IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

NAIM FAHRI DINER	)	
	)	
Plaintiff/Counterclaim-Defendant,	)	
	)	C.A. No.: N25C-02-072 EMD CCLD
v.	)	
	)	
PLUME DESIGN, INC.,	)	
	)	
Defendant/Counterclaim-Plaintiff.	)	

Submitted: November 14, 2025
Decided: February 20, 2026
Redacted: March 4, 2026[1]

Upon Defendant/Counterclaim Plaintiff Plume Design, Inc.'s Motion for Judgment on the Pleadings
GRANTED in part and DENIED in part

Upon Plaintiff/Counterclaim Defendant's Motion for Summary Judgment on Count I of the Verified Complaint
GRANTED in part and DENIED in part

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DAVIS, P.J.

[1] The Court received a request from the parties to keep certain portions of the decision confidential to Del. Super. Civ. R. 5(g)(4). The parties seek confidential treatment only as to certain facts and not to any substantive portion of the decision. After review, the Court finds the parties' request complies with Del. Super. Civ. R. 5(g)(4) and is redacting portions of this decision as confidential.

I. INTRODUCTION

This is a civil action assigned to the Complex Commercial Litigation Division of the Court. Plaintiff Naim Fahri Diner seeks declaratory relief and damages from his former employer, Defendant Plume Design, Inc. ("Plume").[2] Mr. Diner filed his Complaint with the Court on February 11, 2025.[3] In Count I, Mr. Diner requests a declaratory judgment stating that (i) he properly retired his note with Plume; and (ii) he is not responsible for paying the tax costs related to surrendering his stock options tied to the Secured Promissory Note.[4]

In response, Plume filed its Counterclaims and Answer to the Verified Complaint on March 11, 2025.[5] In Counterclaim Count I, Plume requests a declaratory judgment that Mr. Diner did not properly retire his note with Plume. In support, Plume contends that (i) Mr. Diner had to pay any withholding tax before retiring the note; and (ii) Mr. Diner relied on an outdated valuation which meant Mr. Diner did not retire the requisite number of options.[6] In Counterclaim Count II, Plume seeks a declaratory judgment that Mr. Diner is liable for the tax costs associated with exercising his stock options under the 2015 Stock Incentive Plan and subsequent Stock Option Agreements.[7] Mr. Diner filed his Answer to Defendant's Counterclaims on March 31, 2025.[8]

Before the Court is Mr. Diner's Motion for Summary Judgment (the "Diner Motion") filed on May 2, 2025.[9] Also before the Court is Plume's Motion for Judgment on the Pleadings

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[2] *See* Verified Complaint for Declaratory Relief and Damages (hereinafter "Compl.") (D.I. No. 1).
[3] *Id*.
[4] *See id.* ¶¶ 73–82.
[5] *See* Defendant's Counterclaims and Answer to the Verified Complaint (hereinafter "Counercl.") (D.I. No. 7).
[6] Countercl. ¶¶ 54–62.
[7] *Id*. at ¶¶ 64–71.
[8] Plaintiff's Answer to Defendant's Counterclaims (D.I. No. 9).
[9] Plaintiff/Counterclaim Defendant's Motion for Summary Judgment on Count I of the Verified Complaint (D.I. No. 13).

(the "Plume Motion") filed on May 2, 2025.[10] Mr. Diner moves for summary judgment on Count I of the Verified Complaint.[11] Plume moves for judgment on the pleadings on the Verified Complaint and its Counterclaims.[12]

Both Motions are opposed, and the parties filed Answering Briefs on July 31, 2025.[13] The parties filed Reply Briefs on August 21, 2025.[14] The Court heard oral arguments on the motions on November 14, 2025, at which time the Court took the matter under advisement.[15]

For the reasons stated below, the Court **GRANTS in part and DENIES in part** the Diner Motion and **GRANTS in part and DENIES in part** the Plume Motion.

II. BACKGROUND

A. PARTIES

Plaintiff Naim Fahri Diner is a dual citizen of the United States and the Republic of Cyprus, currently residing in Zurich, Switzerland.[16] Defendant Plume is a Delaware Corporation with principal executive offices in Palo Alto, California.[17] Until November 21, 2024, Mr. Diner served as the CEO of both Plume and a Swiss entity wholly owned by Plume.[18]

B. THE AGREEMENTS

Several agreements govern the issues between the parties—the 2015 Stock Incentive Plan (the "Plan") and the stock option agreements upon issuance (the "Option Agreements").

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[10] Defendant/Counterclaim Plaintiff's Motion for Judgment on the Pleadings (D.I. No. 12).
[11] *See* Plaintiff/Counterclaim Defendant's Motion for Summary Judgment on Count I of the Verified Complaint.
[12] *Id*.
[13] Plaintiff/Counterclaim Defendant's Answering Brief in Opposition to Defendant/Counterclaim Plaintiff's Motion for Judgment on the Pleadings and Defendant/Counterclaim Plaintiff's Answering Brief in Opposition to Plaintiff/Counterclaim Defendant's Motion for Summary Judgment on Count I of the Verified Complaint (D.I. Nos. 18 and 19, respectively).
[14] Plaintiff/Counterclaim Defendant's Reply Brief in Further Support of his Motion for Summary Judgment on Count I of the Verified Complaint and Defendant/Counterclaim Plaintiff's Reply Brief in Further Support of its Motion for Judgment on the Pleadings (D.I. Nos. 20 and 22, respectively).
[15] D.I. 27.
[16] Compl. ¶ 20.
[17] *Id*. ¶ 21.
[18] *Id*. ¶ 20.

Through these agreements, Plume granted Mr. Diner stock options as part of his overall compensation.[19]

In 2022, Plume's Board of Directors authorized Mr. Diner to borrow funds from Plume.[20] In connection with the loan, Mr. Diner and Plume executed a Secured Promissory Note (the "2022 Note"), which was later amended on February 20, 2024 (the "2024 Note").[21]

C. NATURE OF THE DISPUTE

Mr. Diner co-founded Plume, a company that specializes in "smart" homes.[22] Mr. Diner presided as the CEO and served as a board member since Plume's founding in 2015.[23] Plume granted Mr. Diner stock options over the years as compensation to Mr. Diner.[24] To do this, Plume operated under the Plan and the Option Agreements.[25] No one paid any tax when Plume granted the options to Mr. Diner.[26]

In 2022, Plume's Board authorized Mr. Diner to borrow $**[REDACTED]** from Plume.[27] Plume secured the loan with Mr. Diner's stock and unexercised stock options in Plume.[28] Mr. Diner signed the 2022 Note in connection with the loan.[29] In February 2024, the parties amended and extended the 2022 Note by entering into the 2024 Note.[30]

The Board voted to remove Mr. Diner as CEO at a November 2024 meeting.[31] On November 21, 2024, Plume's Chief Human Resources Officer sent a Termination Notice and

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[19] Countercl. ¶ 3.
[20] *Id*. ¶¶ 2, 6.
[21] *Id*. ¶ 2.
[22] Compl. ¶ 2.
[23] *Id*. ¶ 3.
[24] Countercl. ¶ 3
[25] *Id*.
[26] *Id*. ¶ 38.
[27] Compl. ¶ 6.
[28] *Id*.
[29] *Id*.
[30] *Id*. ¶ 11.
[31] *Id*. ¶ 15.

