont’l Fin. Co. v. TD Bank, N.A.*, 2018 WL 565305, at *2 (Del. Super. Ct. Jan. 24, 2018) (“artful pleading cannot alter the undisputed fact that clear, unambiguous, plain contract language defines the extent of . . . liability” and a plaintiff “cannot simply ignore the parties’ contracts and assert tort claims to prevent the Court from considering agreements that are central to the

The cases Plaintiff cites do not help him. OB at 31-32. In *Grayson*, the court *dismissed* a breach of fiduciary duty claim premised on a board denying the plaintiff the right to appoint a new board member—a right that was set forth in a voting agreement and therefore contractual in nature. 2010 WL 3221951, at *7. In doing so, the court noted that the fiduciary duty claim “completely hinge[d]” on a contractual breach, and was “therefore duplicative.” *Id.* at *8.¹⁷ The same is true here, with the only difference being that Plaintiff has engaged in transparently artful pleading to avoid judicial consideration of the underlying contractual scheme. *See infra* Arg. § III.

By contrast, in *Bäcker v. Palisades Growth Capital II, L.P.*, the Chancery Court invalidated a board vote even though such relief was unavailable under a voting agreement between the company’s shareholders, where defendants secured

legal relationship of the parties”); *In re Cyan, Inc. S’holders Litig.*, 2017 WL 1956955, at *18 (Del. Ch. May 11, 2017) (rejecting attempt to “circumvent” defendant’s “certificate of incorporation through artful pleading”); *Simon v. Navellier Series Fund*, 2000 WL 1597890, at *3 (Del. Ch. Oct. 19, 2000) (“A forum selection clause should not be defeated by artful pleading of claims not based on the contract containing the clause if those claims grow out of the contractual relationship[.]”); *PPF Safeguard, LLC v. BCR Safeguard Holding, LLC*, 2010 WL 2977392, at *7 (Del. Ch. July 29, 2010) (rejecting “attempt to evade the [f]orum [s]election [c]lause” by declining to premise claims on agreement).

¹⁷ Similarly, in *Grunstein v. Silva*, 2009 WL 4698541, at *6-7 (Del. Ch. Dec. 8, 2009), a fiduciary duty claim was dismissed where business partners’ fiduciary relationship came about solely as a result of the partnership agreement and therefore any claim would necessarily arise from a breach of that agreement. *See* OB at 31 n.9.

the vote through deception. 246 A.3d 81, 108-10 (Del. 2021). This Court affirmed, noting that defendants may have *complied with the voting agreement*,¹⁸ but violated independent fiduciary principles in deceiving other board members. *Bäcker*, 246 A.3d at 96, 108-10. Unlike here, the fiduciary violation there was not dependent *at all* on a breach of contract. *Id.* *Mehra v. Teller* is likewise distinguishable. 2023 WL 2260640, at *12-13 (Del. Ch. Feb. 28, 2023). There, the defendant allegedly failed to distribute shares to members of an LLC in the context of a dissolution. The court declined to dismiss the fiduciary duty claim because the defendant had a fiduciary obligation to make such distributions even in the absence of an LLC agreement. *Id.* at *12-13. As discussed in the next section, however, Plaintiff here did *not* have an extra-contractual entitlement to freely tradeable shares.¹⁹

Plaintiff makes two arguments as to why his claim is not “solely a creature of contract,” neither of which has merit.

¹⁸ Plaintiff erroneously states that in *Bäcker* the fiduciary duty breach “resulted in the breach of a contract” (OB at 36), but this Court noted that the lower court did not determine there was a breach of contract. 246 A.3d at 92.

