

PRECISION MEDICINE GROUP
HOLDINGS, INC,

V.

Defendants.

MEMORANDUM OPINION AND ORDER

Upon Consideration of Plaintiff's

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Rennie, J.

I. INTRODUCTION

This is an insurance coverage dispute. One of Plaintiff Precision Medicine Group Holdings, Inc.'s ("Precision") customers accused a Precision subsidiary of wrongfully using certain of the customer's information. Precision settled that claim before a lawsuit was filed. Precision sought coverage for the settlement payment and associated costs from Defendants Endurance American Specialty Insurance Company ("Endurance") and Steadfast Insurance Company ("Steadfast", and collectively with Endurance, the "Insurers"). The Insurers denied coverage.

Precision brought this suit for breach of contract and declaratory judgment. The Insurers move to dismiss, arguing that the policies do not cover Precision's alleged intentional theft of its customers trade secrets and other information. Precision disagrees and moves for summary judgment.

Unsurprisingly, the parties present competing interpretations of the facts and the relevant policy provisions. At this stage of the proceedings, however, the Court must accept the well-pled allegations in the Complaint as true and will only adopt Insurers' interpretation of the policies if it is the only reasonable interpretation. Insurers have failed to carry their burden. Hence, viewing Precision's Complaint in the light most favorable to it, Precision has stated a claim under the policies. However, its count for declaratory judgment is duplicative of its count for breach of

contract. Accordingly, Insurers' motions are **GRANTED** on Count II and **DENIED** on Count I.

A different standard applies for summary judgment. At this early stage in the litigation, the record is not developed on several key issues. The Court will exercise its discretion to deny summary judgment to allow the parties to continue developing the record. Accordingly, Precision's motion for summary judgment is **DENIED**.

II. BACKGROUND¹

A. The Parties

Plaintiff Precision is a Delaware corporation with its principal place of business in Maryland.² Precision provides services to biotechnology companies, including clinical research organization services, biomarker platform technologies, data-driven clinical trial management and operations, and biomanufacturing consulting.³

Defendant Endurance is a Delaware corporation with its principal place of business in New York.⁴ Endurance issued the primary policy in this matter.⁵

¹ The facts are drawn from the well-pled allegations in the Complaint (D.I. 1) ("Compl.") and those documents referenced and incorporated into the Complaint, as found in the exhibits to Insurers' Motions to Dismiss (D.I. 24; D.I. 27).

² Compl. ¶ 12.

³ Compl. ¶ 20.

⁴ Compl. ¶ 13.

⁵ Compl. ¶ 23.

Defendant Steadfast is an Illinois corporation with its principal place of business in Illinois.⁶ Steadfast issued the excess policy in this matter.⁷

B. Procedural History

Precision filed its Complaint on December 13, 2024.⁸ Steadfast moved to dismiss on February 12, 2025.⁹ Endurance moved to dismiss on February 13, 2025.¹⁰ On March 17, 2025, Precision filed a combined opposition brief and brief in support of its motion for summary judgment.¹¹ The Insurers submitted combined answering and reply briefs on April 23, 2025.¹² Precision filed its reply brief on May 14, 2025.¹³ The Court heard oral argument on May 21, 2025.

C. Nature of the Case

1. The Underlying Claim

In 2020, a Precision subsidiary began providing services to a third party (“Customer J”).¹⁴ That relationship was governed by a master contract services

⁶ Compl. ¶ 14.

⁷ Compl. ¶ 31.

⁸ D.I. 1.

⁹ D.I. 24 (“Steadfast Br.”).

¹⁰ D.I. 27 (“Endurance Br.”).

¹¹ D.I. 36 (“Precision Br.”).

¹² D.I. 46 (“Steadfast Reply”); D.I. 47 (“Endurance Reply”).

¹³ D.I. 49 (“Precision Reply”).

¹⁴ Compl. ¶ 33.

agreement (“MSA”).¹⁵ The MSA, and other confidentiality agreements, required Precision to maintain the confidentiality of Customer J’s trade secrets and other information.¹⁶

In October 2022, Customer J confronted Precision about its improper use of Customer J’s [REDACTED]¹⁷ Customer J provided Precision with a draft complaint it was prepared to file.¹⁸ Customer J alleged that Senior Management at Precision instructed Precision employees working at Customer J to divulge confidential and trade secret information that Precision could use for its own benefit.¹⁹ Customer J alleged that it was [REDACTED] after [REDACTED] [REDACTED] of this information.²⁰ Customer J alleged that it informed Precision executives of the problem, but that the executives failed to properly investigate the issue, failed to be transparent about the investigation, and failed to discipline anybody.²¹

¹⁵ Compl. ¶ 2. The MSA is attached as Ex. 3 to the Precision Br.