Garden Leave letter to Mr. Diner.[32] On November 26, 2024, Mr. Diner emailed Plume director Ryan Hinkle to advise Mr. Hinkle that Mr. Diner intended to pay the 2024 Note balance via surrender of vested but unexercised stock options.[33] The Board responded that it would only allow Mr. Diner to exercise his right to surrender the stock options if Mr. Diner first advanced the tax withholding obligation arising from the surrender.[34]

Mr. Diner then submitted the Repayment Notice to Plume on December 9, 2024, effective January 1, 2025.[35] The Repayment Notice purported to satisfy the 2024 Note through the surrender of Mr. Diner's stock options.[36] Mr. Diner maintained that his stock options covered the entire 2024 Note.[37] Mr. Diner premised his position on a Plume stock valuation of $**[REDACTED]** per share.[38] Mr. Diner based this number on a 409A valuation of Plume effective April 15, 2024.[39] Plume received an updated 409A valuation, effective January 1, 2025, that assigned a value of $**[REDACTED]** per share.[40] Mr. Diner did not pay any withholding tax obligation relating to the stock option surrender.[41] On December 13, 2024, Plume's counsel notified Mr. Diner that Mr. Diner could not pay the 2024 Note with his stock options if he did not cover the tax withholding obligation before the surrender date.[42]

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[32] Countercl. ¶ 31.
[33] *Id*. ¶ 33.
[34] *Id*. ¶ 34.
[35] Compl. ¶ 17.
[36] *Id*.
[37] *Id*.
[38] *Id*.
[39] Countercl. ¶ 51.
[40] *Id*. ¶ 52.
[41] *Id*. ¶ 55.
[42] Compl. ¶ 17.

D. THE RELEVANT CONTRACT PROVISIONS

1. The Plan

Plume issued each stock option to Mr. Diner under the Plan.[43] Section 11 of the Plan provides:

> An Optionee or Purchaser or his or her successor shall pay, or make arrangements satisfactory to the Board for the satisfaction of, any federal, state, local or foreign withholding tax obligations that may arise in connection with the Plan. The Company shall not be required to issue any Shares or make any cash payment under the Plan until such obligations are satisfied.[44]

2. The Option Agreements

Each stock option issuance also came with an Option Agreement.[45] The Option Agreements each incorporate the Plan's text.[46] And each Option Agreement includes language related to tax payments.[47] Section 18 of the Option Agreements states:

> By accepting this Option, you acknowledge that any tax liability or other adverse tax consequences to you resulting from the grant of the Option will be the responsibility of, and will be borne entirely by, you. YOU ARE THEREFORE ENCOURAGED TO CONSULT YOUR OWN TAX ADVISOR BEFORE ACCEPTING THE GRANT OF THIS OPTION.[48]

This language in each Option Agreement Section 18 is identical.[49] Moreover, each Option Agreement says:

> You will not be allowed to exercise this Option unless you pay, or make acceptable arrangements to pay, any taxes, social insurance contributions or similar amounts required to be withheld as a result of the Option exercise or the sale of Shares acquired upon exercise of this Option. You hereby authorize withholding from payroll or any other payment due you from the Company or your employer to satisfy any such withholding tax obligation.[50]

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[43] Countercl. ¶ 18.
[44] *Id*.¶ 18; Countercl. Ex. 1 § 11.1 (hereinafter the "Plan").
[45] *Id*. ¶ 3.
[46] Countercl. Ex. 2 (hereinafter the "Option Agreements") § 19.
[47] *See* Option Agreements § 18.
[48] Countercl. ¶ 18; Option Agreements § 18.
[49] *See* Option Agreements § 18; Countercl. ¶ 19 n.3.
[50] Option Agreements § 10(a).

This language is substantively identical across all Option Agreements.[51]

3. The Notes

In 2022, Mr. Diner borrowed money from Plume and secured the loan with his stock and unexercised stock options.[52] Mr. Diner and Plume executed the 2022 Note as part of the loan.[53] On February 20, 2024, Mr. Diner and Plume entered into an amendment and restatement of the 2022 Note—i.e., the 2024 Note.[54] The 2024 Note extended the loan at a higher interest rate.[55]

The 2024 Note allows for payment with "cash, cash equivalents, the surrender of shares of capital stock of the Company ("Shares"), or the surrender of vested and exercisable options to purchase the Company's common stock ("Options")."[56] The 2024 Note also states that:

> the value of any Option so surrendered will be equal to (x) the number of Shares subject to such Option multiplied by (y) the difference between (A) the Fair Market Value of a share of the Company's common stock at the time when the Option is surrendered and (B) the exercise price per share of the Option.[57]

Fair Market Value means "the fair market value of a Share, as determined by the board of directors of the Company . . . which, (a) in the case of a share of the Company's common stock shall be:

> (i) the most recent fair value of the Company's common stock as determined by an independent valuation firm that is qualified, independent of, and not affiliated with, the Company (a "***Valuation Firm***") or
>
> (ii) if the Board determines that the factual bases of the Valuation Firm's determination are no longer materially accurate and complete, then such other fair market value as the Board shall determine[.]"[58]

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[51] *See* Option Agreements § 10(a); Countercl. ¶ 20 n.5.
[52] Compl. ¶ 6.
[53] *Id*.
[54] *Id*. ¶ 11.
[55] *Id*.
[56] *Id*. Ex. A (hereinafter the "2024 Note") § 2(b)(ii).
[57] 2024 Note § 2(b)(ii)(2).
[58] *Id*.

