SUPERIOR COURT OF DELAWARE, SITTING BY DESIGNATION IN THE COURT OF CHANCERY ACTION

Kakar v. Octo Consulting Group, LLC

Kakar v. Octo Consulting Group, LLC · No. C.A. No. N22C-01-104-PRW CCLD; C.A. No. 2022-0437-PRW · Decided March 31, 2026

SUMMARY

This decision after trial addresses consolidated Delaware Superior Court and Court of Chancery litigation arising from Octo Consulting Group's acquisition of Sevatec. The court considers alleged breaches of stock purchase, additional payments, operating, side letter, employment, and non-competition agreements, as well as related indemnification, repurchase, and counterclaims. The decision determines the parties' contractual liabilities and available damages or other relief.

CASE DETAILS

COURT	Superior Court of Delaware, sitting by designation in the Court of Chancery action
WRITING FOR THE COURT	Paul R. Wallace
JURISDICTION	Delaware Superior Court and Delaware Court of Chancery
DECIDED	March 31, 2026
DOCKET	C.A. No. N22C-01-104-PRW CCLD; C.A. No. 2022-0437-PRW
DISPOSITION	other
PROCEDURAL POSTURE	Decision after a five-day joint bench trial involving consolidated claims in the Delaware Superior Court and Court of Chancery. The court adjudicated the parties' remaining breach-of-contract, declaratory-judgment, equitable-relief, unjust-enrichment, and related counterclaims.
STANDARD OF REVIEW	Because this was a bench trial, the court was the sole finder of fact, assessed witness credibility, weighed the evidence, and applied a preponderance-of-the-evidence standard to each claim and counterclaim.
PRECEDENTIAL VALUE	Published trial-court decision

TOPICS

breach of contract · contract interpretation · material breach · conditions precedent · employment contracts

PRACTICE AREAS

contracts | corporate law | commercial litigation | employment law | government contracts

QUESTIONS PRESENTED

1. Whether Octo Platform's repurchase and cancellation of Seva's membership units complied with the Operating Agreement.
2. Whether Octo Platform breached the Side Letter Agreement by repurchasing legacy Sevatec employees' units without notice to Seva.
3. Whether Kakar proved entitlement to additional compensation under the Additional Payments Agreement.
4. Whether Octo Consulting breached the Stock Purchase Agreement by failing to pay the agreed net-working-capital adjustment and release escrow funds.
5. Whether the Kakar Parties breached the Stock Purchase Agreement by failing to pay post-closing retention bonuses or other claimed indemnity amounts.
6. Whether the Stock Purchase Agreement's indemnification claim procedure was an unambiguous condition precedent requiring forfeiture of counterclaims.
7. Whether Kakar breached the Employment Agreement through disengagement and unprofessional conduct.
8. Whether Kakar breached the Non-Competition Agreement by publicly filing confidential information or by encouraging a former employee to leave.
9. Whether Octo Consulting could recover wages or other damages for Kakar's Employment Agreement breach.
10. Whether the parties' alleged material breaches excused continuing performance under the Employment Agreement, Non-Competition Agreement, or Stock Purchase Agreement.
11. Whether Octo Consulting was entitled to attorney's fees under the Employment Agreement and whether its unjust-enrichment counterclaim was barred by contract.

HOLDINGS

1. Octo Platform properly repurchased and cancelled Seva's membership units under Operating Agreement § 8.7(d)(iii). When Seva failed to appear at closing and failed to provide the required representations and warranties, Octo Platform could place the repurchase consideration, in the form of a Repurchase Note, into escrow and treat the units as repurchased.
2. Octo Platform did not breach the Side Letter Agreement because Seva's repurchase right existed only while Seva remained a member, and Octo Platform had validly repurchased and cancelled Seva's units.
3. Kakar failed to prove by a preponderance of the evidence that the qualifying recompete contracts met the applicable gross-profit-before-fringe threshold, and therefore was not entitled to additional compensation.

