IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
Apple Tree Life Sciences, Inc., *et al*.,[1]	Case No. 25-12177 (LSS)
Debtors.	(Jointly Administered)
	Hearing Date: July 22, 2026 at 10:00 a.m. (ET) **Obj. Deadline: July 15, 2026 at 4:00 p.m. (ET)**

SUPPLEMENT TO DEBTORS' MOTION FOR AN ORDER (I) ENFORCING THE AUTOMATIC STAY AND (II) IMPOSING SANCTIONS ON RIGMORA

The above-captioned debtors and debtors in possession (collectively, the "Debtors") hereby file the *Supplement to Debtors' Motion for an Order (I) Enforcing the Automatic Stay and (II) Imposing Sanctions on Rigmora,* following the Court's holding that Rigmora violated the stay (the "Supplement to Stay Enforcement Motion" or "Supplement"), and respectfully state the following:

PRELIMINARY STATEMENT[2]

1. On June 24, 2026, this Court held that Rigmora violated the automatic stay by seeking unauthorized relief in the Cayman Court. The Court described Rigmora's conduct as "blatant and concerning,"[3] found that the filing of the New Summons and Affidavit went "beyond any reasonable interpretation" of the Stay Relief Order and the May 19, 2026 hearing,[4] and

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number include: Apple Tree Life Sciences, Inc. (4506); ATP Life Science Ventures, L.P. (8224); ATP III GP, Ltd. (6091); Apertor Pharmaceuticals, Inc. (3161); Initial Therapeutics, Inc. (2453); Marlinspike Therapeutics, Inc. (4757); Red Queen Therapeutics, Inc. (8563); Evercrisp Biosciences, Inc. (4437); Nine Square Therapeutics, Inc. (4503); and Nereid Therapeutics Incorporated (8493). The location of the Debtors' service address in these chapter 11 cases is 230 Park Avenue, Suite 2800, New York, NY 10169.

[2] Capitalized terms used in this section are defined in other sections of this Supplement to Stay Enforcement Motion.

[3] Attached hereto as **Exhibit B** (June 24, 2026 Tr.) at 24:2-3.

[4] *Id*. at 62:13-24.

admonished Rigmora to bring a prophylactic motion before taking any action that "even comes close" to a potential stay violation.[5] Having so ruled, the Court asked the Debtors for "suggestions" regarding appropriate sanctions against Rigmora, noting that "[a]ttorneys' fees [were] easy," but acknowledging, at the same time, that attorneys' fees "[were] not a satisfying form of relief in th[ese] circumstances."[6] The Debtors file this Supplement in response to the Court's invitation.

2. Rigmora's stay violation in connection with the JPL Relief represents the latest iteration of a methodical course of conduct that began well before the filing of these Chapter 11 Cases. Rigmora consistently treats the U.S. courts' rulings as obstacles to circumvent rather than to be followed. Rigmora sought unauthorized relief in the Cayman Court, deliberately misinterprets this Court's and the Chancery Court's rulings, and consistently mischaracterizes or omits relevant facts to this Court and other courts (including the Cayman Court) in service of Rigmora's efforts to dismantle the Debtors. The Chancery Court identified Rigmora's tactical manipulation of proceedings—including conduct the Chancellor found to be misleading—in connection with the Chancery Action. This Court has identified Rigmora's repeated violations of the automatic stay and disregard of this Court's orders in relation to the Winding Up Proceeding—twice in less than three months.

3. Rigmora's violations of the automatic stay and disregard of this Court's orders harm the Debtors and their estates and will continue to harm these estates by throwing monkey wrenches into the Debtors' efforts to restructure their businesses. As set forth in the Affidavit of Costs, the Debtors have incurred $611,053.72 in attorneys' fees attributable to Rigmora's latest

[5] *Id.* at 66:16-25.

[6] *Id.* at 65:4-10.

stay violation. But the harm caused by Rigmora extends well beyond these fees. Rigmora's conduct disrupts the exit financing process that the Court approved and, more broadly, through its repeated attacks on this Court's authority, collaterally attacks the conduct of these Chapter 11 Cases.

4. In response to the Court's invitation at the latest hearing, the Debtors respectfully suggest the following forms of relief for the Court's consideration: (i) an award of compensatory damages in the amount of $611,053.72; (ii) an award of punitive damages in an amount the Court deems sufficient to deter Rigmora's continued defiance of this Court's orders; and (iii) other non-monetary relief to protect these chapter 11 estates from further threat—specifically, an order that (a) explicitly enjoins Rigmora from violating the stay in the Cayman Court or other fora; and (b) requires Rigmora to retain independent ethics counsel to review any written submissions in the Cayman Court or other fora if such submission relates to the Debtors, their estates, and/or these Chapter 11 Cases.