The 2024 Note provides that the loan is nonrecourse.[59] The 2024 Note also contains an integration clause.[60]

III. PARTIES' CONTENTIONS

A. THE PLUME MOTION

1. Plume's Opening Brief in Support of its Motion for Judgment on the Pleadings.

Plume argues that Mr. Diner's payment notice is ineffective because Mr. Diner did not pay or arrange to pay all withholding taxes associated with his option surrender.[61] Mr. Diner had to pay the applicable withholding tax to exercise his stock options since the Plan and Option Agreements still apply.[62] Plume contends that the notice of payment is insufficient because it does not purport to surrender the number of options mandated by the 2024 Note.[63] Plume also asserts that Mr. Diner is responsible for paying the withholding tax under federal tax law.[64]

2. Mr. Diner's Answering Brief

Mr. Diner provides that the 2024 Note does not obligate him to pay withholding taxes upon surrendering his stock options.[65] Mr. Diner argues that a surrender of options is different from an exercise, and the surrendered options are sufficient to repay the 2024 Note entirely.[66]

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[59] *See* 2024 Note § 4 ("Notwithstanding anything to the contrary contained herein, this Note and the Pledge Agreement shall be nonrecourse obligations of Borrower and shall not give rise to a general obligation of Borrower.").
[60] 2024 Note § 5.
[61] Defendant/Counterclaim Plaintiff's Opening Brief in Support of its Motion for Judgment on the Pleadings at 16 (hereinafter "Plume Op. Br.") (D.I. No. 12).
[62] *Id*. at 16–22.
[63] *Id*. at 22–24.
[64] *Id.* at 14–26.
[65] Plaintiff/Counterclaim Defendant's Answering Brief in Opposition to Defendant/Counterclaim Plaintiff's Motion for Judgment on the Pleadings at 10–12 (hereinafter "Diner Opp'n") (D.I. No. 18).
[66] *Id*. at 12–25.

3. Plume's Reply

Plume maintains that Mr. Diner is obligated to pay any income tax obligations that arise from his stock options, and the 2024 Note does not change this fact.[67] Plume claims that the 2024 Note does not eliminate the prior agreements relating to the stock options and that, under those agreements, Mr. Diner had to satisfy his tax withholding obligations before retiring the 2024 Note with the stock options.[68] Moreover, even if Mr. Diner properly retied the 2024 Note, Mr. Diner still has to pay the withholding taxes associated with the stock options.[69]

B. THE DINER MOTION

1. *Mr. Diner's Opening Brief*

Mr. Diner claims he does not have to pay the withholding tax because the 2024 Note allows a cashless payoff.[70] Mr. Diner maintains that, since the 2024 Note is nonrecourse, the parties did not contemplate that Mr. Diner would have to make a cash payment to retire the 2024 Note.[71] Further, Mr. Diner asserts that his stock surrender collectively paid off the Note and accumulated interest.[72]

Mr. Diner points out that Plume's argument is flawed for at least two reasons. First, this was an option surrender — not an exercise — so the Option Agreements do not require any tax payment by Mr. Diner.[73] In support, Mr. Diner highlights the doctrine of independent legal

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[67] Defendant/Counterclaim Plaintiff's Reply Brief in Further Support of its Motion for Judgment on the Pleadings at 5–10 (hereinafter "Plume Reply") (D.I. No. 22).
[68] *Id*. at 10–22.
[69] *Id*. at 22.
[70] Plaintiff/Counterclaim Defendant's Opening Brief in Support of his Motion for Summary Judgment on Count I of the Verified Complaint at 11–14 (hereinafter "Diner Op. Br.") (D.I. No. 13).
[71] *Id*. at 11–14.
[72] *Id*. at 15–16.
[73] *Id*. at 16–17.

significance.[74] Second, the 2024 Note supersedes any other document that purports to impose additional conditions, as it contains an integration clause.[75]

2. Plume's Answering Brief

Plume continues to maintain that Mr. Diner is liable for the tax payment associated with the stock options.[76] Plume points out that Mr. Diner must pay the applicable taxes under federal tax law.[77] Moreover, both the Plan and Option Agreements require Mr. Diner to pay the tax, and Mr. Diner practically exercised his stock options when he tried to pay off the 2024 Note.[78] Plume also contends that the integration clause does not nullify the Plan and Option Agreements regarding the tax payment.[79] Plume says that the nonrecourse language is irrelevant to Mr. Diner's claims.[80]

Plume reiterates that Mr. Diner has not surrendered enough options to satisfy the Note.[81] Finally, Plume argues that the Court should deny Mr. Diner's Motion for Summary Judgment since the Motion relies on factual assertions contained in Diner's Affidavit, and Plume disputes these material facts.[82] Specifically, Plume challenges the value of the stocks with its more recent valuation.[83]

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[74] *Id*. at 17–18.
[75] *Id*. at 18–20.
[76] Defendant/Counterclaim Plaintiff's Answering Brief in Opposition to Plaintiff/Counterclaim Defendant's Motion for Summary Judgment on Count I of the Verified Complaint at 10 (hereinafter "Plume Opp'n") (D.I. No. 19).
[77] *Id*. at 10–15.
[78] *Id*. at 16–18.
[79] *Id*. at 18–19.
[80] *Id*. at 16–18.
[81] *Id*. at 19–22.
[82] *Id*. at 22–25.
[83] *Id*.

3. Mr. Diner's Reply

Mr. Diner suggests that the 2024 Note does not require him to pay the withholding tax obligation as a condition to surrendering his options to repay the 2024 Note.[84] Mr. Diner reiterates that the other agreements are irrelevant because the 2024 Note contains a merger clause.[85] Finally, Mr. Diner concludes that he is entitled to summary judgment since Plume failed to raise a genuine dispute of material fact on the issue of the value of the options.[86] On this, Mr. Diner highlights the fact that Plume did not submit its more recent valuation by affidavit as required by Superior Court Rule of Civil Procedure 56.[87]

IV. STANDARDS OF REVIEW

A. JUDGMENT ON THE PLEADINGS

To resolve Plume's Motion for Judgment on the Pleadings under Delaware Superior Court Civil Rule 12(c), "a trial court is required to view the facts pleaded and the inferences to be drawn from such facts in a light most favorable to the non-moving party."[88] Courts may grant a motion for judgment on the pleadings only when no material issue of fact exists, and the movant is entitled to judgment as a matter of law.[89] If a non-movant's claim presents a reasonably conceivable claim on the face of its complaint, courts will deny a motion for judgment on the pleadings.[90] Often, "judgment on the pleadings can be a proper vehicle for enforcing unambiguous contracts because there is no need to resolve material disputes of fact."[91]

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[84] Plaintiff/Counterclaim Defendant's Reply Brief in Further Support of his Motion for Summary Judgment on Count I of the Verified Complaint at 3–4 (hereinafter "Diner Reply") (D.I. No. 20).
[85] *Id*. at 4–11.
[86] *Id*. at 11–15.
[87] *Id.*
[88] *Desert Equities, Inc. v. Morgan Stanley Leveraged Equity Fund, II, L.P.*, 624 A.2d 1199, 1205 (Del. 1993).
[89] *Id.*
[90] *See Aequitas Sols, Inc. v. Anderson*, 2012 WL 2903324, at *2 (Del. Ch. July 10, 2012) ("The governing pleading standard for a motion to dismiss under Rule 12(b)(6) is reasonable conceivability. This reasonable conceivability standard asks whether there is a possibility of recovery.") (cleaned up).
[91] *Fortis Advisors, LLC v. Boston Dynamics Inc.*, 2025 WL 1356521, at *4 (Del. Super. Apr. 29, 2025).

