

DOCKET NO. FSTCV21-6049964-S : SUPERIOR COURT
 STAMFORD-NORWALK
 JUDICIAL DISTRICT : JUDICIAL DISTRICT
 2026 JUN 23 P 3:55 :
 JOHN MALIK : OF STAMFORD-NORWALK
 :
 v. : AT STAMFORD
 :
 DECCAN VALUE LLC, :
 DECCAN VALUE INVESTORS GP LLC, :
 DECCAN VALUE INVESTORS L.P., :
 and VINIT M. BODAS :
 :
 AND :
 :
 DOCKET NO. FST-CV-216052725-S :
 :
 DECCAN VALUE LLC, :
 DECCAN VALUE INVESTORS GP LLC, :
 DECCAN VALUE INVESTORS L.P., :
 and VINIT M. BODAS :
 :
 v. :
 :
 JOHN MALIK : JUNE 23, 2026

MEMORANDUM OF DECISION

I. INTRODUCTION AND RELEVANT FACTS

This case consists of two consolidated individual actions, *Malik v. Deccan Value LLC*, Docket Number FST-CV-21-6049964-S and *Deccan Value LLC v. Malik*, Docket Number FST-CV-21-6052725-S. These consolidated matters arise out of John Malik's ("Malik") previous employment at Deccan Value LLC, Deccan Value Investors GP LLC, and Deccan Investors L.P. (collectively the "Deccan entities" or "Deccan"). Vinit Bodas ("Bodas") is the founder, President, and Chief Investment Officer (CIO) of Deccan. Bodas is also a general partner and

managing member of the Deccan entities. Deccan is an investment management firm located in Greenwich. Malik was a partner and member in the Deccan entities and served as the Chief Operating Officer (COO), Chief Compliance Officer (CCO), and Chief Financial Officer (CFO) of Deccan from 2010 to March 2020.

Malik resigned from the Deccan entities in February 2020 and withdrew from all of his roles at Deccan effective at the end of March 2020. In May 2020, he filed a whistleblower report with the Securities & Exchange Commission (SEC), alleging that Deccan had violated its fiduciary duties in connection with redeeming the investments of two university clients in 2019. The allegations contained in Malik's whistleblower report were eventually resolved through a consent order that the Deccan entities entered into with the SEC in August 2022.

The relevant agreements executed by the parties in this action consist of the Deccan Limited Partnership Agreement (the LP Agreement), which governs Deccan Value Investors, L.P.; the Deccan GP LLC Agreement (the GP Agreement), which governs Deccan Value Investors GP LLC; and a supplementary agreement entered into by the parties (the Supplementary GP Agreement). These agreements essentially mirror each other and all of these agreements are governed by Delaware law. For the purposes of this case, the court will refer to the relevant agreements as the Agreements.

In the *Malik v. Deccan Value LLC* action, Malik asserted six affirmative claims, alleging that Deccan: (i) breached the Agreements; (ii) breached the implied covenant of good faith and fair dealing of the Agreements; and (iii) committed statutory theft by transferring approximately \$606,000 from his Deccan capital accounts into the capital accounts of Bodas or, alternatively, committed illegal diversion of wages by never paying him that \$606,000 in the first place. In the *Deccan Value LLC v. Malik* action, Malik asserted forty-four counterclaims against Deccan,

alleging that: (i) Deccan caused him emotional distress by sending him a threatening email in January 2021 intended to intimidate him from cooperating with the SEC (the January 2021 Email); (ii) Deccan breached the Agreements over 1100 times by making disparaging statements about Malik over an approximately two year period, primarily to dozens of Deccan client representatives; (iii) Deccan made thirty-six defamatory per se communications concerning Malik; (iv) Deccan breached the indemnification provisions of the Agreements by failing to reimburse him for his SEC whistleblower-related expenses; and (v) that the attorneys' fees provisions in the Agreements are punitive/unenforceable, and the court should reform them. Deccan has denied Malik's allegations.

In the *Deccan Value LLC v. Malik* action, Deccan asserted fourteen affirmative claims against Malik, and Malik contends that Deccan has also styled many of these claims as special defenses in the *Malik v. Deccan Value LLC* case. Deccan alleges that Malik breached the fiduciary duties he owed Deccan by (i) engaging in outside business activities for his own company, Icarus Lived Inc., to the detriment of Deccan and (ii) failing to inform Deccan of his alleged concerns regarding Deccan's compliance with the SEC and other applicable rules and regulations, despite his roles as CCO, COO, and CFO of Deccan. Deccan also alleges that, while he was a partner of Deccan, Malik committed fraud and misrepresentation by concealing the true nature and extent of his involvement with his outside companies, Icarus Lived Inc. and Icarus Lived LLC, including on Deccan's compliance reporting forms.

Deccan further alleges that Malik breached the Agreements by (i) disclosing Deccan's confidential information, including to Bloomberg News, and (ii) failing to devote all of his business time and attention to Deccan due to his outside business activities with Icarus Lived Inc. Deccan further alleges that, following Malik's withdrawal as a partner and member of

Deccan, Malik improperly retained an entire hard drive of Deccan documents, in violation of General Statutes § 52-564 (statutory theft) and General Statutes § 52-570b (Connecticut Computer Crimes Act). Deccan also alleges that Malik was unjustly enriched following his withdrawal from Deccan, as Malik retained an advance of management fees following the date he gave notice of his withdrawal, despite failing to provide any services to Deccan following that date.

Finally, Deccan also alleges that in 2023, Malik defamed Deccan by sending anonymous emails to Deccan's investors that falsely claimed that Bodas was under Department of Justice investigation. Malik denies Deccan's allegations. Both parties are seeking attorneys' fees pursuant to the Agreements, except that, as mentioned above, Malik alleges that the fee-shifting provision must be reformed in order to be enforceable.

A jury trial was held in this case from July 23, 2025 through August 15, 2025, on Malik's claims of intentional infliction of emotional distress, negligent infliction of emotional distress, and twenty-seven counts of defamation per se. The jury returned a verdict in favor of the Deccan entities as to all counts except a single count of defamation per se. During the pendency of this case the parties have also withdrawn various claims, defenses, and counterclaims. The remaining claims were tried before the court in a court trial that concluded on November 21, 2025. The parties filed posttrial briefs in this matter. Deccan filed its posttrial brief on February 20, 2026, and Malik filed his operative posttrial brief on March 2, 2026.

The claims that this court has to adjudicate in the *Malik v. Deccan Value LLC* action consist of Malik's claims for breach of contract, breach of the implied covenant of good faith and fair dealing, and statutory theft, as well Deccan's special defenses of failure to state a claim upon which relief may be granted, waiver, estoppel, failure to mitigate damages, laches, and unclean

hands. In the *Deccan Value LLC v. Malik* action, the claims before this court are Deccan's claims for attorney's fees and costs, Malik's special defense that the attorney's fees clause is unenforceable, Malik's counterclaims for breach of contract, breach of the implied covenant of good faith and fair dealing, recovery of attorney's fees and costs, and Deccan's special defenses of unclean hands, illegality, and exculpation.

In connection with Malik's statutory theft and general breach of contract claims, Malik alleges that Bodas removed approximately \$600,000 of capital from Malik's capital account and deposited them into Bodas' capital account.

With respect to Malik's breach of contract claims based on purported violations of the non-disparagement provision contained in the Agreements, the relevant portion of the Agreements is the so-called non disparagement clause found at § 2.07 (b) of the Agreements. This provision expressly states as follows:

"Prior to the withdrawal of an Individual Partner as a Partner of the Partnership, and thereafter without limitation of time, (i) such Individual Partner shall not make, publish or communicate to any Person, including but not limited to the clients of the Deccan Companies, any Disparaging (as defined below) remarks, comments or statements concerning the Deccan Companies, or any of their officers, members, partners or employees, (ii) the General Partner shall cause Mr. Vinit Bodas to not make, publish or communicate to any Person, including but not limited to the clients of the Deccan Companies, any Disparaging remarks, comments or statements concerning the Individual Partner and (iii) the General Partner shall use its best efforts to cause its officers, members, partners and employees to not make, publish or communicate to any Person, including but not limited to the clients of the Deccan Companies, any Disparaging remarks, comments or statements concerning the Individual Partner. 'Disparaging' remarks, comments or statements are those that impugn the character, honesty, integrity, morality, business acumen or abilities of the individual or entity being disparaged that are reasonably expected to cause damage to the (x) Deccan Companies, in the case of Disparaging remarks, comments or statements concerning the Deccan Companies or any of their officers, members, partners or employees or the (y) Individual Partner, in the case of Disparaging remarks, comments or statements concerning the Individual Partner. In addition, without limiting the Partnership's or the Individual Partner's legal remedies (including, without limitation, injunctive relief), if an Individual Partner or any of the General Partner's Affiliates breaches the Individual Partner's or the General Partner's, as applicable, non-disparagement obligations pursuant to this Section 2.07(b), such

Individual Partner or the General Partner, as applicable, shall be liable to the Partnership or the Individual Partner, as applicable, for the sum of \$50,000, for each separate breach, payable within ten (10) business days of written notice from the Partnership or the Individual Partner of such breach. The parties hereto acknowledge and agree that if an Individual Partner or the General Partner breaches its obligations pursuant to this Section 2.07(b), the actual damages suffered by the Partnership or the Individual Partner, as applicable, may be difficult to ascertain with precision and that the parties have agreed to the liquidated damages provision set forth in the foregoing sentence in view of such uncertainty and not as a penalty. The parties further acknowledge and agree that the foregoing liquidated damages are a reasonable measure of the damages the Partnership or the General Partner would suffer if the Individual Partner or the General Partner, as applicable, breached the Individual Partner's or the General Partner's obligations pursuant to this Section 2.07(b). Notwithstanding the foregoing, nothing herein shall prevent an Individual Partner or any General Partner's Affiliate who becomes legally compelled to make Disparaging remarks, comments or statements by a legal authority having competent jurisdiction over such Individual Partner or General Partner's Affiliate (by demand) from responding to such demand without the General Partner's or the Individual Partner's, as applicable, prior written consent; provided, however, that such Individual Partner or such General Partner's Affiliate, as applicable, shall give the Partnership or the Individual Partner, as applicable, written notice of any such demand promptly after the receipt thereof, make no more Disparaging remarks, comments or statements than is required, and fully cooperate with all efforts of the Partnership or the Individual Partner, as applicable, to resist, restrict or limit the Disparaging remarks, comments or statements made in response to such demand." (Emphasis omitted.).