¹⁶ Compl. ¶¶ 34, 35. *See also* Precision Br., Ex. B § 6.

¹⁷ Steadfast Br., Ex. A ¶¶ 1, 54.

¹⁸ Compl. ¶ 41.

¹⁹ Steadfast Br., Ex. A ¶¶ 1, 54.

²⁰ *Id.*, ¶¶ 59, 61.

²¹ *Id.*, ¶¶ 61-63.

2. The Insurance Policies

Precision purchased primary and excess insurance policies from the Insurers that cover the policy period from August 1, 2022 to August 1, 2023 (the “Policies”).²² Endurance issued the Premier Professional Liability and Network Risk Insurance Policy No. PRV30023094500 (the “Primary Policy”).²³ Steadfast issued the Professional Liability Follow Form Excess Policy No. EOC 4445355-02 (the “Excess Policy”).²⁴ The Excess Policy follows form with the Primary Policy.²⁵

The Primary Policy provides:

The Insurer shall pay Loss on behalf of an Insured on account of a Claim first made against such Insured during the Policy Period ... for a Privacy Event or Network Security Event that takes place on or after the Retroactive Date and before the end of the Policy Period.²⁶

Privacy Event is defined as, among other things,

Actual or suspected unauthorized disclosure, loss, or theft of ... information of a third party that is not available to the general public, the Insured is legally responsible to maintain the confidentiality of, and that is in the care, custody, or control of any Insured or third-party service provider.²⁷

²² Compl. ¶ 21. The Policies are attached as Ex. B (primary) and Ex. C (excess) to the Steadfast Br.

²³ Steadfast Br., Ex. B.

²⁴ Steadfast Br., Ex. C.

²⁵ Compl. ¶ 32.

²⁶ Steadfast Br., Ex. B, § 1.D.

²⁷ *Id.*, § 3.

The Primary Policy contains three exclusions that are relevant to this dispute: the intellectual property exclusion, the contractual liability exclusion, and the unfair business practices exclusion.

The intellectual property exclusion provides:

The Insurer shall not be liable for Loss based upon, arising from, or attributable to any actual or alleged infringement, misappropriation, or violation of any intellectual property rights, including ... trade secret, or idea; except that this Exclusion shall not apply to ... the disclosure, loss, or theft of a trade secret or idea resulting from a Privacy Event.²⁸

The contractual liability exclusion provides:

The Insurer shall not be liable for Loss on account of any Claim based upon, arising from, or attributable to breach of contract ... except that this Exclusion shall not apply to ... breach of confidentiality of a third party arising from a Privacy Event.²⁹

The unfair business practices exclusion provides:

The Insurer shall not be liable for Loss on account of any Claim based upon, arising from, or attributable to any actual or alleged false, deceptive, or unfair business practices ... except that this Exclusion shall not apply to a Claim for a Privacy Event....³⁰

²⁸ Steadfast Br., Ex. B § 4.A.5.

²⁹ *Id.* § 4.B.2.

³⁰ *Id.* § 4.B.9.

3. *Insurers Deny Coverage*

Precision notified the Insurers on January 20, 2023.³¹ Endurance denied coverage on October 6, 2023.³² Steadfast has never acknowledged coverage and has not paid any covered losses.³³

III. STANDARD OF REVIEW

A. Motion to Dismiss

On a motion to dismiss for failure to state a claim upon which relief can be granted under Rule 12(b)(6),³⁴ all well-pleaded allegations in the complaint must be accepted as true.³⁵ Even vague allegations are considered well-pleaded if they give the opposing party notice of a claim.³⁶ The Court must draw all reasonable inferences in favor of the non-moving party.³⁷

The Court, however, will not accept conclusory allegations unsupported by specific facts, nor will it draw unreasonable inferences in favor of the non-moving party.³⁸ Dismissal is not appropriate unless the “plaintiff would not be entitled to

³¹ Compl. ¶ 40.

³² Compl. ¶ 42.

³³ Compl. ¶ 44.

³⁴ Del. Super. Ct. Civ. R. 12(b)(6).

³⁵ *Spence v. Funk*, 396 A.2d 967, 968 (Del. 1978).