Towards this end, the Court must determine "whether the 'provisions in controversy are reasonably or fairly susceptible of different interpretations or may have two or more different meanings.'"[92] If the contract's relevant provisions are unambiguous, judgment on the pleadings may be warranted.[93]

B. SUMMARY JUDGMENT

The standard of review on Mr. Diner's Motion for Summary Judgment is well-settled. The Court's principal function when considering a motion for summary judgment is to examine the record to determine whether genuine issues of material fact exist, "but not to decide such issues."[94] The court will grant summary judgment if, after viewing the record in a light most favorable to a non-moving party, no genuine issues of material fact exist and the moving party is entitled to judgment as a matter of law.[95] If, however, the record reveals that material facts are in dispute, or if the factual record has not been developed thoroughly enough to allow the Court to apply the law to the factual record, then summary judgment will not be granted.[96] The moving party bears the initial burden of demonstrating that the undisputed facts support his claims or defenses.[97] If the motion is properly supported, then the burden shifts to the non-moving party to demonstrate that there are material issues of fact for the resolution by the ultimate fact-finder.[98]

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[92] *Lillis v. AT&T Corp.*, 904 A.2d 325, 330 (Del. Ch. 2006) (quoting *Rhone-Poulenc Basic Chems. v. Am. Motorists Ins.*, 616 A.2d 1192, 1196 (Del. 1992)).
[93] *See id.*
[94] *Merrill v. Crothall-American Inc.*, 606 A.2d 96, 99 (Del. 1992) (internal citations omitted); *Oliver B. Cannon & Sons, Inc. v. Dorr-Oliver, Inc.*, 312 A.2d 322, 325 (Del. Super. 1973).
[95] *Oliver B. Cannon & Sons, Inc.*, 312 A.2d at 325.
[96] *See Ebersole v. Lowengrub*, 180 A.2d 467, 470 (Del. 1962); *see also Cook v. City of Harrington*, 1990 WL 35244, at *3 (Del. Super. Feb. 22, 1990) (citing *Ebersole*, 180 A.2d at 467) ("Summary judgment will not be granted under any circumstances when the record indicates . . . that it is desirable to inquire more thoroughly into the facts in order to clarify the application of law to the circumstances.").
[97] *See Moore v. Sizemore*, 405 A.2d 679, 680 (Del. 1979) (citing *Ebersole*, 180 A.2d at 470).
[98] *See Brzoska v. Olson*, 668 A.2d 1355, 1364 (Del. 1995).

V. DISCUSSION

A. MR. DINER DOES NOT HAVE TO PAY THE WITHHOLDING TAX AS A PREREQUISITE TO RETIRE THE 2024 NOTE.

1. The Note's integration clause does not wipe out the Plan and Option Agreements.

Under Delaware law, a binding and completely integrated agreement "discharges prior agreements to the extent that they are within its scope."[99] Under the parol evidence rule, the Court cannot consider evidence of a prior contradictory agreement to modify an integrated contract's terms.[100] A contract with an integration clause supersedes any prior agreement's terms covering the same subject matter.[101] If the previous agreement and subsequent agreement cover the same subject matter, and the subsequent agreement has an integration clause, then the preceding agreement must be memorialized to survive.[102]

Techno-X USA Inc. v. Spartan Forge LLC[103] is instructive. There, the parties disputed whether an integration clause in an LLC agreement extinguished a prior term sheet agreement.[104] To resolve the dispute, the Court of Chancery had to determine whether binding term sheet provisions fell within or outside the LLC agreement's subject matter.[105] The Court of Chancery ruled that the LLC agreement did not extinguish the term sheet's binding

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[99] *See Focus Fin. Partners, LLC v. Holsopple*, 241 A.3d 784, 822 (Del. Ch. 2020) (citing Restatement (Second) of Contracts § 213(2) (A.L.I. 1981)).
[100] *Park7 Student Hous., LLC v. PR III/Park7 SH Holdings, LLC*, 340 A.3d 614, 618 (Del. Ch. 2025); *see* 11 *Williston on Contracts* § 33:1 (4th ed.) ("The parol evidence rule is a substantive rule of law that prohibits the admission of evidence of prior or contemporaneous oral agreements, or prior written agreements, whose effect is to add to, vary, modify, or contradict the terms of a writing which the parties intend to be a final, complete, and exclusive statement of their agreement.").
[101] *Id*. 618–19 (citing *Fairstead Cap. Mgmt. LLC v. Blodgett*, 288 A.3d 729, 760 (Del. Ch. 2023)).
[102] *Id*. at 19.
[103] 2025 WL 1625387 (Del. Ch. June 9, 2025).
[104] *Id.* at *5.
[105] *Id*. at *6.

provisions.[106] In doing so, the Court differentiated the subject matter of the separate contracts.[107]

First, the Court of Chancery recognized that the LLC agreement governed internal affairs, management, and member relationships.[108] On the other hand, the term sheet addressed an investment and outlined the purchaser's and investor's relationship.[109] Second, the Court of Chancery considered that there were different parties in each agreement, and the LLC agreement was silent on subjects addressed in the term sheet's binding provisions.[110] As a result, the Court of Chancery held that the integration clause did not extinguish the term sheet's binding provisions that addressed issues beyond the LLC agreement's subject matter.[111]

Here, the Plan and Option Agreements cover a different subject matter than the 2024 Note. The Plan and Option Agreements cover Plume's stock issuance to Mr. Diner as compensation. The Plan and Option Agreements also outline the procedures for exercising the options. Importantly, the Plan and Option Agreements cover the tax consequences from exercising stock options. In contrast, the 2024 Note covers how Mr. Diner can repay his loan with his stock options, the 2024 Note's term, interest rate and penalties, and Plume's remedies for nonpayment. The 2024 Note does not have a tax payment provision.

