EFiled: Jan 04 2024 03:41PM EST
Filing ID 71735917
Case Number 377,2023

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOSEPH MANHEIM; WEST 36TH, INC.; and REATH & CO., LLC,	)	
Defendants-Below, Appellants,	)	No. 377, 2023
v.	)	Court Below: Court of Chancery of the State of Delaware
YOUNG MIN BAN,	)	C.A. No. 2019-0005-JTL
Plaintiff-Below, Appellee.	)	

APPELLANTS' REPLY BRIEF

PRICKETT, JONES & ELLIOTT, P.A.

Bruce E. Jameson (#2931)
John G. Day (#6023)
Kirsten M. Valania (#6951)
1310 N. King Street
Wilmington, Delaware 19801
(302) 888-6500

Attorneys for Defendants-Below, Appellants

OF COUNSEL:

Joshua K. Bromberg
KLEINBERG, KAPLAN, WOLFF & COHEN, P.C.
500 Fifth Avenue
New York, New York 10110
(212) 986-6000

Dated: January 4, 2024

TABLE OF CONTENTS

Page No.

TABLE OF CITATIONS

Page(s)

RULES

PRELIMINARY STATEMENT

The Answering Brief of Appellee Young Min Ban (the "Answering Brief") fails to address, much less rebut, the record evidence and legal authorities set forth in Appellant's Opening Brief (the "Opening Brief").[1]

Other than repeating the Court of Chancery's conclusions, the Answering Brief contains no rebuttal of the Opening Brief's pages of record evidence demonstrating Paula Mandle was an engaged director and officer who earned every dollar of compensation she received. It provides no legal authority for applying entire fairness review to Mandle's appointment after the Court of Chancery found the business judgment rule was the default standard of review. And it contains no answer to the question posed in the Opening Brief: if Mandle was placed on the WestCo board as part of a *quid pro quo*, what is the *quo* Joseph Manheim—who fully controlled WestCo and DVRC, and did not need to rely on Mandle to effect or defend any transaction—received?

In his Answering Brief, Ban also fails to mention, much less distinguish, the Opening Brief's legal authority for holding Ban accountable for his unauthorized access to Manheim's personal Dropbox files. Instead, he ups the ante and contends

---

[1] Defined terms from the Opening Brief are used herein.

that because he was wrongly suspended and fired, he had the right to access these files to make his case.

The Court of Chancery's 125-page post-trial Opinion is the result of its herculean effort to wade through Plaintiffs' blunderbuss claims and a factual record that, as the court noted, was largely a mess due to Ban's poor recordkeeping. But it erred in holding Manheim liable for the entirety of Mandle's compensation, and in not holding Ban liable for his unauthorized Dropbox access. The Answering Brief provides no reason for this Court to find otherwise.

ARGUMENT

I. THERE IS NO BASIS TO SUPPORT IMPOSITION OF THE ENTIRE FAIRNESS STANDARD OF REVIEW FOR MANDLE'S COMPENSATION.

In his Answering Brief, Ban fails to identify any precedent supporting what the Court of Chancery did in the Opinion: find a transaction subject to business judgment review, *then* evaluate the fairness of the transaction, and *then* hold that because the transaction was not entirely fair, it is not subject to business judgment review. And Ban never explains what Manheim gained—except honest services to WestCo and DVRC—in a supposed *quid pro quo* by putting Mandle on the WestCo board. As such, Ban provides no legal or logical basis for converting the entirety of Mandle's compensation into a judgment against Manheim.

But reversal of the Opinion is warranted on a more fundamental basis: Ban never acknowledges, much less challenges, Appellants' pages of record evidence[2] documenting Mandle's contributions to DVRC and proving the record cannot support of the Court of Chancery's findings that lead to the imposition of entire fairness and damages. Instead, Ban repeatedly calls Mandle a "stooge."[3] Indeed, the Answering Brief contains no mention of Mandle in its Statement of Facts section,

---

[2] Opening Brief at 24–28.