¹⁹ *PT China LLC v. PT Korea LLC*, 2010 WL 761145, at *7 & n.36 (Del. Ch. Feb. 26, 2010), is inapposite because that claim involved usurpation of corporate opportunity and misappropriation of information unrelated to any contractual confidentiality or exclusivity provision. *In re Green Field Energy Services, Inc.*, 2015 WL 5146161, at *11 (Bankr. D. Del. Aug. 31, 2015), is likewise off-point, involving obligations owed to an employer. Plaintiff’s out-of-jurisdiction cases are similarly unpersuasive and irrelevant. *See Clinton v. Aspinwall*, 338 A.3d 1103, 1123 n.3 (Conn. 2025) (concurrence); *Colaco v. Cavotec SA*, 236 Cal. Rptr. 3d 542, 566 (Cal. Ct. App. 2018).

a. Plaintiff Does Not Have an Absolute Right to Sell Shares

Plaintiff argues that his Fiduciary Duty Claim arises from his “absolute right to sell [his Shares] simply by virtue of his ownership and *not* the RRA.” OB at 34. That argument is at odds with Delaware law and inapplicable to Plaintiff’s Shares.²⁰ As Plaintiff’s authority makes plain, the right to sell shares is not “absolute”—it may be contractually or statutorily restricted. *See* 18A Am. Jur. 2d Corporations § 562 (“*In the absence of statutory, charter, bylaw, or contractual provisions to the contrary, the owner of corporate stock has an absolute right to transfer his or her stock*” (emphasis added)); 8 Del. C. § 202(b) (“A restriction on the transfer . . . of securities . . . may be imposed . . . *by an agreement among any number of security holders or among such holders and the corporation.*” (emphasis added)).²¹

Plaintiff does not dispute that his Shares were contractually restricted.²² Plaintiff initially held Legacy Mondee units, which he could only convert into

²⁰ *Forman v. CentrififyHealth, Inc.*, 2019 WL 1810947, at *10 (Del. Ch. Apr. 25, 2019), and *In re Sears Hometown & Outlet Stores, Inc. Shareholder Litigation*, 309 A.3d 474, 507 (Del. Ch. 2024), state that an owner of stock generally has the ability to sell it, but do not suggest that right is absolute or cannot be restricted or otherwise qualified by contract.

²¹ Indeed, shareholders may acquire stock subject to various contractual restrictions, and courts regularly dismiss fiduciary claims as foreclosed by contract in such circumstances. *See, e.g., MCG*, 2010 WL 1782271, at *15 (preferred stock); *Ogus*, 2020 WL 502996, at *11 (redemption right); *Nemec*, 991 A.2d at 1129 (same).

²² If, *arguendo*, Plaintiff had an absolute right to sell shares, that suggests that Mondee’s alleged failure to provide freely tradeable Shares is a violation of the

Mondee Shares by agreeing to the Redemption Agreement and Joinder to the RRA. A21-A22; A158 (Redemption Agreement § 2). In doing so, Plaintiff obtained certain contractual rights, but also accepted certain contractual limitations, including restrictions on the sale of Plaintiff’s Shares (*e.g.*, the Lock-Up). A135-A156 (RRA); A158-A163 (Redemption Agreement).²³ As alleged, Mondee did not remove those contractual restrictions, *i.e.*, the Restrictive Legends, when Mondee was required to do so, *i.e.*, at the end of the Lock-Up, thereby preventing the Shares’ immediate resale. A41-A42. As those restrictions are contractual, the Court must “evaluate [Mondee’s] conduct within the [contractual] framework created and crafted by the parties themselves.” *See Solow*, 2004 WL 2694916, at *4.

b. Vague Invocations of “Fairness” Do Not Convert a Contract Claim Into a Fiduciary Duty Claim

Plaintiff’s argument that the Fiduciary Duty Claim survives because the contracts were breached “unfairly” misapprehends the primacy-of-contract doctrine. Courts dismiss fiduciary duty claims arising from expressly-addressed contractual

Redemption Agreement, which provided that Mondee would provide Plaintiff “all of [Mondee’s] right, title and interest in and to” the Shares, including the right to sell them. A158 (Redemption Agreement § 1).