The 2024 Note's integration clause states:

> This Note amends and restates in its entirety the Original Note. This Note, together with the Pledge Agreement, constitutes the entire agreement and understanding between the parties *with respect to the subject matter herein* and supersedes all prior written and oral agreements, discussions, or representations between the parties.[112]

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[106] *Id*. at *7.
[107] *Id*. at *6.
[108] *Id*.
[109] *Id*.
[110] *Id*. at *7.
[111] *Id*.
[112] 2024 Note § 5 (emphasis added).

As discussed, the 2024 Note relates to a different subject matter than the Plan and Option Agreements. The Original Note covered the same subject matter, and the integration clause supersedes the Original Note. The Plan and Option Agreements, and their tax provisions, are not extinguished by the 2024 Note because they cover a different subject matter than the 2024 Note.[113]

2. The prior agreements and 2024 Note do not require Mr. Diner to pay any tax obligations before surrendering stock options to retire the 2024 Note.

To interpret a contract, Delaware courts read the agreement as a whole and enforce the plain meaning of clear and unambiguous language.[114] Unambiguous language is reasonably susceptible to one interpretation.[115] Contract language does not have to be perfectly clear for the court to deem an interpretation as the only reasonable interpretation.[116] Ambiguity exists when a contract provision is fairly susceptible to differing interpretations.[117] "Where no ambiguity exists, the contract will be interpreted according to the 'ordinary and usual meaning' of its terms."[118]

The Plan and Option Agreements make Mr. Diner responsible for the taxes associated with *exercising* his stock options. The Plan states that an Optionee "shall pay, or make

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[113] *See Fairstead Capital Mgmt. LLC*, 288 A.3d at 760 ("When a 'subsequent agreement' contains a valid integration clause, it 'supersedes' the terms of any prior agreement covering the same subject matter."); *Skold v. Galderma Labs. L.P.*, 917 F.3d 186, 194 (3d Cir. 2019) (finding that, under Pennsylvania law, an integration clause only superseded agreements with the same subject matter); *Kreiss v. McCown DeLeeuw & Co.*, 37 F. Supp. 2d 294, 301 (S.D.N.Y. 1999) (holding that, under New York law, provisions in a new agreement superseded provisions in an older agreement only to the extent that they covered the same subject matter even where the new agreement contained merger and integration clauses providing that the agreement "supersedes all prior arrangements or understandings . . . with respect thereto"); *Int'l Talent Grp., Inc. v. Copyright Mgmt., Inc.*, 629 F. Supp. 587, 592 (S.D.N.Y. 1986) ("If, in fact, the two agreements are separate, a merger clause in one contract would not incorporate all prior dealings between the parties, but rather only those relating to the subject matter of the contract containing the merger clause.").
[114] *Origis USA LLC v. Great Am. Ins. Co.*, 345 A.3d 936, 952 (Del. 2025).
[115] *Id*.
[116] *Id*.
[117] *Id*.
[118] *Thompson St. Cap. Partners IV, L.P. v. Sonova United States Hearing Instruments, LLC*, 340 A.3d 1151, 1166 (Del. 2025) (quoting *Town of Cheswold v. Cen. Delaware Bus. Park*, 188 A.3d 810, 820 (Del. 2018)).

arrangements satisfactory to the Board for the satisfaction of, any federal, state, local, or foreign withholding tax obligations that may arise in connection with the Plan."[119] Additionally, the Option Agreements provide that the holder is "not allowed to *exercise* this Option unless you pay, or make acceptable arrangements to pay, any taxes required to be withheld as a result of the Option exercise or the sale of Shares acquired upon exercise of this Option."[120]

The 2024 Note gives Mr. Diner four ways to retire the 2024 Note. Under the 2024 Note, Mr. Diner can make payment with: (1) cash; (2) cash equivalents; (3) the surrender of shares of capital stock of the Company; or (4) the surrender of vested and *exercisable* options to purchase the Company's common stock.[121] Utilizing the fourth option, Mr. Diner seeks to surrender his vested and exercisable options to purchase Plume stock, thereby giving up his options without exercising those options. So, Mr. Diner *surrendered* stock options that were exercisable, without exercising those options.

The contracts do not define surrender, exercise, or exercisable. If a contract does not define terms, Delaware courts look to dictionary definitions to find the plain meaning.[122] Black's Law Dictionary defines exercise as "[t]o make use of; to put into action" or "[t]o implement the terms of; to execute <exercise the option to buy the commodities>."[123] Merriam-Webster's Dictionary defines surrender as "the action of yielding one's person or giving up the

[119] The Plan § 11.1.
[120] Option Agreements § 10(a) (emphasis added).
[121] *See* 2024 Note § 2(b)(ii) (emphasis added).
[122] *See Illinois Nat'l Ins. Co. v. Harman Int'l Indus., Inc.*, 2026 WL 204209, at *10 (Del. Jan. 27, 2026) (looking to both Merriam-Webster's Dictionary and Black's Law Dictionary to ascertain the plain meaning of undefined contract terms); *Lorillard Tobacco Co. v. Am. Legacy Found.*, 903 A.2d 728, 738 (Del. 2006) ("Under well-settled case law, Delaware courts look to dictionaries for assistance in determining the plain meaning of terms which are not defined in a contract."); *see also In re Solera Ins. Coverage Appeals*, 240 A.3d 1121, 1132 (Del. 2020) ("This Court often looks to dictionaries to ascertain a term's plain meaning.").
[123] *Exercise*, Black's Law Dictionary (12th ed. 2024).

possession of something especially into the power of another."[124] Merriam-Webster's Dictionary also defines the suffix -able as "capable of, fit for, or worthy of (being so acted upon or toward)."[125] Exercisable does not mean that Mr. Diner had to have exercised the options before surrendering them. The stock options had to be capable of being exercised to be surrendered, or given up, under the 2024 Note.[126] The Plan and Option Agreements address Mr. Diner's tax liability that may arise from exercising or surrendering his stock options; however, those agreements do not require him to pay taxes before surrendering the options pursuant to the 2024 Note. In fact, the Option Agreements provide that the Options "shall accelerate and be deemed vested and exercisable in full" upon triggering events.[127] Importantly, Plume does not contend that these events have not happened. Because the triggering events had occurred, Mr. Diner's stock options were vested and exercisable when he retired the 2024 Note by surrendering his stock options, which is distinguishable from exercising stock options.