[3] Answering Brief at 3, 9, 12, 13, 15, 17.

and Ban's Argument section addressing Mandle lacks even one citation to the record.

Without addressing the record, Ban cannot show "the factual findings of the trial court" are "sufficiently supported by the record and are the product of an orderly and logical deductive process."[4] "Issues not briefed are deemed waived."[5] Having failed to defend the Court of Chancery's predicate findings for evoking entire fairness, Ban has tacitly conceded that the Court of Chancery's decision to make a controlling stockholder pay for a director's compensation cannot stand.

A. There Is No Record Basis to Support Imposition of the Entire Fairness Standard of Review.

The Court of Chancery found "the business judgment rule applies as the default standard of review" for Mandle's compensation, and noted that if "the business judgment rule applies, the court will not second guess the decision unless it is so extreme that it constitutes waste," and Plaintiffs "disavowed making a claim for waste."[6] Nevertheless, the Court of Chancery found Mandle's lack of knowledge about the Reorganization and DVRC's ownership structure when testifying at her

---

[4] *Nixon v. Blackwell*, 626 A.2d 1366, 1375 (Del. 1993); *see also In re Tesla Motors, Inc. S'holder Litig.*, 2018 WL 1560293, at *19 (Del. Ch. Mar. 28, 2018) (acknowledging the factual inquiry to determine a defendant's status as a controlling stockholder and the standard of review that would apply to challenged transaction would need to be supported with discovery).

[5] *Emerald P'rs v. Berlin*, 726 A.2d 1215, 1224 (Del. 1999).

[6] Opinion at 102–03.

deposition warranted shifting the standard of review for her compensation from business judgment to entire fairness.[7]

But as set forth in the Opening Brief, Mandle's lack of knowledge was limited to DVRC's ownership and management structure set during the Reorganization—before she rejoined WestCo's board. She was knowledgeable about the EB-5 program and DVRC's business and employees, all of whom testified about her contributions and assistance.[8] And the Opinion's characterization of Mandle's knowledge, or purported lack thereof, about the Reorganization and DVRC's structure is inconsistent with her complete testimony, and is based only on the snippets played at trial.[9]

---

[7] *Id.* at 105 ("Given Mandle's testimony, Manheim must be paying her to act as a rubber stamp for the self-interested decisions that he makes."); *id.* at 107–08 ("Having considered her testimony and demeanor, it seems likely that she played dumb and pretended not to know anything about DVRC because she thought that would be helpful to the defendants and to herself for purposes this litigation. But that behavior itself provides powerful evidence of an illicit and symbiotic relationship between Mandle and Manheim.").

[8] Opening Brief at 24–27.

[9] *Id.* at 27; *also compare* Opinion at 105 ("She had 'heard of' Penfold but had 'no understanding' of what it was."), *with* A381 (Mandle testifying that Penfold, the non-managing member of DVRC, owned one-third each by Plaintiffs and Manheim, is a "profit-sharing entity"); *compare* Opinion at 106 ("When asked if she was aware of any management fee paid by DVRC to ReathCo, she said she was 'aware that there is a management fee,' but she did not know how much it is."), *with* A384 ("Q. Have you reviewed the -- any agreements between DVRC and Reath & Company concerning management fees? A. My recollection is when I first came back to DVRC in 2018, Frank Manheim and I sat and I reviewed a few documents. Most likely the agreement would have been part of that document and most likely the

With this in mind, it is not "hard to believe" Mandle "knows so little about DVRC."[10] Instead, it is reasonable to believe Mandle knew little about the subject matter of the litigation that the parties and the Court of Chancery—but not Mandle—had been dealing with for years.

Ban rebuts none of this. Instead, he simply provides block-quote reproductions of the Court of Chancery's conclusions—the same conclusions being appealed.[11] Accordingly, Ban provides no basis grounded in the record to conclude the entire fairness standard applies to Mandle's compensation, and the Court of Chancery's ruling must be reversed.