II. LEGAL PRINCIPLES

a. STANDARD OF PROOF

The standard of proof in civil actions, a fair preponderance of the evidence, is "properly defined as the better evidence, the evidence having the greater weight, the more convincing force in your mind." (Internal quotation marks omitted.) *Cross v. Huttenlocher*, 185 Conn. 390, 394, 440 A.2d 952 (1981).

b. BURDEN OF PROOF

"While a plaintiff is entitled to every favorable inference that may be legitimately drawn from the evidence, and has the same right to submit a weak case as a strong one, the plaintiff must still sustain the burden of proof on the contested issues in the complaint and the defendant need not present any evidence to contradict it. . . . The general burden of proof in civil actions is

on the plaintiff, who must prove all the essential elements of the complaint [by a fair preponderance of the evidence]." (Citation omitted.) *Gulycz v. Stop & Shop*, 29 Conn. App. 519, 523, 615 A.2d 1087, cert. denied, 224 Conn. 923, 618 A.2d 527 (1992). Failure to do so results in judgment for the defendant. *Id.* "[W]hat is necessarily implied [in an allegation] need not be expressly alleged." (Internal quotation marks omitted.) *Pamela B. v. Ment*, 244 Conn. 296, 308, 709 A.2d 1089 (1998).

c. THE TRIAL COURT'S FACT FINDING FUNCTION

"The [fact-finding] function is vested in the trial court with its unique opportunity to view the evidence presented in a totality of the circumstances, i.e., including its observations of the demeanor and conduct of the witnesses and parties" (Internal quotation marks omitted.) *Cavolick v. DeSimone*, 88 Conn. App. 638, 646, 870 A.2d 1147, cert. denied, 274 Conn. 906, 876 A.2d 1198 (2005).

"It is well established that in cases tried before courts, trial judges are the sole arbiters of the credibility of witnesses and it is they who determine the weight to be given specific testimony. . . . It is the quintessential function of the fact finder to reject or accept certain evidence" (Internal quotation marks omitted.) *In re Antonio M.*, 56 Conn. App. 534, 540, 744 A.2d 915 (2000). "The sifting and weighing of evidence is peculiarly the function of the trier [of fact]." *Smith v. Smith*, 183 Conn. 121, 123, 438 A.2d 842 (1981). "[N]othing in our law is more elementary than that the trier [of fact] is the final judge of the credibility of witnesses and of the weight to be accorded their testimony." (Internal quotation marks omitted.) *Toffolon v. Avon*, 173 Conn. 525, 530, 378 A.2d 580 (1977). "The trier is free to accept or reject, in whole or in part, the testimony offered by either party." *Smith v. Smith, supra*, 123. "That determination of

credibility is a function of the trial court.” *Heritage Square, LLC v. Eoanou*, 61 Conn. App. 329, 333, 764 A.2d 199 (2001).

“The trier is free to juxtapose conflicting versions of events and determine which is more credible. . . . It is the trier’s exclusive province to weigh the conflicting evidence and determine the credibility of witnesses. . . . The trier of fact may accept or reject the testimony of any witness. . . . The trier can, as well, decide what—all, none, or some—of the witnesses’ testimony to accept or reject.” (Citations omitted; internal quotation marks omitted.) *State v. Osborne*, 41 Conn. App. 287, 291, 676 A.2d 399 (1996). “[T]he [trial court’s] function [as the finder] is to draw whatever inferences from the evidence or facts established by the evidence it deems to be reasonable and logical.” (Internal quotation marks omitted.) *In re Christine F.*, 6 Conn. App. 360, 366, 505 A.2d 734, *cert. denied*, 199 Conn. 808, 508 A.2d 769 (1986).

d. APPLICABLE LAW

As the Agreements that are the basis of the breach of contract claims are governed by Delaware law, the court shall apply Delaware law to all claims based on a claim for breach of the Agreements. With respect to all other claims, the court shall apply Connecticut law. The court will discuss the applicable law in the “Discussion” section in connection with the claims, special defenses, and counterclaims addressed in this decision.

III. DISCUSSION

A. MALIK HAS FAILED TO PROVE HIS CONTRACTUAL DISPARAGEMENT CLAIMS.

Malik has asserted two counterclaims alleging that the Deccan entities breached the contractual non-disparagement provision found at § 2.07 (b) in the Agreements. In support of these claims, Malik testified at trial in detail about two charts that he prepared that expressly state each and every purportedly disparaging statement that he claims to have been made by the

Deccan entities in violation of the non-disparagement clause. Malik testified that these statements consist of 274 statements that he believes to be disparaging and that he argues constitute 274 separate breaches of the non-disparagement provision of the Agreements. The first chart, referred to by Malik as Attachment A of the disparagement chart, categorizes the purportedly disparaging statements by the statements themselves and was admitted into evidence at trial as Malik Exhibit 219. The disparagement chart lists the communication by number designations created by Malik, context, specific language used in the statement, argument that demonstrates why the statement is disparaging, the corresponding witness testimony, the corresponding claim for defamation per se, and the corresponding designation in the second chart. All of these categories were created by Malik, and the chart was clearly created by Malik in anticipation of and for the purposes of litigation.

Malik also submitted into evidence a second disparagement chart, Attachment B of Malik Exhibit 219, in which he has categorized the statements by theme or narrative of the communication based on the person or entity to whom the statement was made. Malik has argued that this second form of the disparagement chart is necessary for the court to interpret the meaning and intent of the purportedly disparaging statements. The chart in Attachment B is categorized by communication number, the theme or narrative category, immediate context, the comment at issue, the argument in support of finding the comment to be disparaging, the corresponding witness to whom the statement was made, and the corresponding claim for defamation per se. All of these categories were also created by Malik and the chart was clearly created by Malik in anticipation of and for the purposes of litigation.

The court has reviewed both charts in detail and has considered all of the trial evidence presented with respect to all the claims of disparagement alleged by Malik. In considering these

claims, the court notes that, as all of these claims are governed by Delaware law, the contract law principles utilized by Delaware courts are applicable to these claims.

Under Delaware law, in order to establish and prove a breach of contract claim, a party must prove all of the following elements: (i) the existence of a contract; (ii) the breach of an obligation imposed by the contract; and (iii) damages that the plaintiff suffered as a result of the breach. See *VLIW Technology, LLC v. Hewlett-Packard Co.*, 840 A.2d 606, 612 (Del. 2003). Delaware courts follow the objective theory of contracts, giving words “their plain meaning unless it appears that the parties intended a special meaning.” *Fellerman v. Collections Acquisition Company, Inc.*, Docket C.A. No. 2024-0363-EMD, 2025 WL 4066454, *8 (Del. Ch. December 16, 2025).

“The principles of contract interpretation under Delaware law are well-established. When interpreting a contract, Delaware courts read the agreement as a whole and enforce the plain meaning of clear and unambiguous language. Contracts will be interpreted to give each provision and term effect and not render any terms meaningless or illusory. . . . Language is ambiguous if it is susceptible to more than one reasonable interpretation.” (Footnotes omitted; internal quotation marks omitted.) *Manti Holdings, LLC v. Authentix Acquisition Co.*, 261 A.3d 1199, 1208 (Del. 2021). Thus, Delaware adheres to an objective theory of contract interpretation. See *Osborn ex rel. Osborn v. Kemp*, 991 A.2d 1153, 1159 (Del. 2010). The parties’ intent is determined from the four corners of the document, unless the agreement is ambiguous. See *GMG Capital Investments, LLC v. Athenian Venture Partners I, L.P.*, 36 A.3d 776, 779-80 (Del. 2012).

“The proper construction of [a contract] is purely a question of law, as is the proper interpretation of specific contractual language.” (Footnote omitted; internal quotation marks

omitted.) *Wenske v. Blue Bell Creameries, Inc.*, Docket C.A. No. 2017-0699-JRS, 2018 WL 3337531, *8 (Del. Ch. July 6, 2018). Contracts are read “as a whole . . . so as not to render any part of the contract mere surplusage” or to “render a provision or term meaningless or illusory.” (Internal quotation marks omitted.) *Osborn ex rel. Osborn v. Kemp, supra*, 991 A.2d 1159; see also *Ray Beyond Corp. v. Trimaran Fund Management, LLC*, Docket C.A. No. 2018-0497-KSJM, 2019 WL 366614, *5 n.62 (Del. Ch. January 29, 2019). “[T]he court ascribes to the words their common or ordinary meaning, and interprets them as would an objectively reasonable third-party observer.” (Internal quotation marks omitted.) *Lawhon v. Winding Ridge Homeowners Assn., Inc.*, Docket C.A. No. 3654-VCN, 2008 WL 5459246, *6 (Del. Ch. December 31, 2008). Moreover, “a court is precluded from resorting to extrinsic evidence to interpret contractual language which is plain and clear on its face” See *Goss v. Coffee Run Condominium Council*, Docket C.A. No. 18981-NC, 2003 WL 21085388, *7 (Del. Ch. April 30, 2003); see also *Lorillard Tobacco Co. v. American Legacy Foundation*, 903 A.2d 728, 739 (Del. 2006).