The Plan and Option Agreements do not require Mr. Diner to pay any withholding obligation as a prerequisite to exercise his stock options. The Plan says that Mr. Diner has to "pay, *or make arrangements satisfactory to the Board* for the satisfaction of . . . withholding tax obligations that may arise in connection with the Plan."[128] The Option Agreements provide that Mr. Diner is not "allowed to exercise this Option unless you pay, *or make acceptable arrangements to pay* any taxes . . . required to be withheld as a result of the Option Exercise."[129]

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[124] *Surrender*, Merriam-Webster's Dictionary (last assessed Feb. 19, 2026), https://www.merriam-webster.com/dictionary/surrender.
[125] *Able*, Merriam-Webster's Dictionary (last accessed Feb. 19, 2026), https://www.merriam-webster.com/dictionary/able.
[126] 2024 Note § 2(b)(ii).
[127] *See* Option Agreements (it is unclear which page or section this provision is on in the Option Agreements based on how the Option Agreements are scanned, but the provisions concern acceleration of vesting upon change in control events).
[128] The Plan § 11.1 (emphasis added).
[129] Option Agreements § 10(a) (emphasis added).

This language does not require any withholding to be tendered as a condition precedent to exercise, nor does it require Mr. Diner to actually pay the withholding obligation before exercising. The agreements allow Mr. Diner to make arrangements satisfactory to the Board and still exercise the stock options, without paying any withholding obligation at the time of exercise.[130]

In addition, Mr. Diner did not practically exercise his stock options by surrendering them to retire the 2024 Note, as Plume suggests.[131] True, the stock options that belonged to Mr. Diner were transferred to Plume upon surrender, and this was done to pay off the 2024 Note due to Plume. But the 2024 Note also allowed Mr. Diner to retire the 2024 Note by surrendering stock, rather than options. If surrendering stock options is the same as exercising, then surrendering options would be no different from surrendering stock, since both would require the transfer of owned stock. Delaware courts read contracts "as a whole and we will give each provision and term effect, so as not to render any part of the contract mere surplusage."[132] Accordingly, Mr. Diner's stock options were vested and exercisable, and he did not have to pay any withholding requirement as a condition precedent to retiring the 2024 Note.

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[130] *See Walter v. C.I.R.*, 2007 WL 14634, at *6 (T.C. Jan. 3, 2007), *aff'd,* 286 Fed. Appx. 445 (9th Cir. 2008) (interpreting similar language in a stock option plan to not require a payment of withholding tax to exercise stock options).
[131] Plume Opp'n at 16–18.
[132] *Kuhn Const., Inc. v. Diamond State Port Corp.*, 990 A.2d 393, 396–97 (Del. 2010) (citing *Energy Partners, Ltd. v. Stone Energy Corp.,* 2006 WL 2947483, at *13 (Del. Ch. Oct 11, 2006)).

B. MR. DINER IS LIABLE FOR HIS OWN INCOME TAX LIABILITY BASED ON FEDERAL TAX LAW AND IS LIABLE FOR ANY WITHHOLDING REQUIREMENT THAT MAY ARISE FROM HIS STOCK SURRENDER UNDER THE PLAN

1. Mr. Diner must pay any income tax arising from the stock option surrender under federal tax law.

Under the Internal Revenue Code ("IRC"), taxpayers are required to include in their gross income "all income from whatever source derived[.]"[133] The term "gross income" is "broad enough to include in taxable income any economic or financial benefit conferred on the employee as compensation, whatever form or mode by which it is effected."[134] Courts give "a liberal construction to this broad phraseology in recognition of the intention of Congress to tax all gains except those specifically exempted."[135] Generally, granting stock options is not a taxable event.[136] But a taxable event occurs when the taxpayer exercises the option, resulting in a sale of shares to the employee.[137] A taxpayer is responsible for "any gain resulting from the exercise, surrender, or disposition thereof as compensation."[138] Thus, Mr. Diner is responsible for any *income* tax liability or capital gains tax that results from exercising or surrendering his stock options under federal tax law. But this liability is different from an employer's duty to withhold.

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[133] 26 U.S.C. § 61(a).
[134] *C.I.R. v. LoBue,* 351 U.S. 243, 247 (1956) (quoting *C.I.R. v. Smith,* 324 U.S. 177, 181 (1945)).
[135] *C.I.R. v. Glenshaw Glass Co.*, 348 U.S. 426, 430 (1955).
[136] *See LoBue*, 351 U.S. at 249.
[137] *See id*.
[138] *Enos v. C. I. R.*, 31 T.C. 100, 107 (1958) (citing *Smith*, 324 U.S. 177); *Kunsman v. Comm'r of Internal Revenue*, 1967 WL 1272 (T.C. Nov. 2, 1967) ("Since the very purpose of the options when issued was compensatory, then what he realized when he surrendered the options was compensation or ordinary income.");
see also Millar v. C. I. R., 577 F.2d 212, 215 (3d Cir. 1978) ("Having substantially reduced the adjusted basis of their stock in this manner and thereafter surrendering their devalued stock in exchange for the cancellation of their indebtedness, the taxpayers clearly realized taxable gain equal to the value of the cancelled obligation, less the adjusted basis of their surrendered stock.").

2. Mr. Diner is contractually bound to pay, or make satisfactory arrangement to pay, any withholding requirement arising from the stock option surrender under the Plan.

The United States income tax system is a pay-as-you-go system.[139] Taxpayers must pay their taxes as they receive income.[140] To accomplish this, employers are required to withhold a portion of employee wages for the federal government as employees receive taxable income in the form of wages.[141] The withholding requirement is not a tax itself. Instead, withholding is a system or method of tax collection by the federal government.[142]

IRC Section 3402 requires employers to withhold taxes when making a payment of wages.[143] The IRC broadly defines "wages" as "all remuneration . . . for services performed by an employee for an employer . . . ."[144] That section excludes several items from the definition of wages.[145] The exclusions do not include an employee exercising stock options.[146]

IRC Section 3403 says, "[t]he employer shall be liable for the payment of the tax required to be deducted and withheld under this chapter, and shall not be liable to any person for the amount of any such payment."[147] An employer is "duty bound and legally obligated to withhold from wages and pay the Internal Revenue Service the amounts prescribed by the [IRC]."[148] Indeed, if the employer retains the sums withheld, the employer is liable to the federal

