



The Delaware Court of Chancery



Selected Business Valuation Case Summaries Selected Summaries of 2025 Decisions

Introduction

Kroll experts testify on commercial and shareholder disputes across the country, including in the Delaware Court of Chancery (the “Court” or the “Chancery Court”). The Chancery Court is widely recognized as one of the nation’s leading business courts in terms of volume of complex business-related cases. As a result, the Court has developed significant case law in this area.

This high volume of business cases results in the Court issuing numerous opinions, many of which address business and security valuation and economic damages.

In this Court case update, we focus on five opinions from 2025 to highlight how certain valuation and damages analysis topics are viewed by the Court.

In review these cases, we do not summarize every relevant issue but rather focus primarily on certain topics related to valuation and damages. We recommend that interested readers review the full Court opinions to gain a complete understanding of all the issues addressed and each judge’s position. We have included a hyperlink to each decision below its case caption.

In this Court case update, we summarize the following cases:

Delaware Court of Chancery

In Re Dura Medic Holdings, Inc Consolidated Litigation

C.A. No. 2019-0474-JTL (Del. Ch. January 29, 2025)

Vice Chancellor Laster

Issues: projections, going concern

[Click here to view the opinion](#)

In re Sears Hometown and Outlet Stores, Inc. Stockholder Litigation

C.A. No. 2019-0798-JTL (Del. Ch. February 13, 2025)

Vice Chancellor Laster

Issues: damages

[Click here to view the opinion](#)

Walker v. FRP Invs. GP, LLC

C.A. No. 2022-0816-MTZ (Del. Ch. April 15, 2025)

Vice Chancellor Zurn

Issues: valuation of profits interests

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Ban v. Manheim

C.A. No. 2022-0768-JTL (Del. Ch. May 19, 2025)

Vice Chancellor Laster

Issues: projections, normalizing adjustments, supplemental reports

[Click here to view the opinion](#)

Neem International CV, et al. v. Vadim Shulman, et al.

C.A. No. 2022-0187-LWW (Del. Ch. December 31, 2025)

Vice Chancellor Will

Issues: liquidation preference, projections, 409A valuation

[Click here to view the opinion](#)

Case Summaries

In Re Dura Medic Holdings, Inc Consolidated Litigation, C.A. No. 2019-0474-JTL (Del. Ch. January 29, 2025, February 20, 2025)

This matter relates to Comvest Investment Partners Holdings, LLC's ("Comvest" or, along with certain individuals, "Defendants") sale of the assets of Dura Medic, Inc. ("Dura Medic") to AdaptHealth, LLC ("AdaptHealth") in October 2020 (the "Sale"). The Defendants argued that the consideration obtained in the Sale was reasonable given the value of the assets; the Plaintiffs argued that it was not. The Court ruled in favor of the Defendants regarding the claims related to the Sale process and Sale.

While the Court consolidated multiple cases for purposes of trial, this summary focuses on the Court's January 29, 2025 opinion regarding only the claim for breach of fiduciary duty relating to the sale.

Dura Medic, which was founded in 2004, supplied durable medical equipment ("DME"), such as crutches, splints, and braces to hospitals. In 2018, Dura Medic merged with Comvest (the "Merger"), which resulted in a Comvest affiliate owning a 63.6 percent ownership stake in Dura Medic's post-merger parent company. Mark Newton ("Newton"), co-founder of Dura Medic, was one of the sellers, and rolled over his proceeds from the Merger with Comvest into ownership in Dura Medic's post-merger parent company.

After the Merger in 2018, Dura Medic performed poorly due to withheld Medicare claims and increased scrutiny from their Medicare Administrative Contractors, and was ultimately sold to AdaptHealth in 2020. The Sale to AdaptHealth included, among other terms and conditions, \$2 million in cash for substantially all of Dura Medic's assets, as well as additional contingent consideration.