5. Rigmora's pattern of misconduct must stop now, and the Debtors suggest that these cases cannot afford Rigmora violating the stay in the future.

JURISDICTION AND VENUE

6. The United States Bankruptcy Court for the District of Delaware (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware. Pursuant to rule 9013-1(f) of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the "Local Rule[s]"), the Debtors confirm their consent to the Court entering a final order in connection with this Supplement to Stay Enforcement Motion to the extent that it is later

determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

7. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

8. The bases for the relief requested herein are sections 105(a) and 362 of the Bankruptcy Code, Rule 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Local Rule 9013-1.

GENERAL BACKGROUND

9. On December 9 and 15, 2025 and January 1 and 15, 2026, each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. These chapter 11 cases (the "Chapter 11 Cases") are being jointly administered for procedural purposes only pursuant to Bankruptcy Rule 1015(b). *See* Docket Nos. 69, 178, and 200.

10. The Debtors operate their business and manage their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these Chapter 11 Cases.

11. On January 20, 2026, the Office of the United States Trustee for the District of Delaware appointed an Official Committee of Unsecured Creditors (the "Committee") in these Chapter 11 Cases. *See* Docket No. 194.

12. A detailed description of the facts and circumstances of these Chapter 11 Cases is set forth in the D*eclaration of Dr. Seth L. Harrison in Support of Chapter 11 Petitions and First Day Motions* [Docket No. 18] and the *Declaration of Perry M. Mandarino, Chief Restructuring Officer of the Debtors, in Support of Chapter 11 Petitions and First Day Motions* [Docket No. 25] (collectively, the "First Day Declarations").

13. As is described in more detail in the First Day Declarations, the Debtors commenced these Chapter 11 Cases due to liquidity concerns arising from the failure of Rigmora

to fulfill its contractual obligations, Rigmora's attempts to wind up the Partnership and Rigmora's desire to liquidate the portfolio companies in a manner that would destroy significant scientific research and reduce value for all stakeholders. Through these Chapter 11 Cases, the Debtors seek to stabilize their business, and, under the Court's supervision, restructure the Debtors' capital structure in a value-maximizing manner.

SPECIFIC BACKGROUND[7]

A. Rigmora's Prior Misconduct in Connection with the Chancery Action

14. On May 30, 2025, ATP GP III, Ltd. (the "GP Debtor"), in its capacity as general partner of ATP Life Science Ventures, LP (the "Partnership Debtor," and together with the GP Debtor, the "Corporate Debtors"), filed suit (the "Chancery Action") in the Delaware Court of Chancery (the "Chancery Court") seeking specific performance of capital contribution obligations of Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP (collectively, "Rigmora") under the First Amended and Restated Limited Partnership Agreement (as amended, the "LPA"). Docket No. 18 at ¶ 66; *id.*, Ex. B at 36-37. The GP Debtor moved to expedite on grounds that the Portfolio Companies faced imminent collapse without funding from Rigmora. Docket No. 18 at ¶ 67. Rigmora responded on June 2, 2025, by filing a retaliatory writ proceeding in the Grand Court of the Cayman Islands (the "Cayman Court") seeking to abrogate its funding obligations to the Partnership Debtor. *Id.* at ¶¶ 14, 67. Having raced to the Cayman Court, Rigmora refused to accept service of the Delaware Complaint through their U.S. counsel, forcing

[7] The Debtors provide the recitation of Rigmora's conduct not merely as background, but to assist the Court in fashioning appropriate relief for Rigmora's egregious disregard of this Court's rulings and related violation of the automatic stay. Rigmora has engaged in repeated misconduct that, in particular, entails (i) treating U.S. proceedings and this Court's rulings as obstacles to circumvent in a foreign forum; (ii) seeking, through its Cayman counsel, relief in the Cayman Court beyond what this Court has authorized; and (iii) engaging in serial mischaracterizations to this Court and other U.S. courts to obtain a litigation advantage. This pattern of conduct, which this Court has repeatedly identified and admonished, is not coincidental but appears to be deliberate. The Debtors' hope is that this Court's relief will put an end to Rigmora's egregious actions.

the GP Debtor to effect service by hand in the British Virgin Islands. When Rigmora then requested a courtesy extension to respond to the motion to expedite, which the GP Debtor granted, Rigmora used that time to file, on June 6, 2025, a winding up petition (as amended, the "Winding Up Petition") against the GP Debtor in the Cayman Court (the "Winding Up Proceeding"). *Id.* at ¶ 68; *id.*, Ex. B at 37. Through the Winding Up Petition, "Rigmora sought to accomplish … a liquidation." *Id*., Ex. B at 38.