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[139] *See Davis v. C.I.R.*, 2008 WL 4703706, at *4 (T.C. Oct. 27, 2008); *see also Topic No. 306 Penalty for Underpayment of Estimated Tax*, https://www.irs.gov/taxtopics/tc306 (last visited Feb. 19, 2026).
[140] *Topic No. 306 Penalty for Underpayment of Estimated Tax*, https://www.irs.gov/taxtopics/tc306 (last visited Feb. 19, 2026).
[141] *See Davis*, 2008 WL 4703706, at *4 (T.C. Oct. 27, 2008).
[142] *See id*. at *4 n.8 (quoting Rev. Rul. 60-220, 1960-1 C.B. 399 (IRS RRU 1960)) ("Thus, income tax withholding is a system or method of tax collection and not a tax in itself.").
[143] 26 U.S.C. § 3402(a)(1); *Wilmington Tr. Co. v. Barron*, 470 A.2d 257, 263 (Del. 1983).
[144] 26 U.S.C. § 3401(a).
[145] *See* 26 U.S.C. § 3401(a)1–23.
[146] *See id*.
[147] 26 U.S.C. § 3403.
[148] *Lukes v. Goit,* 430 P.2d 607, 609 (Wyo. 1967) *(*citing *S. Fid. & Guar. Co. v. United States*, 201 F.2d 118, 119 (10th Cir. 1952)).

government for that amount.[149] The amount withheld from an employee's wages shall be allowed to the employee as a credit on their income tax liability.[150]

Federal tax law recognizes two types of options: stock options designed to comply with specific IRC sections ("Statutory Stock Options"); and stock options that do not comply with these provisions ("Non-Statutory Stock Options").[151] Statutory Stock Options come in the form of either incentive stock options that comply with Section 422 or employee stock purchase plans that comply with Section 423.[152] Statutory Stock Options receive favorable tax treatment and, if there is a qualifying disposition, no income in the form of wages results, and employers are generally not subject to withholding requirements.[153] Statutory Stock Options held for the minimum period are said to have a qualifying disposition and receive the beneficial treatment.[154] Non-Statutory Stock Options typically must be included in a taxpayer's gross income only at the exercise date.[155] Conversely, exercising Statutory Stock Options is not a taxable event for regular tax purposes.[156] "If the transfer of a share of stock to an individual pursuant to his exercise of an option would otherwise meet the requirements of section 422(a) or 423(a) . . . . No amount shall be required to be deducted and withheld under chapter 24 with respect to any increase in income attributable to a disposition described in the preceding sentence"[157]

Here, the parties did not identify in their briefing whether these stock options were statutory or non-statutory. Except for the June 6, 2017 Grant Option Agreement, all the Option Agreements say that they are "Incentive Stock Options[s]" as opposed to "Nonstatutory Stock

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[149] *Wilmington Tr. Co.*, 470 A.2d at 263.
[150] *U.S. Fid. & Guar. Co.*, 201 F.2d at 119.
[151] *Weiss v. Swanson*, 948 A.2d 433, 438 (Del. Ch. 2008).
[152] *See* 26 U.S.C. §§ 421-23.
[153] 26 U.S.C. § 421.
[154] *See* 26 U.S.C. §§ 422(a), 423(a).
[155] *LoBue*, 351 U.S. at 248.
[156] *In re Pavlosky*, 256 Fed. Appx. 690, 693 (5th Cir. 2007).
[157] 26 U.S.C. § 421(b).

Options."[158] Section 1 of the Option Agreements provides that the options are intended to be "either an incentive stock option intended to meet the requirements of section 422 of the Internal Revenue Code . . . or a non-statutory option . . . ."[159] The Plan states that the options "may constitute incentive stock options or nonstatutory stock options."[160] On this record, the Court is unsure whether there is a withholding requirement. But if there is, Plume would be liable for this withholding mandate to the Internal Revenue Service under federal tax law. And, Mr. Diner has a legal obligation to pay the withholding requirement to Plume under the terms of the Plan.

The Plan provides that:

> An Optionee or Purchaser or his or her successor shall pay, or make arrangements satisfactory to the Board for the satisfaction of, any federal, state, local or foreign withholding tax obligations that may arise *in connection with* the Plan. The Company shall not be required to issue any Shares or make any cash payment under the Plan until such obligations are satisfied.[161]

"In connection with" means "in relation to (something)**:** for reasons that relate to (something)."[162] Delaware courts have interpreted similar language broadly.[163] The Plan's purpose "is to offer selected service providers the opportunity to acquire equity in the Company through awards of Options (which may constitute incentive stock options or nonstatutory stock options) and the award or sale of Shares."[164] As such, the Plan generates the stock options, and the Option Agreements and the Plan broadly cover the award of stock options to employees and

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[158] *See* Option Agreements.
[159] Option Agreements § 1.
[160] The Plan § 1.
[161] The Plan § 11.1 (emphasis added).
[162] *In connection with*, Merriam-Webster's Dictionary (last accessed Feb. 19, 2026), https://www.merriam-webster.com/dictionary/in%20connection%20with.
[163] *See City of Newark v. Donald M. Durkin Contracting, Inc.*, 305 A.3d 674, 680 (Del. 2023) (interpreting "relating to" as a phrase that "sweeps broadly" and is a "paradigmatically broad term"); *see also DeLucca v. KKAT Mgmt., L.L.C.*, 2006 WL 224058, at *10 (Del. Ch. Jan. 23, 2006) (describing the prepositional phrase "relating to" as one of the "far-reaching terms often used by lawyers when they wish to capture the broadest possible universe"); *Lillis v. AT&T Corp.*, 904 A.2d 325, 331 (Del. Ch. 2006) (describing the term "relating to" as "unquestionably broad in reach").
[164] The Plan § 1.

Mr. Diner. Without the Plan, Mr. Diner would have no stock options to surrender to settle the 2024 Note. Mr. Diner surrendering the option to acquire equity in Plume is connected to the Plan's purpose, and his claim in this action would not arise without the Plan's existence. Thus, Mr. Diner surrendering these options is connected to the Plan, and Mr. Diner is contractually bound to pay any withholding tax that arises from his stock surrender.[165]

The Plan does not require Mr. Diner to pay any withholding obligation before surrendering his stock options to retire the 2024 Note. Plume does not have to issue shares or pay cash before Mr. Diner pays any withholding obligation.[166] But Plume is not doing either of these actions. Plume is accepting the unexercised options, and there is no associated transfer of stock or cash by Plume.