4. Octo Consulting breached the Stock Purchase Agreement by failing to pay the accepted net-working-capital adjustment and release the Adjustment Escrow. Kakar's acceptance of the Proposed Closing Statement made the stated $233,535.39 amount final and binding under the agreement.
5. The SPA's indemnification claim procedure was not an unambiguous condition precedent requiring forfeiture of Octo Consulting's breach counterclaims for noncompliance.
6. Octo Consulting failed to prove that the Kakar Parties breached the SPA's CALM-related representation because the evidence showed alleged problems arising after the date of the representation and warranty, not a false representation at closing.
7. The Kakar Parties breached the SPA by failing to pay the $260,000 Post-Closing Retention Bonus Payment, while Octo Consulting could not recover the separate $65,000 FITSS-related incentive payment under the SPA's indemnification provisions.
8. The Kakar Parties' obligation to pay the Post-Closing Retention Bonus Payment was not excused by Octo Consulting's SPA breaches because the Kakar Parties elected to continue performing and sought enforcement of the SPA's indemnification process and escrow provisions.
9. Kakar breached the Employment Agreement by substantially disengaging from his executive duties and engaging in unprofessional conduct, but did not breach it through his handling of the Unisom invoices.
10. Octo Consulting was not entitled to recover Kakar's wages or the wages of his personal assistant, and because it failed to prove compensatory damages with sufficient certainty, it was awarded nominal damages of one dollar.
11. Kakar breached the NCA by publicly filing a complaint that disclosed Octo's confidential information, but did not breach the NCA by congratulating a former employee who had already accepted another position.
12. Kakar was no longer bound by the Employment Agreement's and Non-Competition Agreement's restrictive covenants because the contractual restrictive periods had expired.
13. Octo Consulting was entitled to reasonable attorney's fees and costs incurred litigating the Employment Agreement counterclaim because it prevailed on the chief issue covered by the agreement's fee-shifting provision.
14. Octo Consulting's unjust-enrichment counterclaim failed because the Employment Agreement governed the conduct underlying the claim.

KEY QUOTATIONS

> “*A breach of contract requires (1) a contractual obligation, (2) a breach of that obligation, and (3) resulting damages.*” (-22)

> “*The Court finds that Octo Platform’s repurchase was valid under the OA.*” (-23)

> “*The SPA contains no such clear language that gives rise to a forfeiture for noncompliance.*” (-40)

> “*Thus, the Court finds that the EA required Mr. Kakar to act in a manner corresponding in degree and equal in extent to that of a Vice Chair and Head of Strategy, and, in that capacity, act with fidelity and loyalty.*”

> (-47)

> *“The issue of the enforceability of the EA’s and NCA’s restrictive covenants is mostly moot since the restrictive period in both agreements has ended.”* (-57)

FACTUAL BACKGROUND

Octo Consulting acquired Sevatec, a technology-services company founded by Arvinder Kakar, through a Stock Purchase Agreement and related agreements, including an Additional Payments Agreement, Employment Agreement, Operating Agreement, Side Letter Agreement, and Non-Competition Agreement. The parties' relationship deteriorated after Octo removed the Sevatec name from the acquired entity; Kakar disengaged from his executive duties, acted unprofessionally toward Octo personnel, resigned, and filed public lawsuits containing confidential information. The parties disputed purchase-price adjustments, indemnification escrow, an equity-unit repurchase, earnout payments, employee-retention payments, and alleged breaches of the employment and noncompetition agreements.

PROCEDURAL HISTORY

The Kakar Parties sued Octo Consulting in Superior Court, and Seva Holdings sued Octo Platform in the Court of Chancery. The actions were tried jointly from September 8 through September 12, 2025, after earlier summary-judgment rulings in the Chancery action and stipulated dismissals of certain Superior Court claims. The court entered judgment on the remaining claims and counterclaims, awarded contract damages and nominal damages, ordered release of escrow funds, awarded attorney's fees under the Employment Agreement, and directed the parties to submit a final judgment order.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. The parties were directed to confer and submit a form of final judgment consistent with the decision by April 21, 2026; Octo Consulting could move to quantify attorney's fees and costs if the parties could not agree.

CASES CITED

- Pouls v. Windmill Estates, LLC, 2010 WL 2348648, at *4 (Del. Super. Ct. June 10, 2010)
- Pencader Associates, LLC v. Synergy Direct Mortgage Inc., 2010 WL 2681862, at *3 (Del. Super. Ct. June 30, 2010)
- Interim Healthcare, Inc. v. Spherion Corp., 884 A.2d 513, 545-46, 548 (Del. Super. Ct. 2005), aff'd, 886 A.2d 1278 (Del. 2005)
- Grand Acquisition, LLC v. Passco Indian Springs DST, 145 A.3d 990, 994 (Del. Ch. 2016), as revised (Sept. 7, 2016), aff'd, 158 A.3d 449 (Del. 2017)
- Reynolds v. Reynolds, 237 A.2d 708, 711 (Del. 1967)