15. After filing the Winding Up Petition, Rigmora opposed the GP Debtor's Delaware motion to expedite, characterizing the GP Debtor's asserted emergency as "entirely manufactured."[8] Rigmora simultaneously moved to stay the Chancery Action in favor of the Winding Up Proceeding, arguing that: (i) no deference was owed to the GP Debtor's first-filed status; (ii) the Cayman Court should interpret the LPA because it was governed by Cayman Islands law; (iii) only the Cayman Court could adjudicate all pending claims; and (iv) the Chancery Court should stay the Chancery Action due to *forum non conveniens*.[9]

16. The Chancery Court rejected both of Rigmora's maneuvers. It granted the GP Debtor's motion to expedite on June 13, 2025, directing the parties to set a September trial, and denied Rigmora's motion to stay on June 27, 2025. In denying the stay, the Chancery Court expressly confirmed what was clear from Rigmora's hasty maneuvers in the Cayman Islands: the Cayman filing was "properly viewed as a reactionary filing" not entitled to contemporaneous status,[10] and the convenience-based arguments Rigmora advanced were ones it "contractually agreed not to make."[11] Rigmora's strategy of manufacturing delay in Delaware while

[8] Defendants' Opposition to Motion to Expedite at 1, attached hereto as **Exhibit C**.

[9] Defendants' Motion to Stay Proceedings, attached hereto as **Exhibit D**.

[10] Chancery Court June 27, 2025 Tr. at 51:17-21, attached hereto as **Exhibit E**.

[11] *Id.* at 50:8-51:9.

simultaneously shifting the forum to the Cayman Islands was thus tried and rejected at the very outset of the Chancery Action.

17. But Rigmora reprised this strategy in September 2025. Following a privilege dispute and shortly before the trial scheduled for September 18 and 19, 2025, the Chancery Court required the GP Debtor to make a supplemental document production of the GP Debtor's privileged documents. The GP Debtor complied expeditiously both to honor the Chancery Court's ruling and to preserve the expedited trial schedule. After the GP Debtor completed its production and three days before trial was set to begin, Rigmora moved to adjourn the trial by thirty days, arguing that the volume of newly produced documents made adequate review impossible before trial.

18. The Chancery Court granted a thirty-day adjournment and, ***within one day***, Rigmora filed an application in the Cayman Islands seeking the *ex parte* appointment (the "Ex Parte Application") of Joint Provisional Liquidators ("JPLs"). Remarkably, that application made extensive use of—and citation to—the very documents Rigmora had just represented to the Chancery Court that it needed additional time to review. This filing made abundantly clear that Rigmora's representation to the Chancery Court was disingenuous and that Rigmora, instead, sought to use the Winding Up Proceeding as an end-run around the Chancery Court's authority. In response, the GP Debtor filed a status quo motion with the Chancery Court, and, after an initial hearing on September 19, 2025, at which the Chancellor criticized Rigmora's U.S. counsel for misleading her into granting the trial adjournment,[12] Rigmora withdrew its emergency motion in

[12] The Chancellor stated that she was "really alarmed" by Rigmora's filing, that she had adjourned the trial based in part on Rigmora's representation that it was not pushing the Cayman proceedings forward at a faster pace, and that had she known of Rigmora's plans she "probably wouldn't have adjourned the trial." *See* Chancery Court Sept. 19, 2025 Tr. at 22:9-23:5, attached hereto as **Exhibit F**.

the Cayman Court and agreed to apprise the Chancery Court of any change in position on this matter.

19. Subsequently at trial, Rigmora sought to publicly disclose the GP Debtor's privileged documents, mischaracterizing the Chancery Court's ruling as a privilege waiver. The Chancery Court again rejected this effort.[13]

20. On December 5, 2025, the Chancery Court found that Rigmora had breached its obligations under the LPA and issued a final judgment ordering Rigmora to transfer $96,960,925.88 to the Partnership Debtor. *See* Docket No. 18, Ex. B at 67. The Chancery Court found that none of Rigmora's grievances in relation to capital calls made on May 30, 2025 "support[ed] a finding that [the GP Debtor] acted in bad faith." *Id*. at 6. The Chancery Court deferred to the Cayman Court on Rigmora's contention that the GP Debtor breached its duties by filing the May 30, 2025, lawsuit. *Id.* at 78-79. Nevertheless, the Chancery Court pointed out that "[t]he factual findings in [its] decision speak for themselves." *Id.* at 79.