“Delaware is a contractarian state that holds parties’ freedom of contract in high regard.” (Internal quotation marks omitted.) *Thompson Street Capital Partners IV, L.P. v. Sonova United States Hearing Instruments, LLC*, 340 A.3d 1151, 1165-66 (Del. 2025), quoting *Sunder Energy, LLC v. Jackson*, 332 A.3d 472, 487 (Del. 2024); see also *Stream TV Networks, Inc. v. SeeCubic, Inc.*, 279 A.3d 323, 355 (Del. 2022) (“Delaware is a contractarian state.”). Where the matter involves contract interpretation, the parties are bound to the plain meaning of their agreement where the language of a contract is clear and unequivocal. See *Allied Capital Corp v. GC-Sun Holdings., L.P.*, 910 A.2d 1020, 1030 (Del. Ch. 2006).

Here, it is undisputed that the Agreements constitute legally binding, enforceable contracts between the parties. The issues before this court, therefore, are whether Deccan breached these Agreements and whether Malik is entitled to damages for any such breaches of the Agreements. The court has considered both the disparagement charts and the evidence presented at trial with respect to Malik's contractual disparagement claims. In having done so, the court finds that there are numerous significant deficiencies in the evidence offered by Malik to support his contractual disparagement claims and, as a result, the court cannot find that Malik has proven even a single one of his contractual disparagement claims in this case.

First, Malik's evidence offered at trial in support of these claims consists primarily of his personal interpretation of the liability provision of the disparagement clause in the Agreements, which is contradicted by the plain language of the Agreements and by Delaware law. Malik's interpretation of the damages provision is also illogical and reflects a layperson's misunderstanding of agreements drafted by lawyers as part of extensive negotiations by the parties. Malik was a part of these negotiations and had an opportunity to consult with counsel before signing these Agreements. However, in this context where counsel were involved in drafting these Agreements, it makes no sense that the Agreements would enable one party to simply selectively choose words, phrases, and sentences in the manner in which Malik has done in interpreting these Agreements and then testifying about his interpretation at trial. Malik's far-fetched interpretation defies the principles of drafting contracts as well as common sense, and it is further contravened by both the express language contained in the four corners of the Agreements and by Delaware law.

It has been well established that "[t]he construction of a contract is a question of law for the courts, as is the existence or nonexistence of an ambiguity in a contract. Where the terms of a

contract are clear and unambiguous, the court looks only to the contract to find the parties' intent. If the contract is ambiguous in some respect, the court must apply the rules of contract construction to resolve the ambiguity." *Patel v. Juicy Crab Management, Inc.*, Docket C.A. No. N23C-07-031 FWW, 2024 WL 489683, *5 (Del. Super. February 7, 2024). "The proper construction of [a contract] is purely a question of law, as is the proper interpretation of specific contractual language." (Footnote omitted; internal quotation marks omitted.) *Wenske v. Blue Bell Creameries, Inc.*, *supra*, 2018 WL 3337531, *10. Contracts are read "as a whole . . . so as not to render any part of the contract mere surplusage" or to "render a provision or term meaningless or illusory." (Internal quotation marks omitted.) *Osborn ex rel. Osborn v. Kemp*, *supra*, 991 A.2d 1159; see also *Ray Beyond Corp. v. Trimaran Fund Management, LLC*, *supra*, 2019 WL 366614, *5 n.62.

"[T]he court ascribes to the words their common or ordinary meaning, and interprets them as would an objectively reasonable third-party observer." (Internal quotation marks omitted.) *Lawhon v. Winding Ridge Homeowners Assn., Inc.*, *supra*, 2008 WL 5459246 *6. "[A] court is precluded from resorting to extrinsic evidence to interpret contractual language which is plain and clear on its face" *Goss v. Coffee Run Condominium Council*, *supra*, 2003 WL 21085388, *7; see also *Lorillard Tobacco Co. v. American Legacy Foundation*, *supra*, 903 A.2d 739 ("When interpreting a contract, the role of a court is to effectuate the parties' intent."). As the Delaware Supreme Court has found, "[a]n unreasonable contract interpretation produces an absurd result or one that no reasonable person would have accepted when entering the contract." *Osborn ex. rel. Osborn v. Kemp*, *supra*, 991 A. 2d 1160. Contract interpretations that "produce absurd results must be rejected." *Manti Holdings, LLC v. Authentix Acquisition Co.*, *supra*, 261 A.3d 1221.

In this case, Malik has interpreted § 2.07 (b) of the Agreements in a tortured way that contravenes the principles of contract interpretation that are well defined by Delaware law. Moreover, based on this warped interpretation of the Agreements, he alleges, with no legal basis whatsoever, that he is entitled to \$112.7 million in liquidated damages. Yet, Malik has offered no objective, competent evidence to support what is nothing more than his personal belief regarding how the plain language of these Agreements should be interpreted in a contrived manner so as to support his *personal* interpretation of the Agreements and which results, in his mind, in an award of damages of \$112.7 million in liquidated damages. As the court discusses herein, there are numerous problems with Malik's interpretation of the Agreements.

First, the plain language of the Agreements does not support Malik's interpretation. The express language of the Agreements provides that making, publishing, or communicating to any person, including but not limited to Deccan clients, any "disparaging remarks, comments or statements" constitutes a breach of the Agreements. The definition of "disparaging" includes things that "impugn the character, honesty, integrity, morality, business acumen or abilities of the individual or entity being disparaged" Notably, there is absolutely nothing in any of the Agreements that defines "remarks, comments or statements," nor is there any language that states that these "remarks, comments or statements" should be interpreted in the very specific way that Malik interprets them. Thus, in the absence of any language in the Agreements that defines "remarks, comments or statements," the court interprets "remarks, comments or statements" as these words are naturally interpreted and in accordance with Delaware law, which explicitly states that a court must "ascribe[] to the words their common or ordinary meaning, and [must interpret] them as would an objectively reasonable third-party observer." *Lawhon v. Winding Ridge Homeowners Assn., Inc.*, *supra*, 2008 WL 5459246 *6. In addition, Delaware law

holds that any interpretation of a contract that produces absurd results must be rejected.

See *Manti Holdings, LLC v. Authentix Acquisition Co.*, *supra*, 261 A.3d 1221.

After having reviewed each of the 274 “remarks, comments or statements” cited by Malik in his disparagement charts, it is evident to the court that not a single one of these 274 “remarks, comments or statements” meets the explicit definition of “disparagement” contained in the Agreements. Malik has failed to produce any evidence to suggest otherwise. It is important to note here that the definition of “disparaging” in the Agreements is objective, not subjective, as the parties would have included language in the Agreements to state that there was a subjective aspect to this provision if that was actually their intent. As such, in order to prove even a single instance that constitutes “disparagement,” Malik needed to establish at trial that the statements at issue were more than ones that portrayed him in a negative manner, that the “remarks, comments or statements” were more than merely unflattering to him, and that the comments actually attacked Malik’s professional reputation in his specific line of work in such a way as to cause Malik professional harm. Malik failed to establish any of this at trial.

Even when viewed in the light most favorable to Malik’s unique interpretation of the Agreements, it is clear that unless the court engages in the same level of extensive word play that Malik has engaged in, a plain reading of the Agreements and the words contained within their four corners does not support Malik’s interpretation. Although Malik has intentionally parsed specific words and phrases, taken excerpts from broader statements and spliced them together, taken words out of context, and then argued that these selected excerpts each constitutes an individual breach of the Agreements, there is no logical interpretation of the Agreements that supports this exercise.

Furthermore, it is important to the court in interpreting the Agreements and analyzing the 274 cited “remarks, comments or statements” that the 274 “remarks, comments or statements” listed in Malik’s charts are not verbatim excerpts taken from original sources. While some of the “remarks, comments or statements” are based on depositions of Deccan clients, it is significant that the event where the “remarks, comments or statements” were made occurred years before the deposition of the witness who testified at the deposition. Malik obviously did not attend the event where the “remarks, comments or statements” were made, there was no transcript of the event itself placed into evidence at trial, there was no audio or video recording of the event placed into evidence at trial, and the witnesses who attended the events relayed their own personal summary or understanding of the purported “remarks, comments or statements” made by Deccan and Bodas at the event. Thus, there is clearly a question as to the accuracy of the memories and perceptions of the Deccan clients whose deposition testimony was offered into evidence when it comes to the “remarks, comments or statements” made by Deccan and Bodas at various meetings that took place years before.

Even if the court were to interpret any of the 274 statements in the same manner in which Malik has interpreted them, it is obvious that Malik has distorted the parsed words and phrases that he has referenced in his chart. As such, the “remarks, comments or statements” referenced in the charts do not meet the Agreements’ definition of “disparaging,” as there is nothing in the Agreements that authorizes any party to engage in the exercise that Malik has engaged in to interpret the Agreements, nor is there any support for this exercise under Delaware law.