²³ Plaintiff thus differs from a member of the public who purchases shares in the open market and receives all rights attendant to freely tradeable shares, including immediate resale. *See, e.g., Polaroid Corp. v. Disney*, 862 F.2d 987, 999 (3d Cir. 1988); *Yeaman*, 194 F.3d at 455-56; *cf. Slack Techs., LLC v. Pirani*, 598 U.S. 759, 764 (2023) (absent a “lockup agreement,” “holders of preexisting unregistered shares were free to sell them to the public right away”).

obligations because the contract “create[s] contract duties that supersede[] and negate[] any distinct fiduciary duties arising out of the same conduct.” *Nemec*, 991 A.2d at 1129. The doctrine does not require that a claim be incapable of implicating fiduciary principles—only that, where the relationship is “solely a creature of contract,” the contract supersedes any fiduciary obligation, leaving no enforceable claim. *See id.* at 1128-29. “Delaware law does not permit a plaintiff to ‘bootstrap’ a contract claim into a fiduciary duty claim by alleging that the contractual breach was disloyal.” *McKenzie*, 2026 WL 191010, at *7.

In other words, a breach of contract with a shareholder that is “unfair”—which could be said about nearly any contractual breach—is still a breach of contract; the supposed unfairness does not change the contractual obligation into a fiduciary one. Indeed, many cases dismissing breach of fiduciary duty claims as foreclosed by contract could be characterized as involving unfair treatment for the defendant’s personal gain. *See, e.g., Nemec*, 991 A.2d at 1129 (directors redeemed plaintiff’s shares, but not other shareholders’ shares, to directors’ benefit); *Blue Chip*, 906 A.2d at 832-34 (directors calculated distribution of sales proceeds to their advantage and plaintiff’s detriment); *Borsody*, 2025 WL 1650395, at *6-7 (defendants acted self-interestedly by not honoring plaintiff’s stock options). The unremarkable principle that a shareholder generally has a right to be treated fairly (OB at 35-37) says nothing about whether the contractual duties in the Redemption Agreement, RRA, and

Joinder “supersede[] and negate[] any distinct fiduciary duties” owed by Gundumogula to Plaintiff. *See Nemec*, 991 A.2d at 1129. They do. *See supra*.²⁴

The cases Plaintiff cites (OB at 35-37) do not help him. In *Lee v. Pincus* the court held that a fiduciary duty claim was not foreclosed where directors selectively modified contractual lock-up restrictions to their benefit; unlike here, that alleged conduct did not breach any contract. *See* 2014 WL 6066108, at *9 (Del. Ch. Nov. 14, 2014). The remainder of Plaintiff’s cases either (i) do not contain *any* argument that a fiduciary duty claim was foreclosed by contract; or (ii) do not involve a relevant contract at all. *See Oliver v. Bos. Univ.*, 2000 WL 1091480 (Del. Ch. July 18, 2000) (no argument that fiduciary duty claim was foreclosed by contract); *Rhodes v. Silkroad Equity, LLC*, 2007 WL 2058736 (Del. Ch. July 11, 2007) (same); *Tooley v. AXA Fin., Inc.*, 2005 WL 1252378 (Del. Ch. May 13, 2005) (same); *Parfi Holding AB v. Mirror Image Internet, Inc.*, 817 A.2d 149 (Del. 2002) (rejecting argument that both contract and fiduciary duty claims were subject to arbitration clause); *Bray v. Okla. Publ’g Co.*, 1991 WL 189136 (Del. Ch. Sept. 24, 1991) (no discussion of any contract); *Metro. Life Ins. Co. v. Aramark Corp.*, 1998 WL

²⁴ Delaware law permits minority shareholders to bring fiduciary duty claims against directors in circumstances involving impaired voting rights, unfair corporate transactions, forced stock sales, and squeeze-out mergers to ensure they are treated fairly vis à vis the majority. *See, e.g., McMullin v. Beran*, 765 A.2d 910, 920 (Del. 2000). None of that is at issue here; the Fiduciary Duty Claim involves a single shareholder seeking what he claims he is entitled to by contract. *See supra*.