B. At the Inception of these Chapter 11 Cases, Rigmora Violates the Automatic Stay in Connection with the Winding Up Proceeding[14]

21. On December 9, 2025, the Corporate Debtors filed for chapter 11 relief. Three days later, Rigmora moved to dismiss the Chapter 11 cases, asserting that they were filed in bad faith. Docket No. 3. Rigmora alternatively requested this Court abstain in light of a trial scheduled for January 12, 2026, in the Winding Up Proceeding. *Id*.

22. As part of its unsuccessful ploy to shorten time on its motion to dismiss, on December 15, 2025, Rigmora asked this Court to lift the automatic stay to permit Rigmora to

[13] Chancery Court Oct. 16, 2025 Tr. at 125:19-126:16, attached hereto as **Exhibit G**.

[14] For additional details, the Debtors refer to the *Debtors' Motion for an Order (I) Enforcing the Automatic Stay and (II) Imposing Sanctions Against Rigmora* [Docket No. 83].

proceed with a "pre-trial review" (the "PTR") before the Cayman Court on December 17, 2025. The PTR was the last procedural hearing before the trial on the Winding Up Proceeding scheduled for January 12, 2026. This Court granted limited relief from the stay:

> I will grant relief from stay **for the pretrial conference to go forward** in the Caymans on Wednesday. I don't know, it hasn't really been described to me what would be – what substantively would go forward, what dates might be established by the court, or what's really left before the judge to decide before the January 12th trial date. So, the parties – I think the parties and judge can discuss that, but I will say that I don't anticipate that the January trial date is going to go forward given the need for me to decide what was filed, which is a motion to dismiss…. So, again, **I will grant relief from stay for the pretrial conference itself to go forward, but not any further than that at this point in time**.

See Docket No. 55 at 31:18-32:16 (emphasis added).

23. ***The very next day***, Rigmora submitted a "skeleton" brief with the Cayman Court (the "Ipso Facto Skeleton"), making no attempt to stay within the limited scope of relief allowed by this Court. *See* Docket No. 141-1 at 115-132. Instead, that "skeleton" went far beyond this Court's instructions and submitted **an entirely new *ipso facto* cause of action** in support of the Winding Up Petition, which argued that the Partnership Debtor had been automatically dissolved and could be wound up because of the GP Debtor's commencement of its Chapter 11 Case. *Id*.

24. On December 17, 2025, counsel for the Debtors and Rigmora attended the previously scheduled PTR in the Cayman Court. *See* Docket No. 141-1 at 134-153. Referring to paragraph 10(b) of the LPA, Rigmora raised its new legal theory, termed the "Paragraph 10(b) Issues," according to which, as a result of the Debtors' bankruptcy filing, "the Partnership Substratum is simply gone." *Id.* at 138-139.[15] Rigmora then proceeded with a "second topic,"

[15] In the transcript, the exact reference is 16:4-20:15.

"the contractual and statutory consequences of the Chapter 11 proceedings," *id.* at 140,[16] where Rigmora made clear that though it understood the automatic stay to be in effect, Rigmora had no intention of complying with its restrictions. *Id.* at 140-44.[17] In response, the Debtors pointed out that the automatic stay was in effect and applied to the Winding Up Proceeding. The Cayman Court agreed. *Id.* at 145 ("[F]rom my point of view, the January trial is clearly not going ahead, both because of the consequences of the Delaware trial and also because of the Chapter 11 process."). In reply, Rigmora attempted to defend its submissions as not violative of the automatic stay, *id.* at 147,[18] and asked the Cayman Court to grant relief associated with its new theory and to "reserve [] costs."[19] *Id.* at 148.

25. Following the December 17, 2025, hearing before the Cayman Court, Rigmora submitted a form of order to the Cayman Court that expressly requested relief that this Court had not permitted. *See* Docket No. 141-1 at 155-158. In particular, Rigmora sought "liberty to apply" and sought to persuade the Cayman Court to fix a two-day hearing of their new issues in the first week of February 2026. *Id.* When the Debtors' counsel pointed this out, the Cayman Court seemingly agreed, finalizing the orders in terms which excluded the "liberty to apply" provisions and not fixing any date for the hearing. *Id.* at 171-77.

26. At the first day hearing in this Court, on December 17, 2025, the Debtors raised Rigmora's egregious violation of the automatic stay. *See* Docket No. 81. In response, Rigmora entirely mischaracterized its conduct before the Cayman Court as merely "flag[ging] the change in circumstance occasioned by the GP's filing here in the Bankruptcy Court." *Id.* at 26:18-19.

