COURT OF CHANCERY OF THE STATE OF DELAWARE

Patrick Ayers v. William P. Foley

Ayers v. Foley · No. C.A. No. 2025-0650-LWW · Decided June 15, 2026

SUMMARY

The Delaware Court of Chancery considers defendants' motion to dismiss a stockholder derivative action challenging a founder's one-time equity grant and compensation awarded to directors. The court holds that demand is not excused regarding the founder's equity grant, but allows claims concerning director compensation to proceed in part under the entire fairness standard. The motion to dismiss is granted in part and denied in part.

CASE DETAILS

COURT	Court of Chancery of the State of Delaware
WRITING FOR THE COURT	Stephen E. Will, Vice Chancellor
JURISDICTION	Court of Chancery of the State of Delaware
DECIDED	June 15, 2026
DOCKET	C.A. No. 2025-0650-LWW
DISPOSITION	other
PROCEDURAL POSTURE	Stockholder derivative action challenging a founder-chairman's one-time equity grant and director self-compensation. Defendants moved to dismiss under Court of Chancery Rules 23.1 and 12(b)(6).
STANDARD OF REVIEW	Under Rule 23.1, demand futility must be pleaded with particularized facts on a director-by-director basis. Under Rule 12(b)(6), the issue is whether the complaint states a reasonably conceivable claim; well-pleaded allegations are accepted as true and reasonable inferences are drawn for the plaintiff.
PRECEDENTIAL VALUE	Published Delaware Court of Chancery opinion
PARTIES	Patrick Ayers v. William P. Foley, Douglas K. Ammerman, Halim Dhanidina, Thomas M. Hagerty, Daniel D. Lane, Heather H. Miller, Sandra D. Morgan, John D. Rood, Peter O. Shea, Jr., Cary H. Thompson, Fidelity National Financial, Inc., nominal defendant

TOPICS

shareholder derivative suits · fiduciary duty · corporate governance · statutory interpretation · motions to dismiss

PRACTICE AREAS

Delaware corporate law · fiduciary duty · shareholder derivative litigation · director compensation · statutory interpretation · civil procedure

QUESTIONS PRESENTED

1. Whether demand was excused under Court of Chancery Rule 23.1 for claims challenging Foley's $50 million equity grant.
2. Whether separate approval of the 2024 director compensation and Foley's equity grant should be treated as a single transaction for demand-futility purposes.
3. Whether 8 Del. C. § 144(d)(2) creates a heightened presumption of disinterestedness applicable to demand-futility analysis.
4. Whether the complaint pleaded a substantial likelihood of director liability despite 8 Del. C. § 144(a)(1) and FNF's 8 Del. C. § 102(b)(7) exculpatory provision.
5. Whether the complaint stated breach-of-fiduciary-duty and unjust-enrichment claims concerning 2022, 2023, and 2024 director compensation.

HOLDINGS

1. The 2024 director compensation and Foley's equity grant were distinct transactions and must be analyzed separately because they had different purposes, approval processes, and timing.
2. Demand was not excused as to the equity-grant claims because the plaintiff failed to plead that at least six of the eleven directors were interested, lacked independence, or faced a substantial likelihood of non-exculpated liability.
3. Section 144(d)(2)'s heightened presumption of director disinterestedness applies broadly, including when assessing demand futility under Rule 23.1, and requires substantial and particularized facts showing a material interest or material relationship.
4. The complaint did not plead a substantial likelihood of liability because it did not allege particularized facts supporting bad faith, gross negligence, nondisclosure of material facts, or other non-exculpated misconduct.
5. The claim survived against Compensation Committee members who approved the challenged compensation but was dismissed against directors who merely received the compensation without participating in its approval or knowingly accepting a wrongful award.
6. The unjust-enrichment claim survived against all directors who retained the challenged compensation, including passive recipients, although the related breach-of-fiduciary-duty claim was dismissed against some of them.