Also, despite the contortions of language that Malik has engaged in, there is also no evidence that these comments logically lead to the conclusion that Malik’s professional reputation was truly impugned as is required under the Agreements. This is evidenced by

Malik's inclusion of his own contextual explanation for why the court *should* find these statements to be disparaging and by his pointed citations to the various deposition testimony that ultimately do not support the proposition for which Malik has offered them.

Added to this is the fact that not only is Malik's interpretation of the Agreements unsupported by any explicit language in the Agreements themselves, but there was not a single witness presented at trial (other than Malik himself) who testified that Malik's interpretation reflected the intent of the parties and is reflected in the Agreements' plain language. It is clear that as the language of the Agreements and the applicable law do not support Malik's interpretation, he has resorted to effectively telling the court, through his highly curated charts, how to parse the "remarks, comments or statements" through Malik's eyes, in an effort to demonstrate that he is entitled to over \$112 million in damages based solely on his personal view of the charts. This is especially problematic for Malik in light of the fact that Malik has failed to cite to any *objective* legal authority that supports his interpretation, failed to offer any independent witness testimony that supports his position, and failed to place into evidence any documents or other competent evidence that independently supports his interpretation of the Agreements without the need for Malik's personal commentary as contained in the charts.

Furthermore, the deposition testimony cited by Malik in his chart (based upon the court's own review of these depositions), simply does not stand for the propositions for which he has cited them. As with his disparagement claims, Malik miscites these deposition excerpts and suggests that based on his personal commentary regarding the context, the court should find that these client depositions support his disparagement claims. This is particularly concerning to the court because Malik's own charts do not even state the precise words that were used in the client meetings.

Take, for instance, Deccan's annual meeting for clients, which was attended by twenty-four client representatives. Malik references this meeting and the statements made there and characterizes the purported comments that the client has summarized as "Deccan throws Malik under the bus." Nowhere in the charts does Malik actually list the exact words used by Bodas at this meeting in reference to himself. It is clear that even in his own chart, Malik fails to identify the precise words used that purportedly disparaged him in violation of the Agreements. While "Deccan throws Malik under the bus" is a negative comment, there is no evidence that it actually reflects what was stated by Deccan and Bodas at the meeting and not merely the client's own words summarizing the client's own thoughts and beliefs.

This phrase alone also fails to satisfy the definition of "disparaging," given that at the time, clients had become aware that Malik had abruptly and without explanation left Deccan after many years as a partner, CCO, CFO, and COO, and since Malik himself never informed the clients of his departure. To further complicate the picture that was then presented to Deccan's clients is the SEC complaint that Malik filed upon resigning from Deccan (which resulted in nothing more than a modest fine paid by Deccan), the civil lawsuit that Malik filed against Deccan, and the negative publicity that both Malik and Deccan were receiving at this time. All of this, undoubtedly, left Deccan's clients wondering about the sudden and significant upheaval at Deccan and potentially concluding on their own that Malik was the cause of the upheaval. This is especially of significance given that Malik has consistently claimed in this case that his relationship with Deccan's clients was harmed by Deccan's "remarks, comments or statements" about Malik. Given these factors, it is entirely possible that the phrase "Deccan throws Malik under the bus" refers to the upheaval at Deccan that the clients themselves believed to have been caused by Malik's departure and surrounding conduct.

As the deposition testimony and other evidence offered at trial by Malik does not support Malik's interpretation of the Agreements, there is no evidence other than Malik's personal opinion that has been offered into evidence to support's Malik's contractual disparagement claims. Further, since Malik's own proffered evidence is internally inconsistent, the court does not credit this evidence as competent evidence that proves Malik's claims.

As an example, Malik asks the court to selectively read certain statements jointly where he believes them to support his claim for damages, but also simultaneously asks the court to treat each parsed phrase as a separate breach with respect to finding liability. He thus also seeks double recovery by asking the court to duplicate his requests for damages based on notes taken from the same purported incident and then seeks to recover twice for each allegedly disparaging statement under both Agreements. All of this undermines Malik's entire analysis of the disparagement provision and his contractual disparagement claims and undermines his own credibility, leaving the court to find no basis in law or fact to find that he has proven any of his claims.

Moreover, as the court has previously noted, Malik himself was personally and extensively involved in the negotiations of these Agreements and is therefore the person who was in the best position to offer evidence at trial to support his highly irregular interpretation of the Agreements. However, other than his own testimony, which the court finds to be self-serving and contravened by Delaware contract law and the language of the Agreements and thus not credible, there was no evidence presented at trial to support Malik's interpretation. While the court finds Malik's testimony to be credible to the extent that the court understands that Malik himself believes his own interpretation to be the correct interpretation of the Agreements, the court does not credit

his testimony as competent and credible evidence that his interpretation of the Agreements is the accurate one.

As someone lacking in legal training, an interested party who is clearly biased, and the only individual who could have introduced any evidence to support his claims based on his extensive involvement with the negotiations that occurred before these Agreements were executed, the court does not credit Malik's personal interpretation of the Agreements. As he has failed to produce any credible evidence that supports his interpretation, the court therefore does not credit Malik's testimony, his charts, or his interpretation of the Agreements.

Second, the circumstances surrounding the preparation of Malik's disparagement charts is also a factor that the court finds to weigh against Malik's interpretation of the Agreements. As the court has noted, Malik admitted the disparagement charts into evidence at trial and testified at great length regarding his personal belief that the charts reflect the correct interpretation of the Agreements. Outside of his own opinion, Malik failed to offer any other evidence that supports his interpretation of the Agreements. However, as the charts were created by Malik years after he resigned from Deccan and in anticipation of this litigation, it is also clear that Malik, years after the fact, combed through all of these cited client interactions between Deccan and its clients and effectively invented disparagement claims from selectively parsing the words used by Deccan during these interactions. There was no evidence presented at trial that Malik was ever informed by any of the clients whose deposition he has cited to that the clients themselves found any of these statements disparaging at or around the time the statements were made, and there was no evidence presented that Malik even was aware of the statements at or around the time the statements were made.

In fact, all the evidence presented at trial suggests that Malik combed through records of these meetings years after they took place and then drafted his claims after dissecting what purportedly took place at these meetings years earlier. Thus, the meaning of these statements has been created to a large extent by Malik based on his own explanation as to what the statements purportedly meant years after they were made at meetings that he neither attended nor was made aware of until several years after the fact.

At trial, Malik tried to address the lack of clarity with the meaning of these statements in light of his claims by explaining that some of the statements were euphemisms, others were highly specific in nature, and by, once again, providing his own context and explanation for the statements in his chart. Malik has no firsthand knowledge of these statements and has also offered no other evidence to overcome this deficit and demonstrate that the statements in fact mean what he believes them to mean.

Malik was thus unable to cite to a single instance where the statement at issue, on its face, impugned his professional reputation, and the only way for the court to find that his interpretation of these statements is correct is for the court to engage in the same extensive and high level of mental gymnastics that Malik appears to have done in laying out his interpretation in his two disparagement charts. It is clear that in the instances cited in the charts, the plain language does not meet the definition of “disparaging,” and without Malik providing his own characterization and context for these statements as he views them, it was clear at trial that Malik simply could not establish that these otherwise innocuous comments were actually disparaging to Malik’s professional reputation. While some of the comments can, at best, be characterized as unflattering to Malik, not a single cited statement satisfies the very specific meaning of “disparagement,” nor has Malik satisfied his burden of demonstrating that it has.

Third, the only other evidence offered by Malik in support of his contractual disparagement claims was the deposition testimony of many clients of Deccan to whom the purportedly disparaging statements were made, as referenced in Malik's charts. However, it is significant and fatal to Malik's claims that not a single one of these witnesses ever indicated during the depositions that any of their professional opinions of Malik was actually impacted in any way whatsoever by the purportedly disparaging statements, much less that any of these statements changed the specified client's otherwise high professional opinion of Malik. At best, some clients said that the statements had no impact at all on them and some stated that they already had a poor opinion of Malik even prior to hearing the statement at issue. However, not a single client testified that the client's professional opinion of Malik was actually negatively affected as a result of the cited statement.

Fourth, because Malik is not an attorney, is untrained in the law of any jurisdiction, has never attended law school or obtained any other form of legal training, and conceded this lack of legal training in his own trial testimony, and the court has to consider his testimony in this light. Malik also conceded at trial that the two versions of the disparagement chart are based solely on his own layperson's interpretation of the Agreements, that he alone created these charts without any input from a trained attorney, and he further admitted that the charts reflect his own personal opinion and interpretation as an interested party making these claims. Malik also created these charts years after the "remarks, comments or statements" were purportedly made and only after he learned about these "remarks, comments or statements" when discovery in this case was underway. While this is not necessarily fatal to his case, it does leave the court to consider the fact that the only evidence presented in support of his claims is Malik's own biased testimony,

which the court does not find to be credible as to the issue of how the Agreements should be interpreted with respect to these 274 “remarks, comments or statements.”