[16] In the transcript, the exact reference is 21:16-18.

[17] In the transcript, the exact references are 21:11-18, 26:1-7, 30:15-22, 33:18-21, 37:10-13.

[18] In the transcript, the exact reference is 50:3-11.

[19] In the transcript, the exact reference is 56:14-15.

Rigmora dug the hole deeper by stating that "the bulk of the time that Rigmora's counsel spent in the Cayman proceedings was updating the Cayman Court as to the outcome of the Delaware Chancery proceeding." *Id.* at 25:2-5. This representation was false. In fact, Rigmora argued to the Cayman Court that the Debtors' Chapter 11 Cases justified the Cayman Court exercising control over the Debtors' estates by immediately winding up the Debtors' operations. *See* Docket No. 141-1 at 134-153.

27. The consequence of Rigmora's violations of the stay materialized on December 22, 2025, when the Cayman Court issued a judgment in reliance on Rigmora's arguments at the December 17, 2025, PTR. *See* Docket No. 141-1 at 171-77. That judgment criticizes the Debtors on matters entirely irrelevant to the PTR. *Id*.

28. On December 23, 2025, the Debtors filed a motion seeking to enforce the automatic stay and impose sanctions on Rigmora. *See* Docket No. 83. At a hearing held on February 20, 2026, the Debtors withdrew the motion as a goodwill gesture to Rigmora and this Court, seeking to tamp down the number of litigated issues. *See* Docket No. 403 at 11:2-4.

29. On April 14, 2026, the Court issued its Memorandum Opinion (the "Opinion"), *see* Docket No. 548, and related orders (i) denying Rigmora's motion to dismiss, *see* Docket No. 550; and (ii) partially granting Rigmora's request to lift the stay in connection with the Winding Up Proceeding (the "Stay Relief Order"), *see* Docket No. 549. In the Opinion, the Court censured Rigmora's conduct in connection with the PTR:

> At the status conference, Counsel for the Rigmora LPs asked that I grant limited relief from stay to permit the parties to appear at the pretrial conference so that Justice Asif could ask questions, get input and have dialogue with counsel. Ou[t] of courtesy to Justice Asif and his calendar, I granted that limited stay relief.[] **I certainly did not grant relief from stay for the Rigmora LPs to file an eighteen page skeleton argument with the Grand Court outlining new arguments**, nor did the Rigmora LPs ask me to grant such relief or

> indicate that under Grand Court procedures or Justice Asifs own procedures it would be necessary to do so in order for the pretrial conference to go forward.[]

See Docket No. 548 at 18-19 (emphasis added).

C. Rigmora, Again, Violates the Automatic Stay in Connection with the Winding Up Proceeding[20]

30. In the Opinion, the Court granted Rigmora limited relief from the automatic stay so that it could:

> proceed on the Winding Up Petition so that the [Cayman] Court can determine: (i) whether the Rigmora LPs can prove that they have justifiably and irretrievably lost all trust and confidence in the General Partner's ability to manage the Fund and (ii) whether the Fund has lost its substratum. The Rigmora LPs may also seek to have Joint Official Liquidators appointed to act in the stead of the General Partner if they are successful on one of the two grounds above.

See Docket No. 548 at 55. The Court pointed out that it would not let Rigmora proceed with its "newly minted '10(b) claim'" (i.e. the "*ipso facto*" skeleton) regarding whether the filing of the Chapter 11 Cases could serve as grounds for liquidation in the Cayman Court and specified other limitations on the relief it was granting. *Id.* at 55–56. The Court made clear that Rigmora could not seek "any other relief in the [Cayman] Court." *Id.* at 55. Further, on May 5, 2026, this Court entered its letter ruling, *see* Docket No. 621, by which the Court expressly prohibited Rigmora from seeking the entry of a winding up order or any action to wind up the Debtors by the Cayman Court.[21]

31. Undeterred by this Court's unequivocal prohibition, during the May 12, 2026,

[20] For additional details, the Debtors refer to the *Debtors' Motion for an Order (I) Enforcing the Automatic Stay and (II) Imposing Sanctions Against Rigmora* [Docket No. 749].