³⁶ *In re Gen. Motors (Hughes) S’holder Litig.*, 897 A.2d 162, 168 (Del. 2006) (quoting *Savor, Inc. v. FMR Corp.*, 812 A.2d 894, 896–97 (Del. 2002)).

³⁷ *Id.*

³⁸ *Sees v. Mackenzie*, 2023 WL 5202675, at *2 (Del. Super. Aug. 14, 2023).

recover under any reasonably conceivable set of circumstances susceptible of proof.”³⁹

B. Motion for Summary Judgment

Summary judgment is proper when there is no genuine issue of material fact, and the movant is entitled to judgment as a matter of law.⁴⁰ Accordingly, “[s]ummary judgment will not be granted if there is a material fact in dispute or if it seems desirable to inquire thoroughly into the facts in order to clarify the application of the law to the circumstances.”⁴¹ On a motion for summary judgment, “[a]ll facts and reasonable inferences must be considered in a light most favorable to the non-moving party.”⁴²

IV. ANALYSIS⁴³

A. Motion to Dismiss

To survive a Rule 12(b)(6) motion to dismiss, a pleading for breach of contract must allege: (1) the existence of a contract, (2) that the contract was breached, and

³⁹ *Windsor I, LLC v. CWCapital Asset Mgmt. LLC*, 238 A.3d 863, 871–72 (Del. 2020) (quoting *In re Gen. Motors*, 897 A.2d at 168).

⁴⁰ Super. Ct. Civ. R. 56(c).

⁴¹ *Gibbs v. 84 Lumber Company*, 2020 WL 5798072, at *2 (Del. Super. Sept. 28, 2020) (internal quotation omitted).

⁴² *Nutt v. A.C. & S. Co.*, 517 A.2d 690, 692 (Del. Super. 1986).

⁴³ The parties debate whether Maryland or Delaware law applies. “The record is undeveloped with respect to all the factors relevant to a choice of law analysis, and the Court declines to determine at this point which state’s law applies to this dispute.” *Cresa Glob. Inc. v. Chirisa Capital Mgmt. (US) LLC*, 2025 WL 53168, at *4 (Del. Super. Jan. 9, 2025). As the Insurers concede, Delaware procedural law applies. *See* *Endurance Br.*, at 10 n.2.

(3) that damages were suffered because of the breach.⁴⁴ For the purposes of their motions, the Insurers argue that Precision has failed to allege a breach.

The Insurers primarily argue that Precision has not adequately alleged a Privacy Event under the Policies. Steadfast argues that the doctrine of *ejusdem generis* compels the Court to construe the meaning of “information” as used in the section 1.b definition of Privacy Event as “Personal Information” because it falls within a list of definitions that generally refers to “Personal Information.”⁴⁵ The Complaint does not contain any allegations relating to Personal Information so, Steadfast argues, Precision has not alleged that a Privacy Event has occurred and hence has not stated a claim.⁴⁶ Endurance argues that Precision has not pled the necessary “unauthorized disclosure, loss or theft” of confidential information to trigger coverage.⁴⁷ Further, Endurance argues that Precision has not alleged that any stolen information was in Precision’s “care, custody, or control.”⁴⁸

Steadfast argues that even if Precision’s claim does fall within the language of the Policies, the Policies require the loss to be “fortuitous.”⁴⁹ Finally, Steadfast

⁴⁴ *Cartel Media Grp. LLC v. Barone*, 2021 WL 3673215, at *2 (Del. Super. Aug. 16, 2021).

⁴⁵ Steadfast Br., at 21-22.

⁴⁶ *Id.*, at 21-24.

⁴⁷ Endurance Br., at 14-18.

⁴⁸ Endurance Br., at 18-22.

⁴⁹ Steadfast Br., at 25-27.

argues that the claim is barred by the intellectual property exclusion, the contractual liability exclusion, and the unfair business practices exclusion.⁵⁰

i. Precision Has Adequately Alleged a Privacy Event

The Insurers' primary argument is that Precision has not alleged a Privacy Event, as defined by the Policies. The Insurers rely on allegations in the draft complaint from Customer J throughout their briefs, and so the Court will consider those allegations for the purposes of this motion.⁵¹

The Policies define Privacy Event, in relevant part, as:

Actual or suspected unauthorized disclosure, loss, or theft of ... information of a third party that is not available to the general public, the Insured is legally responsible to maintain the confidentiality of, and that is in the care, custody, or control of any Insured or third-party service provider.⁵²

Thus, to trigger coverage under the Policies, Customer J must have alleged (1) unauthorized disclosure, loss, or theft, (2) of non-public information, (3) that Precision was legally responsible to maintain the confidentiality of, and (4) was in Precision's care, custody, or control.