Specifically, at trial, Malik failed to offer evidence from any independent legal expert, any independent and unbiased witness testimony, or any other competent evidence that corroborated his interpretation of the Agreements. He also failed to offer into evidence any authoritative treatises, publications, or other materials that support his interpretation of the disparagement provision of the Agreements. Malik further failed to offer the testimony of the attorneys who drafted these Agreements despite the fact that Malik was involved in negotiating the terms of the Agreements and was in constant communication with the counsel involved in drafting these Agreements. Malik was also well aware of the process that led to the execution of these Agreements and failed to offer any evidence at trial that demonstrates that the negotiation process resulted in an objective interpretation of these Agreements that is consistent with the intent of the parties and is reflected in the language contained in the four corners of the documents themselves.

Additionally, Malik failed to provide any evidence at trial that demonstrated that even a single one of the statements listed in his charts could foreseeably be expected to cause him damage. This is especially problematic for Malik given his then existing reputation with Deccan’s clients at the time he resigned from Deccan. Among the various depositions of Deccan clients that were introduced at trial, the court did not find a single instance where a client testified that its opinion of Malik was actually lowered or negatively impacted by any statements by Bodas. On the contrary, there was substantial testimony that Malik had generally been unresponsive to clients or much less responsive than the clients would have liked, that the clients believed that Malik appeared to be absent from his roles at Deccan and that he appeared

to be checked-out from his job and the company, and that Malik's interactions with clients had always been strictly in his capacity as an operations partner and not as an investment partner, so that clients would never have relied on Malik for substantive advice, information, or assistance in any event. There was also no evidence whatsoever presented that any client had ever relied on Malik for investment advice at any time prior to the statements being made or that a client or clients stopped relying on him for investment advice as a result of Deccan's disparaging statements about Malik.

In fact, there was ample testimony that any statements by Bodas and Deccan did not impact clients' view of Malik at all, as most clients seemed to not even have thought about Malik to start with, so that their opinions of him were not changed after hearing the statements. In other instances, Malik's negative reputation with clients had already been formed based on Malik's own behavior, such that the clients had previously formed a negative view of Malik even before any potential disparaging remarks were made by Deccan. This is demonstrated most clearly in the testimony of the Stanford University representative. This witness explained that Malik already had a reputation that he was difficult to work with and that he was unresponsive to clients and their needs, so any comments from Bodas or Deccan had no impact on Stanford.

Other clients formed a negative opinion about Malik based on the various publications that discussed Malik's dispute with Deccan and Bodas. In addition, Malik admitted in his own trial testimony that whether a particular comment could reasonably be expected to cause him damage depended on what the listener already thought of him at the time the comment was made.

For example, Malik made no claims with respect to any reputational harm he suffered based on comments made to his colleague Nitya Bhatt, as Bhatt already had a poor opinion of Malik based on Bhatt having witnessed Malik regularly arriving at work late, regularly leaving work

early, regularly working on his personal laptop during the work day while at the office, and generally giving the impression to the staff at Deccan that Malik was checked out from Deccan and was no longer a contributing member of the firm.

The circumstances of the meetings or video calls during which the purportedly disparaging remarks were made and Malik's role vis-à-vis the clients also undermines Malik's position in this case. First, the statements that Malik alleges to be disparaging were purportedly made by Bodas and Deccan during meetings with Deccan's own clients and occurred after Malik had abruptly resigned from Deccan. These meetings were confidential client meetings between Deccan and its clients, so privacy was of the utmost concern for Deccan to maintain its relationships with such long-standing clients and this privacy was protected by way of confidentiality agreements Deccan had with its clients. Thus, any communications about Malik that took place between Deccan and its clients was kept between Deccan and its clients or was restricted to communication within the client's own entity.

Second, Malik was, undisputedly, solely a part of the back office operations of Deccan and was never working in an investment advisory capacity. At trial, Malik failed to produce any evidence that he would have continued to have a relationship with any of Deccan's clients after he resigned from Deccan and was no longer working in an operational capacity at the firm. Deccan is an investment company and its clients' only concern is growing their wealth based on exceptional investment advice. Since Malik had nothing whatsoever do with providing investment advice to Deccan's clients, any claimed harm to his reputation would have had no significance to Deccan's clients because they never did and likely were never going to continue to have contact with Malik, as there was nothing that he could offer these clients since he is not an investment professional that could offer necessary investment services to Deccan's clients. As

such, Malik has offered no evidence that any one comment by Bodas and Deccan, much less all 274 claimed comments, meets the standard of “reasonably expected to cause damage” to Malik under the Agreements.

**B. THE EXCLUPATION CLAUSE CONTAINED IN THE LP AGREEMENT
HOLDS THAT BODAS CANNOT BE HELD LIABLE FOR BREACH OF THE
AGREEMENTS.**

Under § 2.10 of the Agreements, the standard for liability within the Deccan partnership has been expressly outlined. Specifically, this provision states that a Deccan partner shall not be liable to another Deccan partner or to the Deccan entity unless there has been a determination by a court of competent jurisdiction that the partner acted in bad faith, with gross negligence, willful misconduct, or committed fraud. Thus, in order for Malik to prove liability on the part of Bodas in this case, the court must find that Bodas’s conduct falls within one of the specified categories listed in § 2.10.

The credible testimony presented at trial from Bodas established that after Malik, a longtime partner at Deccan, abruptly and unexpectedly resigned from Deccan, Bodas and Deccan had an obligation to their clients to provide some explanation for Malik’s departure in order to alleviate their concerns about (1) the SEC investigation that was prompted by Malik’s complaint to the SEC and (2) Malik’s lawsuit filed against Bodas and Deccan. As a small investment company with long term clients whose trust in and relationship with Bodas and Deccan ensured clients’ continued willingness to trust Deccan with their substantial assets, Bodas was aware that he needed to explain Malik’s departure to clients, but he also knew that the confidentiality agreements in place ensured that the clients would not disclose any information about Malik.

Moreover, given the evidence presented at trial regarding negative stories about Deccan widely published in publications such as Bloomberg and Air Mail, it would have been reckless

of Deccan to fail to address these issues with clients as any of these incidents, let alone the culmination of them and Malik's lawsuit, were independently sufficient for Deccan's clients to withdraw their money from Deccan, not to mention the bad press Deccan received and the very public departure of a long time Deccan partner under the circumstances that existed at the time. Bodas credibly testified at trial that based on all these concerns, he consulted with various advisors, including attorneys and a public relations firm, before determining the best way to address these concerns with clients. Thus, based on Bodas' credible testimony, the additional credible documentary evidence produced at trial, and the relevant facts and circumstances that existed at the time of these events, the court finds that Bodas acted in good faith in consulting with legal and public relations advisors in accordance with the Agreements prior to sharing any information with clients that is an alleged breach of the Agreements.

It is also noteworthy to the court that Malik, in his role as the CCO of Deccan, was well aware that any lawsuit filed against Deccan must be disclosed to Deccan's clients. Thus, it is both disingenuous and demonstrates a concerning lack of credibility that Malik would now claim that the disclosure of the lawsuit that he filed against Deccan to Deccan clients was in any way a violation by Deccan.

Thus, based on the Court's review of the Agreements, the Court finds that § 2.10 of the Agreements expressly states the standard for liability within the Deccan partnership. As the Court has found that the Malik has failed to provide any competent evidence to overcome the explicit language of § 2.10 of the Agreements, the exculpation clause contained in § 2.10 of the Agreements is applicable in this action and Malik has failed to prove otherwise.

**C. THE LIQUIDATED DAMAGES PROVISION OF THE AGREEMENTS IS
UNENFORCEABLE IN THIS CASE.**

In this action, Malik asks the court to enforce the liquidated damages provision contained in § 2.07 (b) of the Agreements against Bodas and Deccan based on their purported breaches of the disparagement clause contained in that same section.

Under Delaware law, there are limits placed on liquidated damages clauses. “As a general rule, a liquidated damages provision must represent a reasonable estimate of the monetary loss likely to be suffered, yet relate to an injury incapable of accurate estimation” to be valid. (Internal quotation marks omitted.) *Faw, Casson & Co., L.L.P. v. Halpen*, Docket C.A. No. 00C-01-015, 2001 WL 985104, *2 n.1 (Del. Super. August 7, 2001). The estimate of loss must be reasonable as of the time of contracting. In those cases “[w]here the damages are uncertain and the amount agreed upon is reasonable, such an agreement will not be disturbed.” *Lee Builders, Inc. v. Wells*, 34 Del. Ch. 307, 309, 103 A.2d 918 (1954), citing *In re Ross & Son, Inc.*, 10 Del. Ch. 434, 95 A. 311 (1915). Thus, Delaware imposes limits on liquidated damages clauses and will not enforce them if they function as coercive penalties. See *Delaware Surgical Services, P.C. v. Swier*, 900 A.2d 646, 650 (Del. 2006).

A liquidated damages amount is unreasonable where it is “unconscionable or not rationally related to any measure of damages a party might conceivably sustain.” (Emphasis omitted; internal quotation marks omitted.) *Unbound Partners Ltd. Partnership v. Invoy Holdings Inc.*, 251 A.3d 1016, 1033 (Del. Super. 2021). A liquidated damages amount is rationally related to any measure of damages when “the amount stipulated [is] either a reasonable estimate of the future damages, or reasonably proportionate to the damages that actually have been caused by the breach[.]” *CRS Proppants LLC v. Preferred Resin Holding Co., LLC*, Docket C.A. No. 15C-08-111 MMJ CCLD, 2016 WL 6094167, *3 (Del. Super. September 27, 2016). Moreover, “[a]

recovery is only available from a party who is liable.” *LG Electronics Inc. v. Invention Investment Fund I, L.P.*, – A.3d – (Del. 2026) (2026 WL 935618, *15).