34302067 (Del. Ch. Feb. 5, 1998) (same); *Brehm v. Eisner (In re Walt Disney Co. Derivative Litig.)*, 906 A.2d 27, 64 (Del. 2006) (discussing fiduciary duties generally).

2. The Fiduciary Duty Claim Is Not Premised on the Improper Use of Contractually-Permissible Discretion

Plaintiff last argues that even if the RRA addressed Mondee’s obligations regarding the Shares’ transferability, his claim survives because the RRA “granted Mondee discretion” that Gundumogula wrongfully employed. OB at 37. Plaintiff never raised this argument below (A192-A302) and has therefore waived it. *See, e.g., In re Oracle Corp. Derivative Litig.*, 339 A.3d 1, 17-18 (Del. 2025); *see also* Del. Supr. Ct. R. 8.²⁵ In any event, Plaintiff cannot credibly argue that Section 3.1.16 “conferred considerable discretion on Mondee” to decline to permit resale of his Shares (OB at 38)—the very conduct underlying the Fiduciary Duty Claim.²⁶

Sections 3.1 and 3.1.16 required Mondee to “use its commercially reasonable efforts . . . to permit the sale of” the Shares and “in good faith, cooperate reasonably

²⁵ Plaintiff does not attempt to demonstrate that the “interests of justice” exception requires the Court hear this argument, but it plainly does not apply here. *See, e.g., Suber v. State*, 2026 WL 184867, at *4 (Del. Jan. 15, 2026) (“The interests of justice exception is extremely limited and reserved only for plain errors that affect a party’s substantial rights.”).

²⁶ Plaintiff does not attempt to argue that the six-month Lock-Up in 5.1.1 (A149), which would have been exceeded by continued imposition of the Restrictive Legends, is discretionary, nor could he reasonably do so.

with, and take such customary actions as may reasonably be requested” by Plaintiff. A144-A145 (§§ 3.1, 3.1.16). As Plaintiff’s own authority confirms, “commercially reasonable efforts” provisions “place an affirmative obligation on the parties to take all reasonable steps” to achieve a particular end. *Meyers v. Zimmer Biomet Holdings, Inc.*, 2026 WL 1194997, at *9 (Del. Ch. May 1, 2026) (quoting *Williams Cos., Inc. v. Energy Transfer Equity, L.P.*, 159 A.3d 264, 273 (Del. 2017)). The RRA thus grants Mondee discretion only in the manner of achieving that end, not in whether to permit resale at all. The Fiduciary Duty Claim challenges Mondee’s alleged outright refusal, not the manner of its efforts, making this case unlike those Plaintiff cites involving genuinely discretionary acts.²⁷

²⁷ See *Ban v. Manheim*, 339 A.3d 41, 71-72 (Del. Ch. 2025) (defendant caused company to “make a discretionary decision to exercise” a redemption right); *Frederick Hsu Living Tr. v. ODN Holding Corp.*, 2017 WL 1437308, at *24 (Del. Ch. Apr. 14, 2017) (board exercised its authority in a way that prevented a contractual obligation coming into effect); *Blaustein v. Lord Baltimore Cap. Corp.*, 2013 WL 1810956, at *13 (Del. Ch. Apr. 30, 2013) (“A contract that merely states that an action requires board approval does not displace or negate fiduciary duties with respect to that approval.”).

III. THE CHANCERY COURT PROPERLY CONSIDERED PLAINTIFF’S PRIOR FILINGS

A. Question Presented

Whether the Chancery Court properly considered Plaintiff’s inconsistent pleadings in other jurisdictions as evidence of Plaintiff’s prior inconsistent legal positions and artful pleading.