[21] *See* Docket No. 621 at 4 ("As the parties are aware, the automatic stay prevents the entry of a winding up order. My Order granting limited relief from stay did not permit the entry of a winding up order.").

scheduling conference on the Winding Up Proceeding, Rigmora (unsuccessfully) argued to the Cayman Court that the Hon. Justice Asif still could (despite the automatic stay and this Court's orders) enter a winding up order in connection with the appointment of Joint Official Liquidators:

> - Our submission is the court has ample power to ***make a winding up order*** …. *See* Docket No. 671-1 at 8:22-23.
>
> - My Lord, we don't take anything in Judge Silverstein's order or her memorandum opinion or her letter opinion to suggest that Your Lordship is prohibited from making the order that Your Lordship needs to under Cayman law to appoint liquidators. As Your Lordship says, ***that's a winding up order***. *Id.* at 9:10-16.
>
> - [A]s a matter of Cayman law, Your Lordship has ample power to do just that, appoint liquidators to act in the stead of the GP, and to that extent, ***make a winding up order*** …. *Id.* at 29:23-30:1.

32. At the May 19, 2026, hearing—which followed Debtors' motion to clarify the Stay Relief Order,[22] *see* Docket No. 590—this Court stated that it would be beneficial for the parties to provide an agreed form of order modifying the Stay Relief Order and/or provide the Court with information and options as to how, under Cayman Islands law, it would be possible to appoint officeholders or liquidators without entering a winding up order. But this Court did not state that the appointment of JPLs complied with the Stay Relief Order—let alone that Rigmora had free rein to seek the appointment of JPLs in the Cayman Islands on new grounds.[23]

[22] The Debtors sought to clarify the Stay Relief Order because they were concerned that Rigmora would try to exploit the fact that Cayman Islands law only provides for the appointment of JOLs upon entry of a winding up order. The Debtors' concerns proved justified at the May 12, 2026, status conference before the Cayman Court. *See* supra at ¶ 21.

[23] *See* Docket No. 700 at 21:13-22:8 ("I have no idea if in the Cayman's there is something like that, something equivalent, some provisional, interim, some other kind of liquidator who could be put in place where the winding up order which has consequences to it is not entered. So, I have no idea. So, I can see a reason for some kind of clarification but I think we need some education from the appropriate lawyers . . ."); *id.* at 33:2-5 ("so far, nobody's given [the Court] a form of order that clarifies, at least what my read of the transcript of the hearing in front of Justice Asif suggests there ought to be clarification of.").

33. On May 26, 2026, the Debtors and Rigmora held a meet and confer conference (the "May 26 Conference") to settle a clarification order for this Court to consider. Shortly thereafter, Rigmora sent an email (the "May 26 Email"), in which it stated that it had identified a path forward in the Cayman Court which it planned to submit to the Cayman Court "in the very near term" and summarized its proposed course of action. Docket No. 749-3. In the May 26 Email, Rigmora also stated that it believed its proposal was "fully consistent with Judge Silverstein's orders and remarks on the record at the May 19th hearing, but we recognize that her prior order specifically referenced JOLs rather than JPLs. Should the Debtors fail to edit the proposed clarification order to clarify the authority to seek the appointment of joint provisional liquidators or other officeholders, ***we will separately seek the entry of such an order from the bankruptcy court***." *Id*. Despite these representations, and unbeknownst to the Debtors, Rigmora filed a new summons in the Cayman Court (the "New Summons"), along with a Fourth Affirmation of Yuri Bogdanov (the "Affirmation," and together with the New Summons, the "New Summons and Affidavit"). *See* Docket Nos. 714-3 and 714-4. The New Summons and Affidavit sought entirely new relief—the appointment of the JPLs based on a new set of allegations and evidence and under different statutory grounds under Cayman Islands law (the "JPL Relief").[24] Further, in circumvention of the Court's ruling, it reconstituted the 10(b) argument in new form, asserting that the mere existence of the Debtors' bankruptcy cases demonstrate gross mismanagement and

[24] *See* Docket No. 714-4 at ¶ 21: "Without waiving privilege, I understand that **this Court has powers to appoint JPLs** if the conditions **under section 104(2) of the Companies Act (2026 Revision)** are satisfied. In general terms, I understand that those conditions include that: (i) there has to be a *prima facie* case for making a winding-up order [i.e., the loss of substratum or loss of all trust and confidence authorized under the Stay Relief Order]; and [the additional requirement] that (ii) **the appointment of JPLs would be necessary to prevent certain consequences such as the dissipation of assets or mismanagement of the Partnership**." The Affirmation then alleges gross mismanagement and dissipation of assets, premised on the Debtors' post-petition conduct in these Chapter 11 Cases. *See id.* at ¶¶ 23 et seq.

dissipation of assets. None of this was authorized by this Court, and this Court had, in fact, ordered that Rigmora could not seek "any other relief in the [Cayman] Court." *See* Opinion at 55.