In this case, the court has determined that Malik has failed to establish at trial that Deccan and Bodas violated the non-disparagement provisions contained in the Agreements as alleged by Malik in his two contractual disparagement counterclaims. Therefore, Malik is not entitled to damages under the liquidated damages provision provided for in the Agreements.

D. MALIK HAS FAILED TO PROVE HIS BREACH OF CONTRACT AND STATUTORY THEFT CLAIMS.

In this action, Malik alleges breach of contract claims and statutory theft claims based on Bodas and Deccan’s alleged violation of the Agreements stemming from Bodas’s actions in reducing Malik’s partnership percentage in 2018. Malik alleges that Bodas caused Malik to lose approximately \$606,000 of capital when Bodas moved this amount from Malik’s capital accounts at Deccan and then deposited them into Bodas’ own capital accounts. Malik’s claim rests on the premise that Malik’s partnership and membership profit-share percentages were contractually set and formed the basis of Malik’s compensation at Deccan, and that by improperly transferring these funds from Malik’s accounts to Bodas’ accounts over Malik’s objections, Bodas breached the Agreements.

On a claim of breach of contract, the plaintiff must prove a) the existence of a contract; b) the breach of an obligation imposed by that contract; and c) resulting damages to the plaintiff. *VLIW Technology, LLC v. Hewlett-Packard Co.*, *supra*, 840 A.2d 612.

The Agreements at issue in this action expressly provide that Bodas retains exclusive authority with respect to all significant partnership matters, including matters pertaining to the determination of accounting periods, capital withdrawals, capital account distributions, and the allocation of partnership percentages. Under the Agreements, Deccan is authorized in its sole

discretion to alter Malik's management and incentive percentages at any time and for any reason without notice. As Bodas testified at trial, this discretion being left solely in his hands was accomplished only after significant negotiation between Malik and Bodas with respect to Bodas' authority to make adjustments to partnership percentages, and the executed Agreements reflect the results of this negotiation process. Thus, Malik played a direct role in determining the limits of Bodas' discretion and it was Malik that, by signing the Agreements, agreed to allow Bodas to retain the authority to adjust partnership percentages solely based on Bodas' own discretion.

When he testified at trial, Malik did not dispute this fact and admitted that there is no question that Bodas has the authority to make such adjustments, but stated that his claim did not pertain to Bodas' rights under the Agreements to alter partnership percentages. Rather, Malik stated that his claim was based on the timing of these adjustments and the fact that the change was applied to the first half of 2018. Malik stated that he had to create a new accounting period at the point where the profit share percentage of the partners was changed. However, there is no language in the Agreements that supports this claim by Malik. Also, under § 3.01 (a) of the Agreements, Bodas has the sole discretion to set the accounting period, and the Agreements also do not provide for the start of a new accounting period when a partner's percentages change.

Malik's testimony at trial further undermines his claim when viewed in light of the language of the Agreements. Malik stated that the accounting periods that were listed in Deccan's ledgers were not actually periods set by Deccan but rather were data that Malik had entered into an Excel spreadsheet, and he further admitted that he never even spoke to Bodas about the accounting periods. By his own account, the ledger consisted of book entries created by Malik with no cash transfers ever having occurred.

However, § 3.05 of the Agreements states that allocations of management and incentive fees are only required as of the close of the business on the last day of the relevant accounting period and are calculated based on each partner's percentages as of the last day of the accounting period for which the fees were earned. As Deccan had only one accounting period in 2018, pursuant to the Agreements, Deccan was required to make allocations to Malik as of December 31, 2018. Also, although Deccan made quarterly payments to the partners, the Agreements did not require this. As Bodas credibly testified, these payments were merely advances on the end of the year allocation rather than guaranteed entitlements to the partners and that Deccan "trued up" partners at the end of the year when Deccan knew the amount of that year's expenses and revenue. This testimony was also corroborated by the trial testimony of Nitya Bhatt.

Although Malik's claim is based on his belief that Bodas effectively plundered Malik's capital accounts in violation of the Agreements, Malik presented no evidence to support this claim as based in the facts of the case or the express language contained in the Agreements. The only objection that Malik himself even communicated to Bodas with respect to the changes that Malik claims to have been a breach of the Agreements was when Malik sent Bodas a slide presentation that Malik had prepared that he sent in an attempt to convince Bodas that changing the partnership percentage shares amounted to betrayal of a promise that Bodas had made to the other partners. However, by his own admission during his trial testimony, Malik did not object and actually replied "ok" in response to the text message from Bodas informing Malik that the changes were to be made retroactively effective January 1, 2018.

Based on the evidence presented at trial and particularly Malik's own testimony, it is clear that Malik waived his right to object to the percentage change. Under Delaware law, "[w]aiver is the intentional relinquishment of a known right." *Minna v. Energy Coal S.p.A.*, 984 A.2d 1210,

1214 (Del. 2009), citing *AeroGlobal Capital Management, LLC v. Cirrus Industries, Inc.*, 871 A.2d 428, 444 (Del. 2005). “A waiver may be express or implied, but either way, it must be unequivocal.” *Dirienzo v. Steel Partners Holdings, L.P.*, Docket C.A. No. 4506-CC, 2009 WL 4652944,*4 (Del. Ch. December 8, 2009), citing *Rose v. Cadillac Fairview Shopping Center Properties (Delaware), Inc.*, 668 A.2d 782, 786 n.1 (Del. Super. 1995), aff’d sub nom. *Rose v. Sears, Roebuck & Co.*, 676 A.2d 906 (Del. 1996). The contractual waiver of a statutory right must be clear to be enforceable. See, e.g., *Halpin v. Riverstone National, Inc.*, Docket C.A. No. 9796-VCG, 2015 WL 854724, *8 (Del Ch. February 26, 2015), citing *In re Appraisal of Ford Holdings, Inc. Preferred Stock*, 698 A.2d 973, 977 (Del. Ch. 1997). “[T]he standards for proving waiver under Delaware law are quite exacting.” (Internal quotation marks omitted.) *Bantum v. New Castle County Vo-Tech Education Assn.*, 21 A.3d 44, 50 (Del. 2011). “The facts relied upon to prove waiver must be unequivocal.” *AeroGlobal Capital Management, LLC v. Cirrus Industries, Inc.*, *supra*, 871 A.2d 444.

A waiver “implies knowledge of all material facts and an intent to waive, together with a willingness to refrain from enforcing those contractual rights.” *Id.*, citing *Realty Growth Investors v. Council of Unit Owners*, 453 A.2d 450, 456 (Del. 1982); see also *Components, Inc. v. Western Electric Co.*, 267 A.2d 579, 582 (Del. 1970). If a waiver occurs, “[a] waiving party typically is prohibited from retracting its waiver if the non-waiving party has suffered prejudice or has relied to his detriment on the waiver.” *AeroGlobal Capital Management, LLC v. Cirrus Industries, Inc.*, *supra*, 871 A.2d 444. The validity of a waiver depends upon the totality of the circumstances. See *Johnson v. Zerbst*, 304 U.S. 458, 464, 58 S. Ct. 1019, 82 L. Ed. 1461 (1938).

Here, Malik’s conduct was unequivocal as indicated by his own trial testimony and the documentary evidence admitted at trial. Malik negotiated the Agreements that outlined the limits

of Bodas' discretion. Malik was aware that the percentage changes were to be applicable as of January 1, 2018, and with that full awareness he implemented the changes requested by Bodas and communicated his assent via text message. Despite having tried, unsuccessfully, to convince Bodas to leave the percentages as they were by sending Bodas a slide presentation of Malik's own making, Malik continued to work at Deccan for a year and one half after this. As a result, Malik accepted the advances that he received based on the new percentages and did not object at all until after he resigned from Deccan years later. Based on the totality of circumstances, the evidence presented at trial clearly establishes that Malik waived any objection to the percentage changes. Through his continued conduct, Malik gave Bodas the very clear impression that Malik had no issue with the change, and Bodas relied on Malik's assent until such time as Malik raised his objection in this action.

Based on the facts and circumstances and the applicable Delaware law, Malik has failed to prove that Deccan breached the Agreements and violated any contractual obligations based on the change to Malik's percentage shares made by Bodas.

With respect to Malik's claims of statutory theft as a result of Bodas' actions in reducing the partnership percentages of Deccan's partners, Malik has failed to produce any evidence at trial to establish that Bodas and Deccan took any of Malik's property from him without authorization. Malik has failed to produce any evidence that he owned or had a right to possess the specific identifiable funds and that Bodas and Deccan deprived him of these funds when the partnership percentages were reallocated. As the court has explained, it is clear that whatever initial objection Malik had, as indicated by his sending Bodas a slide presentation communicating his disagreement with Bodas' action, he eventually agreed to the changes and stated so in his text exchange with Bodas, and then followed this up by personally implementing

the changes himself. Malik also continued to work at Deccan after he made the change at Bodas' request, was never required to return any funds to Deccan, and Deccan never removed any funds from Malik's capital account. Hence, it is disingenuous for Malik to now claim that Bodas and Deccan deprived him of property when Malik clearly consented to the change in the partnership percentages and even went so far to implement them while continuing to work at Deccan.