⁵⁰ *Id.*, at 28-31.

⁵¹ *See, e.g.*, *Steadfast Br.*, at 3 n.3 (“Steadfast attaches the J Complaint hereto. Doing so does not convert this motion to dismiss into a motion for summary judgment ... because the J Complaint is incorporated by reference in the Complaint, is integral to, and the basis of, Plaintiff’s claim....”); *Endurance Br.*, at 14 (“the [REDACTED] Complaint establishes that Precision cannot allege that the elements [for a Privacy Event] are met.”).

⁵² *Steadfast Br.*, Ex. B § 3.

The parties present competing interpretations of several words in this provision. Under Delaware and Maryland law, the Court will interpret the Policies using ordinary contract interpretation principles.⁵³ Contract interpretation may be determined at the motion to dismiss stage, but the Court will only adopt the movant’s construction if it is the only reasonable construction.⁵⁴

First, Steadfast argues that the Court must interpret “information” to mean “Personal Information” as defined in the Policies. In that case, a Privacy Event would not include the theft of a trade secret. The Court, however, “must interpret contractual provisions in a way that gives effect to every term of the instrument, and [in a manner] that, if possible, reconciles all of the provisions of the instrument when read as a whole.”⁵⁵

A review of the language in the Policies shows why Steadfast’s interpretation is flawed. The Policies include an intellectual property exclusion.⁵⁶ That exclusion provides that it does not apply to “the disclosure, loss, or theft of a trade secret or

⁵³ *RSUI Indem. Co. v. Murdock*, 248 A.3d 887, 905 (Del. 2021); *Megonnell v. United Servs. Auto. Ass’n*, 796 A.2d 758, 772 (Md. 2002).

⁵⁴ *Bastion Rest. Grp. LLC v. Gaudalet*, 2024 WL 5135977, at *4 (Del. Super. Dec. 17, 2024); *O’Brien & Gere Eng’rs, Inc. v. City of Salisbury*, 135 A.3d 473, 491 (Md. 2016).

⁵⁵ *Council of Dorset Condo. Apartments v. Gordon*, 801 A.2d 1, 7 (Del. 2002). See also *Credible Behavioral Health, Inc. v. Johnson*, 220 A.3d 303, 312 (Md. 2019) (“[W]hen interpreting contracts, we also attempt to construe contracts as a whole, to interpret their separate provisions harmoniously, so that, if possible, all of them may be given effect.”) (cleaned up).

⁵⁶ Steadfast Br., Ex. B § 4.5.

idea resulting from a Privacy Event.”⁵⁷ In other words, under the plain terms of the Policies, a Privacy Event can lead to the disclosure of a trade secret. Thus, “information” as used in the 1.b definition of Privacy Event must include non-Personal Information (like trade secrets). If the Court were to adopt Steadfast’s interpretation, it would render this part of the exclusion meaningless. The Court will not adopt such an interpretation.

Endurance argues that the definition of “theft” as used in the definition of Privacy Event cannot include theft of information that is already in the Insured’s “care, custody, or control.”⁵⁸ Precision counters that the definition is not so limited, and even if it were, the trade secrets and other information allegedly stolen always remained the property of Customer J.⁵⁹ The court finds that Precision’s interpretation of theft is reasonable. As Precision points out, theft includes when a party “legally receives” the “property of another” and “fraudulently converts the same to the person’s own use.”⁶⁰ Accordingly, Endurance has not carried its burden to show that its interpretation is the only reasonable interpretation.

⁵⁷ *Id.*

⁵⁸ Endurance Br., at 15-16.

⁵⁹ Precision Br., at 28-29.

⁶⁰ 11 *Del. C.* § 841(b). See also Md. Code, Crim. L., § 7-102(a) (theft includes the crime of embezzlement).

Finally, Endurance argues that Precision has not alleged that any stolen information was in Precision’s “care, custody, or control.” Endurance says that because Precision accessed information beyond its authorization in the MSA, any information it stole was not in its care, custody or control.⁶¹ An interpretation to the contrary, Endurance argues, would render section 2 of the definition of Privacy Event meaningless because that section relates to the “unauthorized collection of Personal Information.”⁶²

Again, Precision’s interpretation of “care, custody, or control” is reasonable. The allegations in the Customer J complaint are that:

- Section [REDACTED] of the MSA [REDACTED]
[REDACTED]⁶³
- Section [REDACTED] of the MSA [REDACTED]
[REDACTED]
[REDACTED]⁶⁴

⁶¹ Endurance Br., at 19-22.