34. On May 27, 2026, Debtors' Cayman counsel sent Rigmora's Cayman counsel a letter setting out the Debtors' position that the New Summons and Affidavit was a breach of the automatic stay and, accordingly, the Debtors could not engage with the New Summons or comply with the directions dictated by Rigmora.

35. But, on the afternoon of May 28, 2026, Rigmora served its *Re-Amended Reply to the Re-Amended Defence to the Re-Amended Winding up Petition* (the "Re-Amended Reply"), *see* Docket No. 749-5, for the Winding Up Petition. In the Re-Amended Reply, Rigmora doubled down on its New Summons, referring to the fact of its filing and stating that "for the avoidance of doubt" Rigmora sought, "the appointment of Alexander Lawson and Barry Lynch of Alvarez & Marsal Cayman Islands Limited as JPLs or officeholders of the Partnership on the terms of the order requested by the [New] Summons and in either case to act in the stead of the General Partner." *Id*. Moreover, on the same day, Rigmora filed its own motion seeking to clarify the Stay Relief Order (the "Rigmora Clarification Motion"), *see* Docket No. 715. Rigmora filed this motion in connection with the JPL Relief, seeking an order from this Court that, in substance, would retroactively approve its violation of the automatic stay.[25] The Rigmora Clarification Motion (at ¶ 11) falsely claimed that Rigmora informed the Debtors of its intention to "move promptly to file the summons" in the Cayman Court. Rigmora further falsely claimed that the Debtors never complained (supposedly during the May 26 Conference) that its forthcoming filings—that it failed

[25] Specifically, Rigmora sought an order clarifying that the Stay Relief Order allows the Cayman Court to determine (i) whether Rigmora can prove that they have justifiably and irretrievably lost all trust and confidence in the GP Debtor's ability to manage the Partnership Debtor; and (ii) whether the Partnership Debtor has lost its substratum and for Rigmora to seek to have JPLs or other independent officeholders appointed to act in the stead of the GP Debtor if it is successful on one of the two aforementioned grounds, in lieu of JOLs. *See* Docket No. 715.

to disclose—would constitute a stay violation. This is not true; Rigmora never warned the Debtors of its intent to file the New Summons. Instead, in the May 26 Email, Rigmora represented—and the Debtors believed—that before seeking appointment of JPLs, Rigmora would first "seek entry of such an order from the Bankruptcy Court." Docket No. 749-3; *see supra* ¶ 33.

36. In response to Rigmora's continued prosecution of the JPL Relief in the Cayman Court, on May 29, 2026, the Debtors filed a second motion to enforce the automatic stay and impose sanctions on Rigmora (the "Stay Enforcement Motion"), *see* Docket Nos. 724 and 749.

37. At a hearing held on June 3, 2026, Rigmora admitted that it tried to short-circuit the process requiring this Court's permission before seeking the JPL appointment in the Cayman Islands:

> But they [i.e., the Debtors] don't think we did it in the right order…. But it's crystal-clear to me that, if we had done that, then they would have said we can't go forward on this JPL issue, on this trial that's scheduled for June 30th and July 1st, which they've already tried to delay twice. They would say we can't go forward with that because it's too short notice now.

See **Exhibit H**, June 3, 2026 Tr. at 44:23, 45:6-11. At the same hearing, Rigmora's counsel repeated the incorrect statement that, on May 26, Rigmora told the Debtors that it would proceed in seeking the JPL Relief and the Debtors did not object:

> And after having told the Quinn Emanuel team, and I guess the debtors' legal team generally, that we would do that on the morning of May 26th, and having heard no objection, no statement, hey, we think this violates the automatic stay -- in fact, at that moment, we were negotiating this consensual bar date order that you will see later during this hearing, which provides an extension of the bar date or a different bar date for claims that may be brought by JPLs or other officeholders. We didn't think there was a dispute over whether it would be appropriate for us to move in the Cayman Court to put the issue before Justice Asif.

Id. at 37:3-14.[26] On the contrary, at no point during the May 26 Conference did counsel for Rigmora inform the Debtors or anyone at Quinn Emanuel that they intended to violate the stay by filing the JPL Relief. Instead, Rigmora merely requested that the Debtors consider the appointment of JPLs in lieu of JOLs to which the Debtors responded that they would consult with Cayman counsel to determine if that was legally possible. But before the Debtors could consult, ***that same day***, Rigmora filed the JPL Relief. In other words, just like the Ex Parte Application in September of 2025 and just like the Ipso Facto Skeleton in December of 2025, Rigmora said one thing to a Delaware court while it had already prepared a completely different pleading in the Cayman Court.