E. MALIK HAS FAILED TO PROVE HIS CLAIMS FOR BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING.

Malik has also alleged a claim for breach of the implied covenant of good faith and fair dealing based on Deccan's breach of the Agreements. Under Delaware law, in all contracts, there is an implied covenant of good faith and fair dealing. See *Connelly v. State Farm Mutual Automobile Ins. Co.*, 135 A.3d 1271, 1274 (Del. 2016). Therefore, in Delaware, an implied covenant of good faith and fair dealing is organic to every contract. See *Dunlap v. State Farm Fire and Casualty Co.*, 878 A.2d 434, 442 (Del. 2005). However, the covenant is a rare measure intended to remedy arbitrary or unreasonable conduct that prevents the other party from receiving the fruits of the bargain. *Id.* The covenant does not create a "free-floating duty," and a party cannot recover when "the subject at issue is expressly covered." *Id.*, 442, 446 (*Ridgely, J.*, concurring).

The covenant "requires a party in a contractual relationship to refrain from arbitrary or unreasonable conduct which has the effect of preventing the other party to the contract from receiving the fruits of the bargain." *Nemec v. Shrader*, 991 A.2d 1120, 1128 (Del. 2010). A claim for breach of the implied covenant of good faith and fair dealing requires a plaintiff to allege "(1) a specific implied contractual obligation; (2) a breach of that obligation; and (3) resulting damages." *Khushaim v. Tullow Inc.*, Docket C.A. No. N15C-11-212-PRW, 2016 WL 3594752, *3 (Del. Super. June 27, 2016). This doctrine emphasizes "faithfulness to an agreed common

purpose and consistency with the justified expectations of the other party” (Internal quotation marks omitted.) *E.I. DuPont de Nemours & Co. v. Pressman*, 679 A.2d 436, 443 (Del. 1996). Cases invoking the implied covenant of good faith and fair dealing should be “rare and fact-intensive.” *Cincinnati SMSA L.P. v. Cincinnati Bell Cellular Systems Co.*, 708 A.2d 989, 992 (Del. 1998). Only where issues of compelling fairness arise will this court embrace good faith and fair dealing and imply terms in an agreement. *Id.*

A breach of the implied covenant “cannot be based on conduct that the contract expressly addresses.” *Khushaim v. Tullow Inc.*, *supra*, 2016 WL 3594752, *4. Thus, the implied covenant does not apply when “the subject at issue is expressly covered by the contract” *Dave Greytak Enterprises, Inc. v. Mazda Motors of America, Inc.*, 622 A.2d 14, 23 (Del. Ch.), *aff’d*, 609 A.2d 668 (Del. 1992). “Even where the contract is silent, [a]n interpreting court cannot use an implied covenant to re-write the agreement between the parties, and should be most chary about implying a contractual protection when the contract could easily have been drafted to expressly provide for it.” (Internal quotation marks omitted.) *Oxbow Carbon & Minerals Holdings, Inc. v. Crestview-Oxbow Acquisition, LLC*, 202 A.3d 482, 507 (Del. 2019). Under Delaware law, a party may not use the implied covenant of good faith and fair dealing to “rewrite [a] contract that a party in retrospect now believes to have been a bad deal.” *Allen v. El Paso Pipeline GP Co., LLC*, 113 A.3d 167, 184 (Del. Ch. 2014), *aff’d*, – A.3d – (Del. 2015) (2015 WL 803053). Moreover, the party bringing the implied covenant claim bears the burden of showing “that the other party has acted arbitrarily or unreasonably, thereby frustrating the fruits of the bargain that the asserting party reasonably expected.” (Internal quotation marks omitted.) *Baldwin v. New Wood Resources LLC*, 283 A.3d 1099, 1118 (Del. 2022).

As the court has found, the Agreements at issue in this case expressly state that Bodas has the authority under these Agreements to change the partners' percentages and to apply those changes as of January 1, 2018. This authority is found in § 3.04 (b) and (c), and § 3.05 of the Agreements. The court has also found that any possible objection that Malik claimed to have with respect to Bodas' actions in changing the percentage shares was clearly waived by Malik as he demonstrated his consent to the changes in a text message exchange with Bodas in which he agreed to implement the changes and continued to work at Deccan for a year and one half more, despite any initial objections that he may have had to the changes being made. Thus, there is no evidence to support Malik's claim that Bodas and Deccan violated the implied covenant of good faith and fair dealing in this case, as the Agreements explicitly authorize Bodas to take the very actions that Malik alleges to be a violation of the Agreements and a breach of the implied covenant of good faith and fair dealing. As Delaware explicitly holds that a breach of the implied covenant cannot be based on conduct that the contract between the parties already expressly addresses and because the implied covenant does not apply when the subject at issue is expressly covered by the contract, the court finds that Malik has produced no evidence a trial to prove the Deccan and Bodas breached the implied covenant when Bodas changed the partnership percentages.

This is further evidenced by Bodas' credible testimony at trial, where he explained that he had specifically restructured all the partners' compensation in order to make things more fair and in alignment with an incentive based system of compensation that would maximize the firm's value while also keeping the partners happy. As Bodas and Bhatt both credibly testified, Bhatt, another Deccan partner, felt that Malik was not contributing equally to the partnership, was checked out, was arriving at work late and leaving early, and was working on his own outside

business on Deccan's time, such that Bhatt was upset by Malik's overall lack of commitment to Deccan. As such, Bhatt voiced this concern to Bodas and Bodas attempted to play peacemaker and discussed the issues with Malik and Bhatt. Thus, it was certainly warranted by both the language of the Agreements and by Malik's own conduct at Deccan for Bodas to change the partnership percentages under these circumstances.

Also, Malik was the only partner at Deccan who was uninvolved in the investment work that Deccan did and as this work was the entire purpose of Deccan's existence, it would be reasonable for Bodas to consider changing partnership percentages based on the contribution of the partners and create incentives for them to earn a higher income through their own work. It is also significant that despite the change having been applied to all of Deccan's partners' partnership percentages, the only partner that ever voiced even a mild concern about this was Malik, who also effectively withdrew his objection via text message when he agreed to implement the changes. Furthermore, by his own admission at trial, Malik was aware that the change in partnership percentages was not a legal violation, and only believed that it was moral violation of a promise the Bodas had made to the other partners. Thus, even Malik conceded that there was no breach of the implied covenant of good faith and fair dealing by Bodas and Deccan in this action.

F. THE PARTIES' CLAIMS REGARDING ATTORNEY'S FEES AND INTEREST

In this action, pursuant to § 9.06 of the Agreements, Deccan has argued that it is entitled to attorney's fees and litigation costs. Section 9.06 of the Agreements, entitled "VENUE," states: "Unless prohibited by applicable law, the claimant in any such dispute that fails to prevail on each and every claim raised therein shall be required to pay to the other party all reasonable out

of pocket costs, including, but not limited to, attorneys' fees, incurred by such other party in connection with the dispute."

"Delaware law follows the American Rule, under which litigants are generally responsible for paying their own litigation costs." *DeMatteis v. Rise Delaware Inc.*, 315 A.3d 499, 508 (Del. 2024). "The Court may, however, order payment of attorney's fees if authorized by some provision of statute or contract." (Internal quotation marks omitted.) *McGlothlin v. Petrunch Oral & Maxillofacial Surgery*, Docket C.A. No. N20C-08-186 FWW, 2023 WL 5747520, *4 (Del. Super. September 6, 2023). Aside from express statutory authorization, Delaware recognizes only a limited number of exceptions to the American Rule. For example, fees may be shifted if: (i) recovery of fees is provided by statute or court rule; (ii) there is a contractual provision regarding entitlement to attorneys' fees; (iii) a party has acted in bad faith in connection with the conduct of the litigation process; (iv) a party fails to abide by a court order or is held in contempt; and (v) the action results in the creation, protection, or distribution of a common fund or confers a corporate benefit. See D. Wolfe & M. Pittenger, *Corporate and Commercial Practice in the Delaware Court of Chancery* (2d ed. 2023) § 17.03 (a)-(f); *see also Arbitrium (Cayman Islands) Handels AG v. Johnston*, 705 A.2d 225, 231 (Del. Ch. 1997) (observing that courts do not deviate from the American Rule absent special circumstances which "are limited to: 1) cases where fees are authorized by statute, 2) cases where the applicant creates a common fund or non-monetary benefit for the benefit of others, 3) cases where the underlying (pre-litigation) conduct of the losing party was so egregious as to justify an award of attorneys' fees as an element of damages, and 4) cases where the court finds that the litigation was brought in bad faith or that a party's bad faith conduct increased the costs of litigation"), *aff'd*, 720 A.2d 542 (1998). The Delaware Supreme Court has also found that the

award of attorney's fees is proper when provided for by the agreement entered into by the parties to a contract. See *Energy Transfer, LP v. William Cos.*, 346 A.3d 1089, 1120-21 (Del. 2023).

Malik concedes in his post-trial brief that the authority for the award of attorney's fees and costs falls under this section of the Agreements but suggests that this provision is "highly peculiar and, indeed, starkly different that the type of attorneys' fees clauses that are most commonly placed in many commercial agreements, which typically often simply provide that attorneys' fees either may or shall be awarded to the *prevailing party* concerning the underlying contractual claims."

Whatever Malik's interpretation of § 9.06, the court does not have the authority to simply rewrite the Agreements entered into by the parties. As the Delaware Supreme Court has expressly stated that "Delaware upholds the freedom of contract and enforces as a matter of *fundamental public policy* the voluntary agreements of sophisticated parties." (Emphasis added.) *NAF Holdings, LLC v. Li & Fung (Trading) Ltd.*, 118 A.3d 175, 180 n.14 (Del. 2015).