3. Mr. Diner's other arguments to eschew the Plan's withholding obligation fail.

Mr. Diner posits that the 2024 Note allows for a cashless — and withholding obligation-less — payoff since it is a nonrecourse loan.[167] Mr. Diner claims that this provision shows that the parties did not contemplate that Mr. Diner would have to go "out of pocket" to pay off the 2024 Note.[168] The Court agrees that the 2024 Note is nonrecourse.[169] In the event of a default, Plume's recovery is limited to the Pledged Securities.[170] If the options do not cover the loan, then Plume's recovery is limited to the Pledged Securities, and Mr. Diner is not personally liable

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[165] *See Parfi Holding AB v. Mirror Image Internet, Inc.*, 817 A.2d 149, 157–159 (Del. 2002) (holding that the breadth of claims "in connection with" an agreement turned on whether the claims would be assertable had there been no agreement).
[166] The Plan § 11.1.
[167] Diner Op. Br. at 11–14.
[168] *Id*.
[169] 2024 Note § 4.
[170] *See Nonrecourse*, Black's Law Dictionary (12th ed. 2024) ("Of, relating to, or involving an obligation that can be satisfied only out of the collateral securing the obligation and not out of the debtor's other assets."); *see also In re Montgomery Ward, LLC*, 634 F.3d 732, 740 (3d Cir. 2011) ("A claim secured by a nonrecourse security interest is, by definition, enforceable only against the debtor's property. A claim secured by a recourse security interest is enforceable against both the collateral and, to the extent the claim exceeds the value of the collateral, against the debtor.").

for any outstanding balance. This does not mean the 2024 Note overrides any withholding obligations from the Plan if Mr. Diner retires the 2024 Note with his stock options.

Mr. Diner submits that the doctrine of independent legal significance makes the Plan and Option Agreements inapplicable to the 2024 Note.[171] Under the doctrine, statutory restraints applicable to one form of a transaction do not apply to a different form of transaction undertaken pursuant to separate statutory authority.[172] Here, Mr. Diner's obligations arise under separate private contracts and do not involve any statutes or the Delaware General Corporation Law. As such, this doctrine is inapplicable.

C. At This Stage, the Court Cannot Determine Whether Mr. Diner Surrendered the Required Number of Stock Options to Retire the 2024 Note In Full.

The Court has discretion to deny summary judgment as a prudential matter.[173] Also, the Court is not obligated to grant a summary judgment.[174] The Court may decline to grant summary judgment where a more thorough exploration of the facts is needed to properly apply the law to the circumstances.[175] Likewise, the Court may deny judgment on the pleadings for "'a further development of the facts and potentially more focused briefing on the language of the [subject] Agreement as it relates to' the disputed issue."[176]

The parties disagree over differing 409A valuations of Plume's stock value. The parties have not submitted the valuations that they rely on as exhibits to the Court. The Court does not know who or what entity performed these valuations. In addition, the Court is unclear as to the

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[171] Diner Op. Br. at 17–18.
[172] *RFE Capital Partners, L.P. v. Weskar, Inc.*, 652 A.2d 1093, 1096 (Del. Super. 1994).
[173] *Unbound Partners Ltd. P'ship v. Invoy Holdings Inc.*, 251 A.3d 1016, 1024 (Del. Super. 2021).
[174] *Telxon Corp. v. Meyerson*, 802 A.2d 257, 262 (Del. 2002).
[175] *Motorola, Inc. v. Amkor Tech., Inc.*, 849 A.2d 931, 935 (Del. 2004); *In re Tri-Star Pictures, Inc., Litig.*, 1995 WL 106520, at *5 (Del. Ch. Mar. 9, 1995).
[176] *AYANA Consult EOOD v. Whitehat Educ. Tech. LLC*, 2023 WL 7823136, at *3 n.18 (Del. Super. Nov. 14, 2023) (quoting *Plume Design, Inc. v. DZS, Inc.*, 2023 WL 5224668, at *7 (Del. Super. Aug. 10, 2023)).

impact of the alleged effective dates on these valuations, how these dates determine which valuation was the "most recent" valuation under the 2024 Note, and the ramification of the "Payment Date" of Mr. Diner's repayment notice.[177] As such, the Court cannot determine whether Mr. Diner surrendered the requisite stock options to retire the 2024 Note in full and, accordingly, stop interest from accruing on the 2024 Note. The record is too undeveloped to rule on the stock option valuation issue.[178] Therefore, the Court finds that a more developed record and thorough exploration of the facts is warranted before ruling on the proper value of the stock options under the 2024 Note at the time of surrender.

Mr. Diner contends that Plume has failed to raise a genuine dispute on this issue since Plume did not submit its countering 409A valuation by affidavit in its response to the Diner Motion.[179] True, this countering 409A valuation is only mentioned in Plume's Counterclaim.[180] And Superior Court Rule of Civil Procedure 56(e) says:

> When a motion for summary judgment is made and supported as provided in this Rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this Rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, *if appropriate*, shall be entered against the adverse party.[181]

However, the Court does not find that Mr. Diner has sufficiently demonstrated that his 409A valuation is the controlling valuation. Delaware has a strong public policy that favors decisions on the merits and courts should apply the rules of procedure with "liberal construction because of

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[177] *See* 2024 Note § 2(b)(ii)(2); Compl. Ex. B.
[178] *See Cont'l Ins. Co. v. Rutledge & Co, Inc.*,750 A.2d 1219, 1227–28 (Del. Ch. 2000) (observing that courts have discretion to deny summary judgment where factual clarity is warranted); *Moore v. Sizemore*, 405 A.2d 679, 680 (Del. 1979) (placing burden on the movant to demonstrate its claim is supported by undisputed facts); *Williams Cos., Inc. v. Energy Transfer LP*, 2020 WL 3581095, at *11 (Del. Ch. July 2, 2020) (observing that a court should deny summary judgment where a record is necessary for equitable purposes); *Judah v. Del. Tr. Co.*, 378 A.2d 624, 632 (Del. 1977) (instructing courts to view the facts in the light most favorable to the non-movant).
[179] Diner Reply at 11–15.
[180] Countercl. ¶¶ 12, 51–53.
[181] Super. Ct. Civ. R. 56(e) (emphasis added).

the underlying public policy that favors a trial on the merits."[182] The Court does not find that summary judgment or judgment on the pleadings is appropriate on this issue. The Court believes the better approach is to allow the parties to supplement the record and, then presumably, there will be a sufficient factual basis upon which the factfinder can reasonably rely.

VI. CONCLUSION

For the reasons stated above, the Court **GRANTS in part and DENIES** the Diner Motion and **GRANTS in part and DENIES** the Plume Motion.

February 20, 2026
Wilmington, Delaware

/s/ Eric M. Davis
Eric M. Davis, President Judge

cc: File&ServeXpress

[182] *Dishmon v. Fucci*, 32 A.3d 338, 346 (Del. 2011) (quotation omitted).