Newton alleged, on behalf of Dura Medic, the first-level holding company, and the second-level holding company, that Defendants breached their fiduciary duties when they negotiated and approved the Sale. The Court applied "enhanced scrutiny" to assess whether the Sale price fell within a range of reasonableness.

Both sides relied on experts to value Dura Medic relative to the consideration obtained in the Sale.

The Defendants' expert applied a net asset approach to value Dura Medic's assets, "credibly conclud[ing] that [Dura Medic] was not a going concern as of October 1, 2020." The Defendants' expert valued the assets purchased by AdaptHealth at \$1.14 million, "meaning the Sale consideration [\$2 million] exceeded the fair market value of the transferred assets." The Court found the Defendants' expert's valuation to be credible.

Newton's expert used a discounted cash flow ("DCF") methodology, relying on Comvest's projections for Dura Medic prepared in May 2018, when Comvest had initially purchased Dura Medic. Newton's expert arrived at a value as of October 1, 2020 ranging from \$44.3 million to \$73 million, with a median value of \$58.7 million. The Court referred to this figure as "preposterous." The Court concluded that Newton's expert's valuation could not be relied upon, as the expert relied upon projections that were "stale by 2020 and no longer provided a reliable basis for a valuation." The Court noted that in between the Merger and the Sale, Dura Medic suffered from regulatory audits, the impact of COVID-19, and a rapid decline in the business. The Court stated that Dura Medic "in October 2020 bore little resemblance to what Comvest thought it was buying in May 2018," and concluded that Dura Medic was no longer a going concern.

In re Sears Hometown and Outlet Stores, Inc. Stockholder Litigation, C.A. No. 2019-0798-JTL (Del. Ch. February 13, 2025)

The Kroll 2024 summaries covered a decision regarding the acquisition of Sears Hometown and Outlet Stores, Inc. ("Sears" or the "Company") by its controlling shareholder, Edward Lampert ("Lampert") and the Franchise Group, an affiliate of Vintage Capital Management LLC (the "Transaction"). The matter was reargued in the same year, and a related decision was issued in 2025.

There were two matters related to this Transaction. First, an investment fund sought appraisal after the Transaction. Second, other stockholders, who did not exercise appraisal rights and received the merger consideration, pursued a plenary action for breach of fiduciary duty. During the appraisal proceeding, the surviving corporation and its post-merger parent became insolvent. With the appraisal

proceeding “dead in the water,” as the Court noted, the investment fund opted to participate in the plenary proceeding, and the class definition was modified to include former stockholders who sought appraisal.

The January 24, 2024 opinion (summarized [here](#)) covered the trial of the plenary action; the Court found that the Transaction was not entirely fair and awarded damages of \$1.78 per share, based on the difference between the determined fair value of the Company (\$4.99) and what the minority stockholders received (\$3.21). This matter was reargued in the same year, as discussed in more detail below, and resulted in an adjustment to the damages determined in the January 24, 2024 opinion.

The February 13, 2025 opinion relates to the damages awarded and the investment fund’s successful attempt to recover damages as the full fair price of the Company, not just the difference between fair price and received price, i.e., the damages received by the plenary class members. The Court ruled that the fund “has the same entitlement to damages as the plenary class. In this case, that means the judicially determined fair price.” Since the fund had not received any amounts that could be offset (i.e., the merger consideration), the Court determined that the fund was entitled to the full fair price.

Notably, the 2025 opinion references the 2024 reargument in the plenary action brought by Defendants, which led to the Court reducing the fair price determination to \$4.06 per share, resulting in damages of \$0.85 per share. Because the 2025 decision referenced the 2024 reargument decision, and because it was not included in any of Kroll’s prior summaries, we are including a summary of the 2024 reargument decision here. *Note: As the 2024 reargument decision is not available on the Delaware Courts website, a link has not been provided here.*

Order Granting Defendants’ Motion for Reargument (July 2, 2024)

The motion for reargument related to the inclusion/exclusion of certain liquidation costs for the Hometown segment. In arriving at a fair price for the Hometown segment, the Court, in its initial opinion, (i) estimated a gross liquidation value; (ii) subtracted an estimate of liquidation costs; and

(iii) subtracted an estimate of third-party liabilities that the liquidation would generate. In the motion, the Defendants contended that the Court “appears to have inadvertently failed to account for” certain additional liquidation costs (“Additional Liquidation Costs”).