⁶² *Id.*

⁶³ Steadfast Br., Ex. A ¶42 (emphasis added).

⁶⁴ *Id.* ¶ 43.

- Section [REDACTED] of the MSA limits Precision's [REDACTED]
[REDACTED]
[REDACTED]⁶⁵
- Precision was given access to all information it improperly disclosed pursuant to various work orders.⁶⁶
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]⁶⁷

Customer J is not alleging that Precision's access to this information was beyond what it was authorized to access. Rather it is alleging that what Precision allegedly did with the information, *i.e.* stealing and disclosing, was beyond what Precision was authorized to do with the information. Accordingly, viewing these allegations in the light most favorable to Precision, Customer J has alleged that the information was in Precision's "care, custody or control."

For any claim against Precision to trigger coverage under the Policies, there must be: (1) a Claim (2) relating to a Privacy Event (3) made between February 26,

⁶⁵ *Id.* ¶ 44 (emphasis added).

⁶⁶ *Id.* ¶ 46.

⁶⁷ *Id.* ¶ 65.

2009 and August 1, 2023 (4) that Precision properly gave notice of to the Insurers (5) that does not fall within any policy exclusions.⁶⁸

Precision has adequately pled all necessary elements to state a claim. Precision has alleged that there was a timely Claim.⁶⁹ The Customer J complaint alleges that Claim is related to a Privacy Event. It alleges an unauthorized disclosure of Customer J's trade secret and confidential information.⁷⁰ It alleges that Precision is legally responsible to maintain that information's confidentiality.⁷¹ It alleges that information was in Precision's care, custody, or control.⁷² As discussed below, none of the exclusions are applicable. Hence, Precision has stated a claim.

ii. Insurers Have Not Shown that the Policies Require any Loss to be "Fortuitous."

Steadfast has not shown that any loss under the Policies must be fortuitous. Indeed, Insurers argue that Maryland law applies, and their own case cite shows that Maryland has not decided the issue.⁷³ There is Delaware caselaw that may support

⁶⁸ Steadfast Br., Ex. B., Item 2, Item 3, § 1.D, § 3.

⁶⁹ Compl. ¶¶ 4, 5, 37, 40, 41.

⁷⁰ Precision Br., Ex. 8 ¶ 61 (alleging Precision's [REDACTED]; *Id.* ¶ 37 (allegations about Precision [REDACTED])).

⁷¹ Compl. ¶ 3; Precision Br., Ex. 8 ¶¶ 41-43, 46.

⁷² Precision Br., Ex. 8 ¶¶ 43, 44, 46, 65.

⁷³ Steadfast Br., at 25.

Steadfast's argument.⁷⁴ The Court, however, is not making a choice of law determination at this time.

Even if the Policies do require any loss to be fortuitous, Steadfast's motion would still fail. Viewing the alleged facts in the light most favorable to Precision, it is not obvious that the claim is one that Precision knew about, planned, was aware of, or intended.⁷⁵ Hence, the Insurers have not met their burden on this point.

iii. Precision's Claim Does Not Fall Under a Policy Exclusion

Under Delaware and Maryland law, if the policies' language is clear, then the Court will apply their plain meaning.⁷⁶ Here, the exclusions are clear. Each exclusion cited by Steadfast explicitly says that the exclusion does not apply to a Privacy Event.⁷⁷ Precision is only claiming coverage for losses related to a Privacy Event. Hence, the exclusions do not apply to this dispute.

iv. Precision's Declaratory Judgment Claim is Duplicative of its Breach of Contract Claim

"To survive dismissal, a declaratory count must be distinct from the affirmative counts such that a decision on the affirmative counts would not resolve

⁷⁴ See, e.g., *Dickerson v. Nationwide Mutual Ins. Co.*, 2016 WL 1714304, at *6 (Del. Super. Apr. 25, 2016).

⁷⁵ *Id.* See also Steadfast Br., Ex. A. ¶ 63 ([REDACTED]). ¶

⁷⁶ *Universal Underwriters Ins. Co. v. Lowe*, 761 A.2d 997, 1005 (Md. 2000); *Options Clearing Corp. v. U.S. Specialty Ins. Co.*, 2021 WL 5577251, at *9 (Del. Super. Nov. 30, 2021).