---

calculation of the fee would have been part of that document as well."); *compare* Opinion at 107 ("After being shown a document that identified her as DVRC's Chief Compliance Officer, she . . . could not describe any work she did in that capacity."), *with* A400–01 ("Q. Okay. Do you do anything as chief compliance officer? A. Neither West nor DVRC are an SEC-regulated company so the role of chief compliance officer is very different. I have that title, but I do not do some of the things that I would have done as chief compliance officer at Swarthmore Group, such as look at individual investments or look at anti-money laundering. So those -- so it is very different. It is my expertise for the board of my compliance background. At some point DVRC may need to make a decision whether it's going to become a broker or an investment advisor, and at that point the role would change.").

[10] Opinion at 107.

[11] Answering Brief at 15–17.

B. There Is No Legal Basis to Support Imposition of the Entire Fairness Standard of Review.

The Court of Chancery determined "the business judgment rule applies as the default standard of review" for Mandle's compensation.[12] Once the business judgment rule applies, "courts will not second-guess these business judgments."[13] But second-guess Mandle's appointment—and its own decision to apply the business judgment rule—is what the Court of Chancery did, holding Manheim, as WestCo's controlling stockholder, liable for every dollar of Mandle's compensation because the Court concluded she had not earned it and instead served Manheim's interests.

As Appellants noted in their Opening Brief, there is no precedent for this analysis, which effectively utilizes the fair-price prong of the entire fairness review to determine if entire fairness applies at the outset.[14] Ban evidently agrees, citing none in his Answering Brief. Instead, Ban suggests the Court of Chancery provisionally determined that business judgment review applied to Mandle's appointment, but that determination was subject to a further review of the record,

---

[12] Opinion at 102.

[13] *Cede & Co. v. Technicolor, Inc.*, 634 A.2d 345, 361 (Del. 1993), *decision modified on reargument*, 636 A.2d 956 (Del. 1994).

[14] Opening Brief at 20–23.

which showed "Mandle's no-show position was indeed a sinecure - a position requiring little or no work but giving the holder status or financial benefit."[15]

Ban's characterization of the Opinion cannot be squared with its text:

> Once again, to invoke entire fairness review, the plaintiffs had the burden to make a *prima facie* showing that Manheim faced a conflict of interest when determining Mandle's compensation. *See Avande*[*, Inc. v. Evans*], 2019 WL 3800168, at *14 [(Del. Ch. Aug. 13, 2019)]. Mandle is an outside director. She has known Manheim since his days at the Swarthmore Group, she was one of the original directors and officers of WestCo, and she received shares when WestCo was created that she still owns today. Mandle then left the WestCo Board in 2012 after Ban acquired half of her shares. *See* JX 28; JX 49. Manheim reappointed her to the WestCo Board in September 2018, after the disputes arose with Bamford and Ban. *See* JX 998. Those ties are not sufficient to raise meaningful questions about Manheim's independence from Mandle or his ability to set her compensation, so the business judgment rule applies as the default standard of review.[16]

But even if the Court of Chancery had never held the business judgment review was the default standard of review, its analysis still would be flawed. Just as there is no authority for scrutinizing the merits of a transaction already subject to business judgment review, there is no authority for determining the standard of review by first examining the merits of a transaction. Instead, Delaware courts first

---

[15] Answering Brief at 11–12.

[16] Opinion at 102.

determine the standard of review, and then apply that standard to the challenged transaction.[17] By failing to do that here, the Court of Chancery erred.

C. There Is No Logical Basis to Support Imposition of the Entire Fairness Standard of Review.

Although an alleged *quid pro quo* between Manheim and Mandle is the basis for entire fairness review, the Opinion, and the Answering Brief, both fail to explain what Manheim received in exchange for putting Mandle on the WestCo board—other than her services and the contributions DVRC's employees testified about.