B. Scope Of Review

“A claim that a trial court applied an incorrect legal standard raises a question of law that [the Court] review[s] *de novo*.” *Doe v. Cahill*, 884 A.2d 451, 455 (Del. 2005).

C. Merits Of Argument

Delaware Rule of Evidence 202(d)(1)(B) permits judicial notice of filings in other jurisdictions for their “existence and content,” *In re Dissolution of T&S Hardwoods KD, LLC*, 2023 WL 334674, at *3 n.15 (Del. Ch. Jan. 20, 2023) (internal quotation marks omitted), and to “understand the nature and grounds for rulings” made in the court where they were filed, *In re Rural Metro Corp. S’holders Litig.*, 2013 WL 6634009, at *9 (Del. Ch. Dec. 17, 2013). *See also Aequitas Sols., Inc. v. Anderson*, 2012 WL 2903324, at *3 n.17 (Del. Ch. July 10, 2012) (California filing); *Baca v. Insight Enters., Inc.*, 2010 WL 2219715, at *1 (Del. Ch. June 3, 2010) (filings in various other jurisdictions). Plaintiff recasts the Chancery Court’s rejection of Plaintiff’s artful pleading to circumvent the primacy of contract doctrine

as improper application of judicial notice to decide a disputed issue of fact. OB at 41-42. But, the Chancery Court’s use of judicial notice was appropriate here and, ultimately, not necessary to the Chancery Court’s conclusion.

Plaintiff’s attempt to hide his prior pleadings from this Court is obvious: he has repeatedly advanced readings of the RRA and Redemption Agreement that contradict the reading he advances here, and he deliberately excised any reference to those agreements from the Complaint.²⁸ Having then argued—as he does again

²⁸ Compare, e.g., A21 (Complaint) (“On April 24, 2023, an administrative assistant employed by Hutchison sent to Mr. Venkatesh, for his signature, final versions of the Redemption Agreement and the Legend Removal Letter.”) with A113 (New York State Action complaint) (“On April 24, 2023, an administrative assistant employed by Hutchison sent to Mr. Venkatesh, for his signature, final versions of a redemption agreement and ancillary documents, which set forth the parties’ rights and obligations in connection with the agreed upon redemption. The first of such documents was the Redemption Agreement *The second was the Joinder, which was annexed an exhibit to and made part of the Redemption Agreement.*” (emphasis added)); A23 (Complaint) (“Satisfied by the clear indications in the Legend Removal Letter and from Mr. Rudd that the shares would be freely tradeable upon receipt, Mr. Venkatesh decided to agree to the redemption.”) with A114 (New York State Action complaint) (“Satisfied by the clear indications in the Legend Removal Letter, *the Joinder*, and from Mr. Rudd that the Shares would be freely tradeable upon receipt, Mr. Venkatesh decided to agree to the redemption.” (emphasis added)); A34 (Complaint) (“Each of the Restrictive Legends lacked any basis . . . [T]he Shares were . . . not subject to a lock-up”) with A116 (New York State Action complaint) (“Each of the Restrictive Legends lacked any basis . . . [T]he Shares were . . . not subject to a lock-up, as the lock-up restriction on the sale of Mondee common stock, as set forth in the Registration Rights Agreement, expired on January 18, 2023.”) and A87 (Federal Action complaint) (same).

here²⁹—that this omission made the RRA irrelevant to the Fiduciary Duty Claim,³⁰ Plaintiff cannot fault the Chancery Court for recognizing that maneuver and declining to let him circumvent the controlling contractual language through artful pleading. A11³¹; *see Cyan*, 2017 WL 1956955, at *18. Taking judicial notice of the prior pleadings to reach that conclusion was entirely appropriate.³²

The Chancery Court did not rely on Plaintiff’s prior filings to establish as true the RRA’s meaning; rather, having already construed the RRA on its face, the Chancery Court observed that Plaintiff himself had previously construed that contract as governing the same conduct at issue here. A11 (“[I]n other fora, Plaintiff claimed the company’s placement and maintenance of restrictive legends on his shares after the lockup was in breach of RRA 3.1.16.”). A party’s own prior characterization of a contract is a proper subject for judicial notice—not to establish definitively the meaning of that contract—but to establish that the party

²⁹ *See, e.g.*, OB at 36 (“Plaintiff’s claim is premised on duties entirely independent of the RRA, which the Complaint does not mention once because Plaintiff’s claim does not depend on it.”).