The Court discussed more detail regarding how it arrived at its initial fair value, indicating that, while it considered the Additional Liquidation Costs, it ultimately excluded them from the fair value calculation and included an additional \$14.3 million for increased third-party liabilities. The Court noted that “as the drafting process and fact-checking process wore on [for the initial opinion], the court struggled to weigh the plethora of calculations and inputs in the record that could be part of the calculation of Additional Liquidation Costs. The parties had not focused on the Additional Liquidation Costs at trial, and although the defendants now highlight the pertinent line items in their Motion, the court did not have that type of guidance for its deliberations.”

The Court indicated that the motion “shows persuasively that the court should have included an additional amount for Additional Liquidation Costs” and adopts the motion’s \$35.7 million figure, noting it was close to the \$35.6 million figure originally considered by the Court. However, the Court also indicated that the “opposition to the Motion has convinced the court not to include any amount for Increased Third-Party Liabilities, as the court originally planned,” noting that Lampert bore the burden and “did not personally attempt to value [the Increased Third-Party Liabilities], nor did he present any expert analysis on that issue.”

The Court reiterated that “under no circumstances” would it have included both the \$35.7 million in Additional Liquidation Costs and an additional \$14.3 million in increased third-party liabilities. The Court also stated, “[n]or would the court have credited a valuation that purported to render the Transaction financially fair,” as “such an outcome would be inconsistent with the evidence as a whole and the court’s belief, after weighing the evidence as a whole, that the Hometown portion of the Transaction was unfair.”

The Court modified its Opinion to arrive at a fair value of \$4.06 per share, and damages of \$0.85 per share.

Walker v. FRP Invs. GP, LLC, C.A. No. 2022-0816-MTZ (Del. Ch. April 15, 2025)

This matter concerns a breach of contract in which a partnership’s general partner was alleged to have improperly valued newly issued incentive units, diluting an existing B

Unit holder’s cash out. The Court found in favor of Plaintiff and calculated expectation damages, rejecting the damages estimates put forth by both experts.

Foundation Risk Partners (“FRP”) was a nationwide insurance brokerage backed by private equity firm Warburg Pincus (“Warburg”). FRP was owned by FRP Investors, L.P. (the “Partnership”), whose general partner was FRP Investors GP, LLC (“Defendant” or “GP”). Cornelius T. Walker, Jr. (“Plaintiff”) was a founder and FRP’s original CFO.

Under the Partnership’s limited partnership agreement (“LPA”), there were three ownership classes: A Units, B Units, and C Units. The B Units, the units at issue in this dispute, were structured as profits interests, which “allowed unitholders to participate in value creation above the point at which they were issued.” Under the LPA, GP assigned a “Threshold Value” to newly issued B Units based on a “reasonable determination” of FRP’s fair market value immediately prior to issuance. As such, a lower Threshold Value for newly issued B Units diluted existing B Unit holders by shifting more value to newly issued units.

Plaintiff received 360,000 B Units on January 31, 2017 at a \$0 Threshold Value. In October 2020, after Plaintiff was replaced as CFO, GP issued 90,000 B Units to the new CFO with a Threshold Value of \$16.8 million based on FRP’s September 30, 2020, quarterly valuation. Plaintiff was allowed to retain his B Units despite no longer holding his position, making him the only employee permitted to keep incentive equity without being required to perform ongoing work for FRP.