While Ban posits to this Court that "Mandle was in fact and in practice Manheim's 'stooge' who rubber-stamped the decisions evidencing Manheim's overmastering control, self-dealing and other breaches of his duty of loyalty,"[18] he fails to address the fundamental question raised in Appellants' Opening brief: why does the undisputed founder, 70% controller, CEO and president of WestCo, who can add and remove directors at will, need anyone to "rubber stamp" his decisions?

---

[17] *eBay Domestic Hldgs., Inc. v. Newmark*, 16 A.3d 1, 27 (Del. Ch. 2010) ("Any time a stockholder challenges an action taken by the board of directors, the Court must first determine the appropriate standard of review to use in analyzing the challenged action."); *In re Cysive, Inc. S'holders Litig.*, 836 A.2d 531, 547 (Del. Ch. 2003) ("The first order of business . . . requires me to determine the standard of review that applies to my examination of the Snowbird Agreement. . . . After resolving that question, I then apply the selected standard to explain my result."); *Stroud v. Grace*, 1990 WL 176803, at *5 (Del. Ch. Nov. 1, 1990) ("In addressing plaintiffs' assertions, the Court must first determine the correct standard of review"), *aff'd in part, rev'd in part*, 606 A.2d 75 (Del. 1992).

[18] Answering Brief at 12.

Mandle's appointment did not make the WestCo board facially independent from Manheim; half the board was Manheim and his brother.[19] Appellants did not claim Mandle's approval cleansed any transaction.

Manheim did not need Mandle to be his rubber stamp, he needed her to be a director and officer of WestCo and DVRC, and the record shows she carried out those roles with integrity. Ban has yet to explain what benefit Manheim *could have* personally received—to the detriment of WestCo and DVRC—by placing Mandle on the WestCo board, let alone *proving* that he received anything. Calling Mandle a "stooge" and "rubber stamp" is not enough. As such, the Court of Chancery's ruling should be reversed.

[19] While the Court of Chancery noted Manheim's brother, Frank Manheim, was not independent from Joseph Manheim, it did not find he was a "stooge," but held that Frank's compensation was entirely fair. Opinion at 99.

II. BAN'S UNAUTHORIZED DROPBOX ACCESS IS ACTIONABLE.

In his Answering Brief, Ban denies "hacking" into the ReathCo Dropbox where he subsequently reviewed and downloaded all of ReathCo's and Manheim's files. Again, Ban merely repeats the trial Court's finding. But he does not engage with Appellant's point before this Court: it is not necessary for Ban to "hack" into the ReathCo Dropbox in order for Appellants to prevail on their claims. Ban admittedly accessed the account without authorization, and that is enough. Indeed, Ban addresses none of Appellants' authorities showing Ban violated the Computer Fraud and Abuse Act, Pennsylvania Uniform Trade Secrets Act, and committed conversion though this unauthorized access.

Instead, Ban offers his justification defense: that as a wronged WestCo stockholder and Penfold limited partner who was fired, he believed, "for trumped up reasons,"[20] he could circumvent the laws and the rules of discovery to search for whatever he thought would help his case. The Court should not countenance Ban's extra-legal, extra-judicial, self-help discovery.[21]

---

[20] A451.

[21] In his Answering Brief, Ban also references his Motion to Dismiss Appeal as Untimely (Answering Brief at 22, citing Dkt. 12), which this Court subsequently struck because it violated Supreme Court Rule 29. Dkt. 14. Ban's argument in the Motion to Dismiss Appeal as Untimely—that a party must pursue an appeal of *any* trial-court decision within 30 days (even if the appeal is interlocutory), or this Court loses jurisdiction to hear the appeal—is meritless. Indeed, *Pinkert v. Wion*, 431 A.2d 1269, 1270 (Del. 1981), one of the two decisions Ban cites, shows he is incorrect. In *Pinkert*, the appellant's motion to intervene was denied in a December 5, 1980

A. Ban Accessed Manheim's and ReathCo's Dropbox Files Without Authorization.

Ban's decision to forgo a Statement of Facts and instead make just six purported corrections to Appellants' description of the record is a tacit admission that Appellants' claim that Ban accessed Manheim's Dropbox account without authorization is accurate. Indeed, he acknowledged doing so in his e-mail to Bamford and in his testimony before the Court of Chancery.