KEY QUOTATIONS

> *"Under Section 144(d)(2), the director is entitled to a "heightened" presumption of disinterestedness "with respect to an act or transaction to which such director is not a party.""* (24-25)

> *"Thus, to overcome Section 144(d)(2)'s heightened presumption, a plaintiff must plead specific, non-conclusory facts of sufficient qualitative significance to support a reasonable inference of a material interest or relationship that would impair the director's objective judgment."* (27-28)

> *"There are two components to the 'unitary' entire fairness standard: fair dealing and fair price."* (42-43)

> *"Although the breach of fiduciary duty claim is dismissed as to the directors who only passively received the compensation, restitutionary relief for unjust enrichment may still be available against a defendant who retains a benefit, even if they are not a wrongdoer."* (50-51)

FACTUAL BACKGROUND

Fidelity National Financial, Inc. was a Delaware corporation when the action was filed and later re-domesticated to Nevada. Its Compensation Committee approved annual compensation increases for non-employee directors and, in October 2024, a $50 million equity grant to founder and non-executive chairman William Foley, conditioned on his continued service through 2027. The Compensation Committee and a separate Related Person Transaction Committee reviewed and approved Foley's grant, while the Compensation Committee approved the director compensation. Ayers alleged that the awards were excessive, unfair, and resulted from fiduciary breaches and unjust enrichment.

PROCEDURAL HISTORY

Patrick Ayers filed the derivative action on June 10, 2025, after receiving documents produced in response to a demand under 8 Del. C. § 220. Defendants moved to dismiss on August 1, 2025; briefing was completed, and oral argument was held on March 9, 2026. The court granted the motion in part and denied it in part.

DISPOSITION

other

CASES CITED

- In re General Motors (Hughes) Stockholder Litigation, 897 A.2d 162, 170
- Zapata Corp. v. Maldonado, 430 A.2d 779, 782
- United Food & Commercial Workers Union & Participating Food Industry Employees Tri-State Pension Fund v. Zuckerberg, 262 A.3d 1034, 1047, 1059, 1061
- In re Camping World Holdings, Inc. Stockholder Derivative Litigation, 2022 WL 288152, at *6, aff'd, 285 A.3d 1204
- Brehm v. Eisner, 746 A.2d 244, 254
- In re Investors Bancorp, Inc. Stockholder Litigation, 177 A.3d 1208, 1212, 1217, 1224-26
- In re Vaxart, Inc. Stockholder Litigation, 2022 WL 1837452, at *24-26

- Calma v. Templeton, 114 A.3d 563, 576, 589-90
- Aronson v. Lewis, 473 A.2d 805, 815
- Beam v. Stewart, 845 A.2d 1040, 1051, 1055
- Orman v. Cullman, 794 A.2d 5, 16 n.9, 27
- In re CBS Corp. Stockholder Class Action & Derivative Litigation, 2021 WL 268779, at *39
- In re Trade Desk, Inc. Derivative Litigation, 2025 WL 503015, at *13, *18 n.158, aff'd, 350 A.3d 1223
- A.R. DeMarco Enterprises, Inc. v. Ocean Spray Cranberries, Inc., 2002 WL 31820970, at *5
- Emerald Partners v. Berlin, 726 A.2d 1215, 1224
- McElrath v. Kalanick, 2019 WL 1430210, at *18, aff'd, 224 A.3d 982
- In re Cornerstone Therapeutics Inc. Stockholder Litigation, 115 A.3d 1173, 1175-76
- Stone v. Ritter, 911 A.2d 362, 370
- McElrath v. Kalanick, 224 A.3d 982, 993
- Wood v. Baum, 953 A.2d 136, 141
- Knight v. Miller, 2022 WL 1233370, at *7, *12-13
- In re Martha Stewart Living Omnimedia, Inc. Stockholder Litigation, 2017 WL 3568089, at *22 n.104
- In re Inergy L.P., 2010 WL 4273197, at *14
- Tomczak v. Morton Thiokol, Inc., 1990 WL 42607, at *12
- Savor, Inc. v. FMR Corp., 812 A.2d 894, 896
- Telxon Corp. v. Meyerson, 802 A.2d 257, 265
- Gottlieb v. Heyden Chemical Corp., 90 A.2d 660, 663
- Roofers Local 149 Pension Fund v. Fidelity National Financial, Inc., 2025 WL 1354973, at *7
- Monroe County Employees' Retirement System v. Carlson, 2010 WL 2376890, at *2
- Solomon v. Pathe Communications Corp., 1995 WL 250374, at *5, aff'd, 672 A.2d 35
- In re Tri-Star Pictures, Inc. Litigation, 1995 WL 106520, at *2
- Citron v. E.I. du Pont de Nemours & Co., 584 A.2d 490, 499
- Jackson National Life Insurance Co. v. Kennedy, 741 A.2d 377, 393
- Capano v. Ecofibre Ltd., 2025 WL 419494, at *1
- Schock v. Nash, 732 A.2d 217, 232-33