"Delaware law respects the freedom of parties in commerce to strike bargains and honors and enforces those bargains as plainly written." See *Related Westpac LLC v. JER Snowmass LLC*, Docket C.A. No. C.A. No. 5001-VCS, 2010 WL 2929708, *6 (Del. Ch. July 23, 2010). "There is . . . a strong American tradition of freedom of contract, and that tradition is especially strong in our State, which prides itself on having commercial laws that are efficient." (Footnote omitted.) *Abry Partners V, L.P. v. F & W Acquisition LLC*, 891 A.2d 1032, 1059-60 (Del. Ch. 2006). "[T]he wealth-creating and peace-inducing effects of civil contracts are undercut if citizens cannot rely on the law to enforce their voluntarily-undertaken mutual obligations." *Libeau v. Fox*, 880 A.2d 1049, 1056-57 (Del. Ch. 2005), *aff'd in part*, 892 A.2d 1068 (Del.

2006). “Of course we appreciate the fact that the right to contract is one of the great, inalienable rights accorded to every free citizen. . . . [T]his freedom of contract shall not lightly be interfered with.” (Citation omitted.) *State v. Tabasso Homes, Inc.*, 42 Del. 110, 116-117, 28 A.2d 248 (Del. Gen. Sess. 1942).

Moreover, fee shifting is permissible under Delaware law. See *Sternberg v. Nanticoke Memorial Hospital, Inc.*, 62 A.3d 1212, 1218 (Del. 2013); see also *ATP Tour, Inc. v. Deutscher Tennis Bund*, 91 A.3d 554, 558 (Del. 2014). In *Comrie v. Enterasys Networks, Inc.*, Docket C.A. No. 19254, 2004 WL 936505, *3 (Del. Ch. April 27, 2004), *aff’d*, 864 A.2d 929 (2004), the Delaware Chancery Court found that the plaintiff’s limited trial success is not the critical factor in determining the reasonableness of his attorneys’ fees and other expenses in a contractual fee shifting case.

In this case, as the court has discussed herein, Malik has failed to prove any of his claims at trial. He also failed to prevail on twenty-six out of his twenty-seven claims for defamation per se as determined by the jury in the jury trial completed in August 2025. With respect to the one count on which Malik did prevail at trial before the jury, the jury awarded Malik \$1.00 in damages.

Furthermore, Deccan’s decision to withdraw all of its claims, save the claim for attorneys’ fees and costs, does not change the fact that Deccan has, in fact, not failed to prevail in its claims, despite Malik’s assertion to the contrary. Malik himself withdrew claims during the course of the litigation as well as during trial, and throughout the nearly six years that this case has been pending, both parties made strategic decisions with respect to withdrawing certain claims and defenses so as to maximize their chances of success at trial. Thus, the court cannot find that either party’s decision to withdraw claims changes the impact of § 9.06 of the

Agreements to this case. Consequently, the court finds that the fee-shifting provision contained in § 9.06 of the Agreements not only applies, but has been implicated in this case.

Moreover, whatever Malik's personal belief about the peculiarities of the fee shifting provision, the fact remains that Malik was actively involved in negotiating the terms of the Agreements and ultimately signed them, which requires him to adhere to the terms. Accordingly, Malik is required to pay Deccan's reasonable attorneys' fees and cost as well as the prejudgment remedy interest in this case, which the court awards from the date that payment is due.

G. MALIK HAS FAILED TO PROVE HIS SPECIAL DEFENSE THAT THE ATTORNEYS' FEES CLAUSE IS UNENFORCEABLE.

In his forty-fifth counterclaim in the *Deccan Value LLC v. Malik* case, Malik argues that "[t]he application of § 9.14 to the Legal Fees Provision would cause the Legal Fees Provision to be reconstructed so as to require each party to reimburse the opposing party for their Legal Expenses to the extent that the party being reimbursed prevails on its claims, because that is the lawful way that the Court enforces provisions concerning the reimbursement of Legal Expenses. Moreover, the application of § 9.14 to the Legal Fees Provision would not cause the Legal Fees Provision to be severed entirely from the Deccan LP Agreement or Deccan GP 111 Agreement, because § 9.14 expressly states that provisions are to be "construed by limiting and reducing them so as to be enforceable to the maximum extent compatible with applicable law." Malik further alleges that (1) Malik, Bodas, Deccan LP, and Deccan LLC entered into a valid and enforceable limited partnership agreement (i.e., the Deccan LP Agreement); that (2) Malik has performed the contractual obligations necessary to enforce his rights under § 9.14 of the Deccan LP Agreement; that (3) Malik is entitled to be reimbursed by Deccan LLC and Deccan LP for his Legal Fees for any counts that Malik prevails on in the Malik Action, any counterclaims he prevails on in this action, and any counts that Deccan fails to prevail on in this action.

In his forty-sixth counterclaim, Malik alleges that “Should the Court find that, contrary to Malik’s assertions in Count Forty-Five herein, the Legal Fees Provision is enforceable, then, in the alternative, in accordance with the Legal Fees Provision, Malik is entitled to be reimbursed by Deccan LP and Deccan LLC for his Legal Fees in this action and the Malik Action in the event that Deccan fails to prevail on a single one of their counts in this action.

In his forty-seventh counterclaim, Malik alleges that Malik is entitled to be reimbursed by Deccan GP for his Legal Fees for any counts that Malik prevails on in the Malik Action, any counterclaims he prevails on in this action, and any counts that Deccan fails to prevail on in this action.

In his forty-eighth counterclaim, Malik alleges “Should the Court find that, contrary to Malik’s assertions in Count Forty-Seven herein, the Legal Fees Provision is enforceable, then, in the alternative, in accordance with the Legal Fees Provision, Malik is entitled to be reimbursed by Deccan GP for his Legal Fees in this action and the Malik Action in the event that Deccan fails to prevail on a single one of their counts in this action”.

As the Court has determined that Malik has failed to prevail on any of his claims in this action and that Deccan has no affirmative claims remaining in this action, the Court has determine that there is no legal basis to support Malik’s allegation that he is entitled to attorney’s fees in this action. Moreover, as Deccan has prevailed in this action (the Court has already noted that Deccan’s decision to withdraw all of its claims, save the claim for attorneys’ fees and costs, does not change the fact that Deccan has, in fact, not failed to prevail in its claims), Deccan is entitled to attorney’s fees under the plain language of the Agreements.

With respect to Malik’s special defenses in the *Deccan v. Malik* case, Malik alleges that “Deccan’s claims for contractual attorneys’ fees in the Thirteenth and Fourteenth Counts of the

Complaint are unenforceable and contrary to public policy for all the reasons stated in Malik's Forty-Sixth Counterclaim herein, which allegations are incorporated by reference as if fully set forth herein".

Based on Malik's stated position with respect to the attorney's fees provision, the Court finds that Malik's special defense with respect to the attorney's fees provision contradicts his counterclaims with respect to the attorney's fees provision. In essence, Malik seems to take the position that the attorney's fees provision applies only if the Court finds that Malik has prevailed with respect to his claims, in which case the Court should find that Malik is entitled to attorney's fees from Deccan. However, he also argues that the very same attorney's fees provision is unenforceable and contrary to public policy if the Court finds that Deccan has prevailed on its claims and that Deccan is therefore entitled to attorney's fees from Malik. At best, Malik is misinterpreting the plain language of the attorney's fees provision. At worst, Malik is asking the Court to selectively enforce the attorney's fees provision so as to benefit him but to find it unenforceable if it is detrimental to him. Regardless, as the Court has expressly found that (1) the attorney's fees provision of the Agreements is valid and enforceable under Delaware law; and (2) that Malik has failed to prove his claims in this action and Deccan has prevailed with respect to its claims in this action, there is no basis in law or fact to support Malik's special defense that the attorney's fees provision of the Agreements is unenforceable.

H. DECCAN'S SPECIAL DEFENSES

In the *Malik v. Deccan* case, Deccan has the following asserted special defenses: (1) Failure to State a Claim Upon Which Relief May Be Grated as to Counts One through Five; (2) Waiver as to Counts One through Five; (3) Estoppel as to Counts One through Five; (4) Failure to Mitigate Damages as to Counts One through Five; (5) Laches as Counts One

through Five; and (6) Unclean Hand as to Counts One through Five. In the *Deccan v. Malik* case, Deccan has asserted the special defense of Unclean Hands with respect to Counts Four through Six and Forty-Five through Forty-Eight; Illegality as a special defense to Counts Four through Six; and Exculpation with respect to Counts Four through Six.

As the Court has determined that Malik has failed to prove any of his claims in this consolidated action, the Court will not address the special defenses alleged by Deccan.

CONCLUSION

As the court has articulated herein, Malik has failed to present sufficient evidence in support of any of his claims presented to the Court. Consequently, the Court hereby enters judgment in favor of Bodas and Deccan in this matter with respect to the claims tried before the Court. The Court further enters judgment in accordance with the jury verdict with respect to the claims tried by the jury in this matter.

The Deccan entities shall file an Affidavit of Attorney's Fees and Costs by no later than July 31, 2026, and the court shall schedule a hearing on this matter.

BY THE COURT,

Menon, J.

Decision enters in accordance with the foregoing. All parties of record are notified. JONO Notice sent 6/23/2026. Copy mailed to John Malik

Carlos Cajas
Carlos Cajas, TAC