On December 31, 2021, Warburg conducted a quarterly valuation of FRP and estimated an enterprise value of \$2.098 billion, implying a B Pool (total amount available for B Unit holders) of \$110.7 million. Also in December 2021, TA Associates Management, L.P. verbally expressed interest in acquiring FRP at an enterprise value of approximately \$2.55 billion. Around the same time, FRP continued its strategy of growth by acquisition, but the “market was so hot that FRP was also a target,” and internal discussions focused on how issuing the remaining authorized B Units to recipients other than Plaintiff could dilute Plaintiff’s share of the B Pool. Management explored ways to limit Plaintiff’s growth in his B Units by freezing their value, but Plaintiff rejected those proposals.

On February 28, 2022, GP issued the remaining 612,700 B Units using the December 31, 2021 valuation and set the Threshold Value at \$110.7 million. GP did not update the enterprise value to reflect revised EBITDA projections, updated quality-of-earnings adjustments, or evolving acquisition discussions. The new Threshold Value set the end of the second tier in the B Pool distribution to

\$110.7 million and reduced Plaintiff’s share of the third tier to 12%.

FRP was ultimately sold in August 2022 to Partners Group at a \$2.83 billion enterprise value, implying a B Pool of approximately \$223 million. Plaintiff received approximately \$30.3 million for his B Units, but alleged that if GP had set a proper, timely, and fair-market-based Threshold Value in February 2022, his interest would have entitled him to greater amounts.

The Court found that the December 31, 2021 valuation “did not approximate an informed transaction because it failed to account for new information GP knew.” As a result, “GP did not satisfy the LPA’s requirements for a reasonable determination of enterprise value.” The Court further explained that the “Threshold Value is not contractually tied to the last quarterly valuation or the last issuance of A Units. It is tied to GP’s reasonable determination of enterprise value immediately prior to the issuance of additional B Units.”

To calculate expectation damages, the Court heard from experts on both sides, but determined that “[n]either expert opinion was helpful to the Court in assessing damages.” GP’s expert did not opine on GP’s view of fair market value except to conclude that “GP’s use of the December 31 Valuation was reasonable, which as [the Court] explained it was not.” Plaintiff’s expert used multiple valuation approaches to assess FRP’s fair market value when GP issued the remaining B Units and to determine the corresponding Threshold Value. However, the Court found that “each [approach] assessed enterprise value based on [the expert’s] own opinion, divorced from [the LPA’s] requirement to base Threshold Value on GP’s reasonable determination.” The Court stated:

The LPA does not define Threshold Value in reference to an objective determination of FRP’s enterprise value. It defines Threshold Value as the “amount that would, in the reasonable determination of [GP],” be distributed to B Unit holders if FRP were sold at Fair Market Value, i.e., GP’s reasonable determination of enterprise value based on a hypothetical negotiated, arm’s length transaction between informed and willing parties.

Ultimately, the Court used a February 26, 2022 internal Warburg model with certain adjustments to inputs to arrive at a damages figure. The Court awarded Plaintiff \$416,248.93 in damages, plus pre- and post-judgment interest, representing the amount Plaintiff lost due to the improperly low Threshold Value.

Ban v. Manheim, C.A. No. 2022-0768-JTL (Del. Ch. May 19, 2025)

This matter relates to damages for the loss of ownership interests. In this litigation, Defendants were accused of unfairly exercising a redemption and call right leading to damages in the form of lost ownership interests. The Court found that Defendants failed to prove that either of the rights were fairly exercised and, as a result, awarded Plaintiff \$6,898,612 in damages, plus pre- and post-judgment interest and minus any cash distribution already received by Plaintiff.