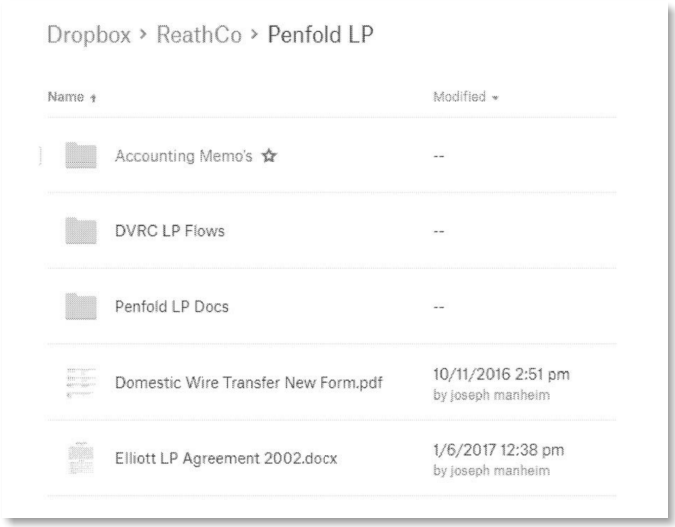
Ban's two supposed corrections that relate to the appeal are easily proven wrong. Ban asserts that, contrary to Appellants' claims, the evidence Appellants cite does not show Ban accessed ReathCo's Dropbox account.[22] But a review of the document Appellants cite—Ban's June 7, 2018 e-mail to Bamford—shows exactly that. In the e-mail Ban wrote "I also found some dropbox folder *that Joe forgot to unlink me from* that contained some interesting files," and provides a screenshot showing he is accessing the ReathCo Dropbox folder:[23]

---

memorandum opinion, which was memorialized in a January 12, 1981 final order. The appellant filed his notice of appeal on March 21, 1981. This Court held the appeal was "untimely since it comes more than *30 days after the final order* entered on January 12, 1981." *Id.* at 1271 (emphasis added).

[22] Answering Brief at 7. Confusing matters, Ban asserts both parties acknowledge he had been cut off from the DVRC Dropbox account after his suspension, so there can be no claim. Answering Brief at 20 ("How then could there be a basis for finding that Ban had accessed a DropBox that all parties acknowledge he had no access to?"). Appellants' claims stem from Ban's authorized access of ReathCo's Dropbox account.

[23] A208–09 (emphasis added).



Similarly unavailing is Ban's claim that metadata from documents he produced after Appellants prevailed on a motion to compel fail to show Ban downloaded these documents from Manheim's Dropbox account.[24] Ban is denying the obvious; these personal documents belonging to Manheim, such as his passport[25] and plane-ticket receipt,[26] were produced by Ban, as evidenced by the "YMB" prefix on the Bates stamping. Indeed, he did not deny this in the ligation below, admitting when he realized Manheim had forgotten to remove his access to the ReathCo Dropbox account, Ban downloaded the entire folder so that Manheim would not be able to remove Ban's access to the files.[27] In any event, the metadata shows the

[24] Answering Brief at 7–8.

[25] A104.

[26] A131–34.