- Osborn ex rel. Osborn v. Kemp, 991 A.2d 1153, 1159 (Del. 2010)
- In re Viking Pump, Inc., 148 A.3d 633, 648 (Del. 2016)
- Rhone-Poulenc Basic Chemicals Co. v. American Motorists Insurance Co., 616 A.2d 1192, 1196 (Del. 1992)
- Salamone v. Gorman, 106 A.3d 354, 374 (Del. 2014)
- Seva Holdings Inc. v. Octo Platform Equity Holdings, LLC, 2024 WL 3982187, at *8, *10-*12 (Del. Ch. Aug. 29, 2024)
- Holifield v. XRI Investment Holdings LLC, 304 A.3d 896, 935 (Del. 2023)
- AT&T Corp. v. Lillis, 953 A.2d 241, 252 (Del. 2008)
- Village Practice Management Co., LLC v. West, 342 A.3d 295, 314 (Del. 2025)
- BitGo Holdings, Inc. v. Galaxy Digital Holdings, Ltd., 319 A.3d 310, 323 (Del. 2024)
- Batchelor v. Alexis Properties, LLC, 2018 WL 5919683, at *7 (Del. Super. Ct. Nov. 13, 2018)
- Holzbaur v. Trolley Square Hospital, LLC, 340 A.3d 603, 612 (Del. Ch. 2025), aff'd sub nom. Holzbaur v. Trolley Square Hospital Group, LLC, 2026 WL 261522 (Del. Feb. 2, 2026)
- In re Bremerton Cellular Telephone Co. Litigation, 328 A.3d 330, 353-54 (Del. Ch. 2024)
- Thompson Street Capital Partners IV, L.P. v. Sonova United States Hearing Instruments, LLC, 340 A.3d 1151, 1172-76 (Del. 2025)
- QC Holdings, Inc. v. Allconnect, Inc., 2018 WL 4091721, at *7 (Del. Ch. Aug. 28, 2018)
- Estate of Buller v. Montague, 2020 WL 996883, at *3 (Del. Super. Ct. Mar. 2, 2020)
- Carey v. Estate of Myers, 2015 WL 4087056, at *20 (Del. Super. Ct. July 1, 2015), aff'd, 132 A.3d 749 (Del. 2016)
- Shore Investments, Inc. v. Bhole, Inc., 2011 WL 5967253, at *5 (Del. Super. Ct. Nov. 28, 2011), amended by 2012 WL 2337793, aff'd in part, rev'd in part, 67 A.3d 444 (Del. 2013)
- Post Holdings, Inc. v. NPE Seller Rep LLC, 2018 WL 5429833, at *5 (Del. Ch. Oct. 29, 2018)
- Leaf Invenergy Co. v. Invenergy Renewables LLC, 210 A.3d 688, 695 (Del. 2019)
- Genencor International, Inc. v. Novo Nordisk A/S, 766 A.2d 8, 11 (Del. 2000)
- Lumentum Operations LLC v. nLIGHT, Inc., 2024 WL 4107691, at *3 (W.D. Wash. Sept. 6, 2024)
- Winklevoss Capital Fund, LLC v. Shaw, 2024 WL 3888757, at *9, *21 (Del. Ch. Aug. 21, 2024)
- Duncan v. STTCPL, LLC, 2020 WL 829374, at *15 (Del. Super. Ct. Feb. 19, 2020)
- Navient Solutions, LLC v. BPG Office Partners XIII Iron Hill LLC, 2023 WL 3120644, at *16 (Del. Super. Ct. Apr. 27, 2023)
- AFH Holding & Advisory, LLC v. Emmaus Life Sciences, Inc., 2014 WL 1760935, at *2 (Del. Super. Ct. Apr. 16, 2014)
- Bako Pathology LP v. Bakotic, 288 A.3d 252, 281 (Del. 2022)
- 2009 Caiola Family Trust v. PWA, LLC, 2015 WL 6007596, at *33 (Del. Ch. Oct. 14, 2015)
- Kuroda v. SPJS Holdings, L.L.C., 971 A.2d 872, 891 (Del. Ch. 2009)
- Textron Inc. v. Endurance American Insurance Co., 346 A.3d 639, 653 (Del. Super. Ct. 2025)
- Citadel Holding Corp. v. Roven, 603 A.2d 818, 826 (Del. 1992)
- Fortis Advisors, LLC v. Dematic Corp., 2023 WL 2967781, at *1-*2 (Del. Super. Ct. Apr. 13, 2023)

- Moskowitz v. Mayor and City Council of Wilmington, 391 A.2d 209, 210 (Del. 1978)
- Daystar Construction Management, Inc. v. Mitchell, 2006 WL 2053649, at *7 (Del. Super. Ct. July 12, 2006)
- Word v. Johnson, 2005 WL 2899684, at *4 (Del. Ch. Oct. 28, 2005)
- BioLife Solutions, Inc. v. Endocare, Inc., 838 A.2d 268, 278 (Del. Ch. 2003), as revised (Oct. 6, 2003)

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