Delaware Valley Regional Center, LLC (“DVRC”) managed investment funds that offered foreign nationals the opportunity to qualify for U.S. residency under the EB-5 Immigrant Investor Program by contributing a total of \$550,000. West 36th, Inc. (“WestCo”) was the sole manager of DVRC and held a 10% interest in DVRC. Penfold, L.P. (“Penfold”) held the remaining 90% interest in DVRC, but held no authority over business matters. Joseph Manheim (“Manheim” and, together with WestCo, “Defendants”) held a 70% controlling interest in WestCo, and Young Min Ban (“Plaintiff”) held a 15% interest in WestCo. Penfold was composed of three limited partners (“LPs”) with equal ownership interests: Manheim, the Plaintiff, and an unrelated third party. Penfold’s general partner (“GP”) was Reath & Co, LLC (“ReathCo”), which was controlled by Manheim who had the sole authority to act on Penfold’s behalf.

Manheim was accused of misappropriating funds from DVRC for his own personal use. In anticipation of disputes regarding this misconduct, Manheim adopted a new agreement for DVRC that allowed WestCo the ability to determine that a member’s continued involvement could cause DVRC to suffer a “Material Adverse Effect” and WestCo could cause DVRC to redeem that member’s ownership interest for the lesser of its appraised value or the amount of the member’s capital account (the “DVRC Redemption Right”). Manheim used this mechanism to “eliminate” Penfold’s ownership interest in DVRC, and DVRC paid book value based on a calculation prepared by Manheim for which he produced no support. DVRC, directed by WestCo, issued “replacement equity” to Manheim. To avoid doing the same for Plaintiff, Manheim adopted a bylaw that allowed the majority ownership interest of WestCo to force minority interests to sell their shares to the majority (the “WestCo Call Right”). Manheim used the WestCo Call Right to acquire Plaintiff’s 15% interest in WestCo using an arbitrary \$100 per share value. Plaintiff subsequently sued Defendants seeking damages for the loss of his ownership interests.

The Plaintiff’s expert submitted an initial report that valued DVRC using a discounted cash flow (“DCF”) methodology, plus non-operating income at the DVRC level. Plaintiff’s expert opined that the fair value of DVRC was \$30,474,735 and the fair value of Plaintiff’s 31.5% interest (15% interest in WestCo plus one-third interest in Penfold, which held a 90% interest in DVRC) was \$9,599,541. Plaintiff’s expert utilized management’s revenue projections for DVRC without adjustment, which assumed that DVRC was winding down and would not continue as a going concern. The Court noted that it “has expressed a preference for valuations ‘based on contemporaneously prepared management projections’” and has been skeptical of litigation-driven adjustments to management projections, but has used adjusted projections when the expert has provided sufficient support for the modifications. In this case, management’s projections did not anticipate the creation of any EB-5 investment vehicles which “necessarily undervalued DVRC relative to what its value would have been as a going concern.” On the expense side, Plaintiff’s expert adjusted projected expenses by normalizing them to historical DVRC expenses which the Court found “was a reasonable approach.” Plaintiff’s expert used a capital asset pricing model to derive a discount rate, which the Court noted “should be used where it can be deployed responsibly,” and omitted a size premium.

Defendants’ expert did not respond with a valuation of his own, but rather rebutted Plaintiff’s expert’s valuation, noting that it did not include a material agent payment which Defendants’ expert valued as if it were due in 2022. This reduced the fair value of Plaintiff’s interest in DVRC to \$8,547,504. Next, Defendants’ expert criticized Plaintiff’s expert’s normalizing adjustments to DVRC’s expenses. The Court agreed with and accepted Defendants’ expert’s criticisms regarding litigation expenses and compensation expenses, but rejected criticisms of the other adjustments, further reducing the fair value of Plaintiff’s interest in DVRC to \$7,452,002. Defendants’ expert also criticized Plaintiff’s expert’s valuation for incorrectly including an extra month of revenue in 2022 that should have been excluded because of the valuation date, and for overstating the value of a non-operating asset. The Court agreed with both corrections which lowered the fair value of Plaintiff’s interest in DVRC to \$6,898,612.