⁷⁷ Steadfast Br., Ex. B § 4.A.5; *Id.* § 4.B.2.; *Id.* § 4.B.9.

the declaratory count.”⁷⁸ Precision’s declaratory judgment count is not a distinct cause of action. Through its declaratory judgment count, Precision seeks “a declaration by this Court that Insurers are obligated under their Policies to pay Precision’s losses and expenses that Precision incurred with respect to the Claim.” Precision seeks the same thing in Count I, except in the language of breach.⁷⁹ “There is no daylight between these two claims; resolution of [Count I] would fully resolve [Count II].”⁸⁰ Count II is, therefore, duplicative. The Insurers’ motions are **GRANTED** with respect to Count II.

B. Summary Judgment

“Under no circumstances ... will summary judgment be granted if, upon an examination of all the facts, it seems desirable to inquire thoroughly into them in order to clarify the application of the law to the circumstances. And the Court has discretion to—and, indeed, should—deny summary judgment in that instance.”⁸¹

As discussed, Precision has adequately stated a claim for coverage under the Policies. Precision, however, assumes that if it is successful in defending against the motion to dismiss then it is entitled to summary judgment.⁸² But there are different

⁷⁸ *Bastion Rest. Grp. LLC*, 2024 WL 5135977, at *5.

⁷⁹ *PVP Aston, LLC v. U.S. Bank N.A.*, 2023 WL 525059, at *11 (Del. Super. Jan. 24, 2023).

⁸⁰ *Bastion Rest. Grp. LLC*, 2024 WL 5135977, at *6.

⁸¹ *RE: Pollen Mobile LLC v. CalChip Connect, Inc.*, 2025 WL 1341984, at *3 (Del. Super. Apr. 21, 2025).

⁸² *See generally* Precision Br.

standards that apply to a motion for summary judgment, and Precision has not met those standards at this point. As the saying goes, you do not get a trophy at halftime.

As one example, at this stage of the litigation, Precision has not proven as a matter of law that a “Claim” was made within the Policy Period. Under the Policies, a “Claim” must be made in writing, demanding monetary or nonmonetary relief, after February 26, 2009 and before August 1, 2023.⁸³ The Complaint in this case is admittedly sparse, and the allegations are sometimes vague. The Complaint broadly defines “Claim” to include communications with Customer J and a draft complaint that Customer J provided to Precision. On a motion to dismiss, the Court can infer from Precision’s timely notice that a written demand was made during the Policy Period.⁸⁴ However, more is required for summary judgment.

At this early stage, the only evidence in the record of writings from Customer J are the draft complaint and a litigation hold letter.⁸⁵ The draft complaint is dated for August 23, 2023, after the expiration of the Policies.⁸⁶ And it is not clear if the litigation hold letter is demanding any relief. It is possible that there was a written demand for relief made during the Policy Period and that Precision complied with all procedural steps to invoke coverage. However, it is too early to tell. The parties

⁸³ Precision Br., Ex. 1, Item 2 and Item 3.

⁸⁴ *Gen. Motors (Hughes) S’holder Litig.*, 897 A.2d, at 168.

⁸⁵ Precision Br., Ex. 7, Ex. 8.

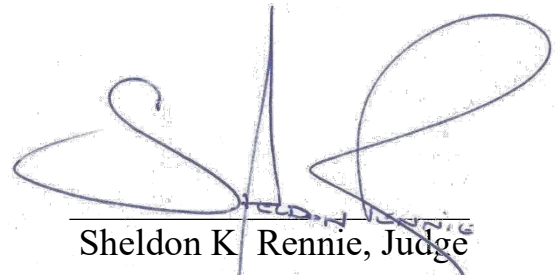
⁸⁶ Precision Br., Ex. 8.

have not yet addressed any of these issues.⁸⁷ Accordingly, the Court will exercise its discretion to deny summary judgment to allow the parties to more thoroughly develop the record.⁸⁸

V. CONCLUSION

For these reasons, the Court **GRANTS-in-part** and **DENIES-in-part** the Defendants' Motions to Dismiss and **DENIES** the Plaintiff's Motion for Summary Judgment.

IT IS SO ORDERED.



Sheldon K. Rennie, Judge

⁸⁷ Endurance Br., at 12.

⁸⁸ *Pollen Mobile LLC*, 2025 WL 1341984, at *3.