[27] A452.

documents were taken from the ReathCo folder after Ban was suspended, when he indisputably was not authorized to access those files.[28]

B. Appellants Are Entitled to Relief Due to Ban's Unauthorized Dropbox Access.

Ban's only basis for contending he did not violate the Computer Fraud and Abuse Act, Pennsylvania Uniform Trade Secrets Act, and commit conversion, is his assertion that because Manheim had forgotten to revoke Ban's access to the ReathCo Dropbox folder, he was free to access and download these files to his personal laptop. This is despite the fact that he had been notified that he was "suspended as an Officer at DVRC and all affiliated companies including but not limited to Reath and Company" and that he was "forbidden from . . . having any role with the DVRC or any of the affiliated Company [sic] as referenced above."[29]

This argument is akin to claiming Ban could have entered DVRC's offices and copied its files the night he was suspended, because Manheim had forgotten to collect Ban's office key—and it is just as spurious. Numerous authorities have held accessing electronic information without authorization is actionable.

---

[28] AR1–5. Specifically, the "Path" metadata field for each document shows in comes from the ReathCo folder.

[29] A179.

The Court of Chancery's decision in *AlixPartners, LLP v. Benichou*, is on point.[30] The plaintiff in *AlixPartners* sued a former employee who downloaded company files from his employer-issued computer shortly before and after resigning from the company. There was no allegation that the plaintiff had "hacked" into the computer or the company's data. Nonetheless, the Court of Chancery held that plaintiff stated claims for violating the Computer Fraud and Abuse Act, the Delaware Unform Trade Secrets Act (or an analogue act from another state), and conversion.

Courts outside of Delaware have reached similar conclusions. For example, in *American Furukawa, Inc. v. Hossain*, the U.S. District Court for the Eastern District of Michigan considered claims a company brought against a former employee who, while on leave from the company, downloaded numerous company files and e-mails onto his laptop.[31] Despite the fact that defendant indisputably had the physical *ability* to access these files, the court held the company pled a claim for violating Computer Fraud and Abuse Act and common law conversion because he "had *no* right to access files during his leave of absence."[32] Similarly, in *Lane v. Brocq*, the U.S. District Court for the Northern District of Illinois rejected a motion

---

[30] 250 A.3d 775 (Del. Ch. 2019).

[31] 103 F. Supp. 3d 864 (E.D. Mich. 2015).

[32] *Id.* at 875, 885–86.

to dismiss Computer Fraud and Abuse Act and Illinois Trade Secrets Act claims brought by a defendant accused of downloading company files for use in setting up a competing business.[33] The defendant contended the Computer Fraud and Abuse Act claim against him failed as a matter of law because, as plaintiff's employee, he was allowed to access the company's electronic files—including its Dropbox account—when he was an employee. The District Court disagreed, finding that although he was authorized to access the electronic files, he exceeded that authorization when he did so for purposes adverse to his employer.[34]

Ban knew he was not allowed to access the ReathCo Dropbox folder; Mezzaroba had told him, in writing, that he could have no involvement with DVRC and ReathCo, and Ban himself told Bamford that his access was only a result of Manheim's oversight when removing Ban's access to other Dropbox folders. Just as Ban could not use a key or access code to enter DVRC's offices in the middle of the night, he could not electronically peruse and download ReathCo's business files and Manheim's personal documents after he had been suspended.

---

[33] 2016 WL 1271051 (N.D. Ill. Mar. 28, 2016).

[34] *Id.* at *9; *see also Shurgard Storage Centers, Inc. v. Safeguard Self Storage, Inc.*, 119 F. Supp. 2d 1121, 1124 (W.D. Wash. 2000) (refusing to dismiss Computer Fraud and Abuse Act claims based on former employee, who plaintiff alleged had "full access to all the information" on plaintiff's computer system, sending that information to a computer while still employed by plaintiff).