³⁰ *See, e.g.*, A221 (“the Registration Rights Agreement supplies no facts in the Complaint, such that it cannot be deemed ‘integral’ to Plaintiff’s claim. Nor is it referenced anywhere, let alone ‘heavily relied upon,’ in the Complaint.”).

³¹ *Supra* nn. 4, 16.

³² Gundumogula does not contend that Plaintiff is judicially estopped from taking a different position in this action than he took in his prior filings. *AT&T Corp. v. Lillis*, 953 A.2d 241, 248 (Del. 2008) therefore is inapposite. *See* OB at 43-44.

characterized it in that manner. *See Rural Metro*, 2013 WL 6634009, at *9; *Dissolution of T&S Hardwoods KD*, 2023 WL 334674, at *3 n.15.³³

Further, the Chancery Court’s consideration of Plaintiff’s prior pleadings was inessential to the Order. The Chancery Court conducted its own analysis in correctly determining that Plaintiff’s Fiduciary Duty Claim is legally foreclosed under Delaware law before observing, in a single sentence, that “it appears Plaintiff agrees” based on Plaintiff’s past filings. *See* A10-A11;³⁴ *supra* Arg. §§ I-II. Even assuming, *arguendo*, that the Chancery Court’s reference to Plaintiff’s New York filings was error, that error was harmless and does not warrant reversal of the dismissal of Plaintiff’s Fiduciary Duty Claim. *See Barks v. Herzberg*, 206 A.2d 507, 509 (Del. 1965) (affirming judgment after finding improper judicial notice to be “non-prejudicial at worst”).

³³ None of Plaintiff’s cases help him: each either considered filings from other jurisdictions, *see Totta v. CCSB Fin. Corp.*, 2021 WL 4892218, at *3 (Del. Ch. Oct. 20, 2021); *Rural Metro*, 2013 WL 6634009, at *7-9, or rejected reliance on pleaded allegations for their factual truth, *see State v. Arbolay*, 2023 WL 7342134, at *3 (Del. Super. Ct. Nov. 7, 2023), *aff’d*, 320 A.3d 267 (Del. 2024); *Lebanon Cnty. Emps.’ Ret. Fund v. Collis*, 311 A.3d 773, 798-802 (Del. 2023).

³⁴ *Compare* A227 (Plaintiff’s Opposition to Defendant’s Motion to Dismiss) (“Nor does Plaintiff’s claim, or his right to sell the Shares, arise from the Registration Rights Agreement.”) *with* A124 (New York State complaint) (“Defendant Mondee breached the Registration Rights Agreement including, without limitation, Sections 2.1.1, 3.1, and 3.1.16 thereof, by failing to provide Plaintiff with freely tradeable shares as contemplated by and specified in the Registration Rights Agreement.”) *and* A97 (Federal Action complaint) (similar).

IV. THIS COURT SHOULD AFFIRM BECAUSE THE COMPLAINT DOES NOT ADEQUATELY ALLEGE DEFENDANT'S INVOLVEMENT IN THE RESTRICTION OF PLAINTIFF'S SHARES

A. Question Presented

Whether the Complaint's insufficient factual allegations provide an independent basis on which this Court should affirm the Chancery Court's Order.