After additional discovery, Plaintiff’s expert filed a supplemental valuation using a DCF that incorporated new projections which were based on estimates of the length of

time that DVRC's remaining foreign investors would stay invested. Because Plaintiff's expert had now introduced new inputs, the Court rejected this supplemental report entirely, explaining that an expert "cannot come up with completely new inputs in a supplemental expert report. An expert can make adjustments to his opinions to reflect late-breaking discovery, account for the evidence adduced at trial, or respond to criticisms from the other side. Here, [Plaintiff's expert] went too far."

Defendants' expert submitted a supplemental rebuttal report which disputed, for the first time, Plaintiff's expert's decision

to not include a size premium in the discount rate. Similar to Plaintiff's expert's supplemental report, the Court rejected this as it was not included in the initial rebuttal report.

The Court concluded that Plaintiff is entitled to damages based on the fair value of his equity interests at the time Manheim eliminated them. The Court accepted Plaintiff's expert's initial valuation, as corrected by Defendants' expert and further adjusted by the Court, and awarded Plaintiff \$6,898,612 in damages, plus pre- and post-judgment interest, minus any cash distribution already received.

Neem International CV, et al. v. Vadim Shulman, et al., C.A. No. 2022-0187-LWW (Del. Ch. December 31, 2025)

This damages matter relates to alleged breaches of fiduciary duty regarding the sale of Pathway Genomics ("Pathway"), which provided genetic testing services. The Court found that Plaintiffs could not pursue derivative claims, which accounted for most of the liability theories. The Court found, however, that the Plaintiffs' liquidation preference rights were breached and awarded restitution based on the value of the distributable assets as of the Article 9 sale. In determining the value of the assets, the Court relied on the Defendant's credit bid of \$25.3 million, rejecting reliance on a 409A valuation.

Prior to the sale, Vadim Shulman ("Shulman") was Pathway's largest investor, a holder of convertible promissory notes that "encumbered" Pathway's assets, Chairman of the Board, President, and CEO. Through an Article 9 Sale process, in which Shulman, as a secured creditor, sold Pathway's assets after a loan default, Tyxel Ltd. ("Tyxel") won the bid to acquire Pathway's assets for \$25.3 million on January 22, 2020 ("Article 9 Sale"). Tyxel was formed and owned by Shulman.

In February 2022, ALJ Holdings, Ltd. and Neem International CV (collectively the "Plaintiffs"), Pathway's preferred stockholders, filed a complaint against Shulman, other Board members, Ome Ventures, a subsidiary of Tyxel, and Pathway OME (collectively the "Defendants"). The Court ruled that Pathway was a void entity as of March 1, 2020 and therefore, derivative claims could not be asserted. Thus, the Court only considered the Plaintiffs' direct claims.

The relevant claim for this summary alleged that Shulman impaired the Plaintiffs' liquidation preferences through the Article 9 Sale. The Court found that Plaintiffs successfully proved that their preference rights were breached.

The Court found that the most appropriate remedy was equitable restitution that restored Plaintiffs to the position they occupied before Shulman's inequitable Article 9 sale.

The Court calculated restitution to Plaintiffs as the value of the distributable assets as of the Article 9 sale. In determining the value of the assets, the Court adopted Tyxel's (i.e., Shulman's) credit bid of \$25.3 million as the "most concrete evidence of value in the record." The Court stated that "[a]s the disloyal fiduciary, [Shulman] is now stuck with" the amount that he bid, and that by bidding that amount, Shulman "assigned a specific value to the assets to facilitate his foreclosure." The Court notes that while a credit bid "may represent the 'ceiling' of value in a competitive sale, it represents the minimum value Shulman was willing to attribute to Pathway's assets to capture them for his own entity." Shulman's bid "serves as an estimate of the value diverted from the preferred stockholders."

The Court rejected the Plaintiffs' expert's use of "stale" 409A valuation reports and management projections that were "unreliable and consistently missed," noting that "[i]n the context of this equitable remedy, Shulman's own credit bid – representing the specific price he was willing to pay to secure the assets to the exclusion of others – is the best evidence of the value he wrongfully obtained."

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