C. Ban's Self-Help Justification Defense Should Be Rejected.

Ban spends no effort addressing the Opening Brief's legal authorities because he knows he accessed ReathCo's Dropbox folder without authorization, but he believes he was justified in doing so because Manheim had wronged him. He personally made this argument at his deposition and at trial.[35]

> THE WITNESS: Mr. Day, as far as I'm concerned, I have as much right to this Penfold folder as Joe Manheim.
>
> BY MR. DAY: Q. And what about the Reath Co. folder?
>
> A. I don't know what's in the Reath Co. folder, I don't remember. . . Then again, if there's any evidence of wrongdoing in this folder, at the end of the day, the judge is going to decide whether it was rightful for me to access it or have it or continue to have it to today, or maybe it was a folder that I created, maybe it belongs to me. So, you know, that's up for question. So let's -- you know, let's see whether -- let's see what the judge says.[36]

But, perhaps restrained by counsel who recognized how repugnant this argument would be to the court, Ban never made this argument to the Court of Chancery through briefing or oral argument. Yet he makes it here, arguing Appellants "put the 'rabbit in the hat' by assuming, without any support that the self-serving and improper purported 'suspension' of Ban as an officer of the subject entities, somehow revoked his rights as an officer and 31.5% owner to at all times

---

[35] *See* Opening Brief at 32–33.

[36] A451–52.

access the very documents he is accused of improperly accessing."[37] He concludes by asserting "it would visit a great injustice on Ban to hold him responsible for acting in the best interests of the very entities which Manheim had failed for his own benefit."[38]

Ban's argument that a party who feels wronged can, without authorization, access and download an adversary's confidential electronic files (including personal documents, and at least one document marked as privileged attorney work product) in violation of federal law, state law, common law and the rules of discovery—as long as that party is searching for evidence of the other party's misconduct—must be squarely rejected. Parties and counsel have been sanctioned for less.[39]

Ban, who is an attorney,[40] had other options. Bamford served a books and records demand, and as a result was permitted to have his accountants perform an on-site inspection of DVRC's books and records—which they did.[41] Ban could have done the same. Instead, without authorization, he accessed and downloaded files he knew Manheim intended to, but inadvertently failed to, remove from Ban's access.

---

[37] Answering Brief at 22.

[38] *Id.*

[39] *See, e.g.*, *Postorivo v. AG Paintball Hldgs., Inc.*, 2008 WL 3876199 (Del. Ch. Aug. 20, 2008) (disqualifying counsel after party that possessed adversary's privileged documents due to asset sale did not return the documents).

[40] AR6–7; *see also* A462; A208.

[41] Opinion at 49.

Ban's resort to extra-legal, extra-judicial covert discovery is an actionable violation of statute and common law, and there is no defense to that conduct, regardless of what Ban may have hoped to find in his unauthorized fishing expedition into Manheim's private files.

CONCLUSION

For the foregoing reasons, the Court of Chancery erred in holding Manheim liable for Mandle's compensation and in holding Ban's unauthorized accessing and downloading of Manheim's Dropbox files was not actionable. This Court should reverse the trial court's errors.

PRICKETT, JONES & ELLIOTT, P.A.

/s/ Bruce E. Jameson
Bruce E. Jameson (#2931)
John G. Day (#6023)
Kirsten M. Valania (#6951)
1310 North King Street
Wilmington, Delaware 19801
(302) 888-6500

Counsel for Defendants-Below, Appellants

OF COUNSEL:

Joshua K. Bromberg
KLEINBERG, KAPLAN,
WOLFF & COHEN, P.C.
500 Fifth Avenue
New York, New York 10110
(212) 986-6000

Dated: January 4, 2024

CERTIFICATE OF SERVICE

I, Bruce E. Jameson, do hereby certify on this 4th day of January, 2024, that I caused a copy of the foregoing ***Appellants' Reply Brief*** to be served upon the following counsel of record via File and ServeXpress:

Jeffrey S. Cianciulli, Esquire
WEIR & PARTNERS
824 North Market Street, Suite 800
Wilmington, Delaware 19801
(302) 652-8909

William B. Chandler, III, Esquire
Brad Sorrels, Esquire
Shannon E. German, Esquire
Daniyal M. Iqbal, Esquire
WILSON SONSINI GOODRICH & ROSATI
222 Delaware Avenue, Suite 800
Wilmington, Delaware 19801
(302) 304-7600

/s/ Bruce E. Jameson
Bruce E. Jameson (#2931)