B. Scope Of Review

The Court reviews a motion to dismiss *de novo*, *Isaac v. Politico LLC*, 346 A.3d 103 (Del. 2025), and may *affirm* the judgment of the trial court on an alternative rationale than the trial court's where the issue was fairly presented to the trial court, *Cent. Laborers Pension Fund v. News Corp.*, 45 A.3d 139, 147 (Del. 2012). By contrast, for this Court to *reverse* the trial court on an issue not reached below is "rare" and should only be invoked when "exigencies of time or a strong showing of judicial economy so dictate." *State Farm Mut. Auto. Ins. Co. v. Dann*, 953 A.2d 127, 128 (Del. 2001). Generally, this Court does so only when (i) the factual record is complete and undisputed; (ii) the issue is ripe and was fully developed at trial; and (iii) the question is purely legal. *Knox v. Georgia-Pac. Plywood Co.*, 130 A.2d 347, 352-53 (Del. 1957). None of these factors are met here.

C. Merits Of Argument

This Court should affirm the Chancery Court's dismissal of the Fiduciary Duty Claim on the separate and independent ground that the Complaint does not adequately allege Gundumogula's personal involvement in the restriction of

Plaintiff's Shares, which was fairly presented to the Chancery Court (A70-A73; A214-A220; B9-B45), but did not form the basis for the Order (*see* A10-A11). *See Cent. Laborers*, 45 A.3d at 147.

The Complaint is devoid of any particularized factual allegations beyond speculation that suggest that Gundumogula took any action with respect to Plaintiff's Shares, let alone allegations supporting that Gundumogula "caus[ed] Mondee to wrongfully maintain the Restrictive Legends on the Shares and refuse Plaintiff's request that they be removed." A41-A42.³⁵ This omission is fatal to the Fiduciary Duty Claim. *See Teamsters Local 677 Health Servs. & Ins. Plan v. Martell*, 2023 WL 1370852, at *23 (Del. Ch. Jan. 31, 2023) (dismissing breach of fiduciary duty claim where "[t]here is no well-pleaded allegation that [defendant] 'personally convinced' the . . . Board to do anything" as "conclusory allegations concerning [defendant's] involvement do not support a reasonable inference" of liability); *see also Iotex Commc'ns, Inc. v. Defries*, 1998 WL 914265, at *4 (Del. Ch. Dec. 21,

³⁵ Plaintiff makes a conclusory allegation that "[u]pon information and belief, Mr. Gundumogula personally made the decision to maintain the erroneous Restrictive Legends on the Shares, and instructed Mondee and/or Mondee's counsel to prevent CST from removing them." A37 (emphasis added). But, such allegations made "[u]pon information and belief" are "conclusory allegation[s]" that, when "untethered to any supporting facts" are "entitled to no weight." *See Erisman v. Zaitsev*, 2021 WL 6134034, at *17 (Del. Ch. Dec. 29, 2021) (dismissing breach of fiduciary duty claim).

1998) (“Speculative conclusions unsupported by fact do not allege breaches of fiduciary duty.”).

Plaintiff does not, and cannot, dispute that the Complaint alleges no actual action taken by Gundumogula with respect to Plaintiff’s Shares specifically. Instead, Plaintiff rests his claim on (i) Plaintiff’s decision to reach out directly to Gundumogula five months after first contacting Mondee about the Shares, A36-A37; (ii) Gundumogula’s communications with other Mondee shareholders about their own shares, A25-A31; and (iii) Gundumogula’s outreach to Plaintiff once he was alerted to Plaintiff’s demand letter, A37. None of these allegations supports an inference that Gundumogula took any action in connection with Plaintiff’s Shares. While the Complaint catalogs Gundumogula’s alleged attempts to prevent other shareholders from selling their Mondee stock, “[t]he reader of the Complaint is left to guess what ‘actions’ [Gundumogula] took to prevent [Plaintiff] from selling” his Shares. *See Parseghian v. Frequency Therapeutics, Inc.*, 2022 WL 2208899, at *1 (Del. Ch. June 21, 2022) (dismissing fiduciary duty claim where the complaint alleged no act “that could lead to a reasonable inference that [the CEO] stymied the plaintiffs’ stock transfer”).³⁶

