

## The Delaware Court of Chancery Substantially Denies Motion to Dismiss Challenge to BioVentrix, Inc.’s Stockholder Cash-Out

On May 1, 2024, Vice Chancellor Fioravanti heard arguments on the Defendants’ Motion to Dismiss *Moline v. BioVentrix, Inc.*, 2023-0883-PAF, delivering the Court’s decision at the conclusion of the hearing. The court denied the substantial majority of Defendants’ Motion, and sustained counts of the complaint alleging breach of fiduciary duty against the individual defendants, and a statutory violation under 8 *Del. C.* § 155. In opining on the allegations that the individual defendants acted in bad faith, the Vice Chancellor noted that “The facts of this case, at least as alleged, present such a foul flavor” as to constitute bad-faith under Delaware’s *Winborne* standard.

The case has subsequently proceeded into discovery.