³⁶ *Alessi v. Beracha*, 849 A.2d 939, 943 (Del. Ch. 2004), and *Bay Ctr. Apartments Owner, LLC v. Emery Bay PKI, LLC*, 2009 WL 1124451, at *10 (Del. Ch. Apr. 20, 2009), in which plaintiff pled specific facts showing that the defendants directed the

Nor does Plaintiff's theory that Gundumogula restricted his Shares because he stood to gain from restricting other stockholders' sales survive scrutiny. This Court need not "accept as true conclusory allegations without specific supporting factual allegations" or "every strained interpretation of the allegations." *In re Gen. Motors (Hughes) S'holder Litig.*, 897 A.2d 162, 168 (Del. 2006) (citation omitted). Plaintiff's own allegations undercut his motive theory: of the six shareholders whose interactions with Gundumogula the Complaint recounts, three—who held substantially more stock than Plaintiff—had their Restrictive Legends removed and were able to sell their shares. A28-A31. Permitting the largest holders to sell while restricting a comparatively small holder like Plaintiff would have been self-defeating for a scheme to prop up the stock price. And Plaintiff's own allegations place the Secondary Offering—his claimed motive—four months before he ever contacted Gundumogula about the Restrictive Legends. A36-A38.

Finally, Plaintiff's suggestion that Gundumogula must have been responsible for restricting Plaintiff's Shares simply because he held authority over Mondee's stock transactions generally is contrary to Delaware law. A corporate officer with "broad, general authority" over a matter is not liable where, as here, the Complaint does not allege that he "direct[ed] control, approve[d], consent[ed] to, or ratif[ied]"

alleged corporate misconduct, are inapposite. Here, the Complaint alleges no facts showing that Gundumogula directed any action with respect to Plaintiff's Shares.

the specific conduct at issue. *T.V. Spano Bldg. Corp. v. Dep’t of Nat. Res. & Env’t Control*, 628 A.2d 53, 62 (Del. 1993); *see also Metro Commc’n Corp. BVI v. Advanced Mobilecomm Techs. Inc.*, 854 A.2d 121, 147 n.50 (Del. Ch. 2004) (“Delaware law also does not permit the conclusion that a defendant knew of certain facts involving an organization merely because the defendant had a position of responsibility within that organization.”). Because the Complaint pleads no facts—as opposed to speculation—tying Gundumogula to the specific decision to maintain the Restrictive Legends on Plaintiff’s Shares, the Complaint’s insufficient factual allegations provide a separate and independent basis on which this Court should affirm the dismissal of the Fiduciary Duty Claim.

Should this Court determine that the Fiduciary Duty Claim is not foreclosed by contract—it is (*supra* Arg. §§ I-II)—and holds any doubt that the insufficiency of Plaintiff’s pleading provides an alternative ground to affirm the Order, this Court should remand to the Chancery Court for further consideration. This Court should not take the “rare” step of reversing the Order based on an issue the Chancery Court did not decide. *See State Farm*, 953 A.2d at 128. Plaintiff has made no attempt to demonstrate that the “exigencies of time or a strong showing of judicial economy . . . dictate” that the Court should do so here, nor could he. *See id.*; *see also Kroll v. City of Wilmington*, 276 A.3d 476, 479 (Del. 2022) (declining to affirm on an alternative ground raised but not decided below). The Chancery Court routinely

declines to resolve arguments that are unnecessary to its dispositions. *See, e.g., Cantor Fitzgerald, L.P. v. Cantor*, 2001 WL 1456494, at *4 n.14 (Del. Ch. Nov. 5, 2001) (“The Court has carefully considered all positions advanced by the parties but will only discuss those arguments it believes are necessary to its decision.”).

CONCLUSION

For the foregoing reasons, the decision of the Court of Chancery should be affirmed.

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Dated: July 27, 2026

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