38. On June 24, 2026, the Court heard argument on the Stay Enforcement Motion and Rigmora's Clarification Motion. *See* Ex. B. The Court held that Rigmora had violated the stay in connection with the JPL Relief, stating, among other things:

- [I]t's just blatant and concerning …. *Id*. at 24:2-3.
- But I think the submission in the Cayman Court violated stay and was—and it was not consistent with my order. *Id.* at 41:7-9.
- I did not I did not authorize anything at the last hearing in terms of a filing in front of the Judge. I talked about, well, maybe we all need to be educated on what other possibilities there might be …. *Id.* at 54:12-18.

[26] At the June 3, 2026, hearing the Debtors pointed out Rigmora's mischaracterization: "Your Honor, I want to say that, during the phone conversation, the meet-and-confer on the morning of May 26th, the representation was made that would we agree that appointing JPLs, given the Court's comments, would be appropriate to put in front of the Court as part of the clarification order that we were discussing. We took that May 26th call. And if you'll recall, it's the day after Memorial Day, so people were just coming back from break. And we said we needed to talk to Cayman counsel to see, as a matter of Cayman law, whether you could appoint JPLs, given the trial that was then set, which was just on loss of trust and confidence and loss of substratum. We never agreed, never indicated that we would agree, to a completely new set of allegations and a completely new set of additional proof that Cayman counsel, now having their vacation schedules require them to hire brand new counsel, on top of brand new counsel having to learn this record, now they have to learn a whole new set of allegations, none of which this court ever pre-approved them doing. That's the point. But it is categorically false that we ever agreed to them asserting the right to appoint JPLs. We thought we were negotiating the terms of the clarification order in front of the Court." *See* Ex. H at 45:25-46:23.

- My focus was on a filing that I think clearly went beyond what my order permitted, which permitted a trial on two grounds and not a third to get additional relief and nothing that I permitted in the May 19th hearing should have given solace to anybody that they could inject into that proceeding new grounds for the appointment. As I also, I thought, read in Rigmora's filing, you don't need this. He can just do it. So, why inject something new. And that, I think, is going beyond any reasonable interpretation of the order and the May 19th hearing, to the extent that is relevant to anything, what was said at a hearing. *Id.* at 62:13-24.

- I kind of think I've admonished them a lot during this hearing but if you want me to say it specifically, yes, I expect that if there's an action that needs to be taken that even comes close at this point to any concern that the stay might be violated that you bring a protective motion. And I do expect the stay to be respected …. *Id*. at 66:16-25.

39. At the hearing, the Court requested the Debtors provide "suggestions" regarding the types of sanctions that they deemed appropriate in view of the circumstances.[27]

D. Rigmora's Improper Conduct Is Pervasive in these Chapter 11 Cases

40. Rigmora's improper conduct exceeds its abject violations of the automatic stay in connection with filings and representations to the Cayman Court in the Winding Up Proceeding, and pervades these Chapter 11 Cases:

Other Improper Conduct of Rigmora	
Rigmora (Switzerland) Ltd. violated the Stay by attempting to exert control over Braeburn, Inc.	On May 5, 2026, the chief legal officer of Rigmora (Switzerland) Ltd. ("Rigmora Switzerland") sent an email (the "May 5, 2026 Email") to the general counsel of Braeburn, Inc. ("Braeburn") designed to (i) exert control over Braeburn by directly or implicitly threatening Braeburn's board or management with an (unfounded) breach of fiduciary duty claim; and, more generally, (ii) interfere with the GP

[27] *See* Ex. B at 65:4-15 ("THE COURT: Yeah, it might be but I want suggestions. This is unusual. So, I need to hear what the suggestions are and I would want to hear a response from Rigmora. This is an unusual situation. Attorneys' fees is easy. I understand why that is not a satisfying form of relief in th[ese] circumstances given the economics here but nonetheless, that is what was asked for. So, if you want something different, and there's a different type of relief, I need suggestions for what that is and very specific suggestions for what it is that you think is appropriate. And, again, on notice so that there can be a response.").

Other Improper Conduct of Rigmora	
	Debtor's management and control of the Partnership Debtor's business. *See* **Exhibit I**, Debtors' May 12, 2026 Letter. In the May 5 Email, Rigmora Switzerland also claimed that (i) Rigmora had ownership rights over Braeburn; (ii) the Partnership Debtor's interests were inextricable from Rigmora's interests because the latter was a limited partner of the Partnership Debtor; and (iii) the GP Debtor no longer represented the interests of the Partnership Debtor but was rather acting in its sole self-interest. *Id*. Rigmora Switzerland's allegations were at odds with the Opinion, considering that this Court found that (i) the Partnership—and not Rigmora—owned the majority equity interests in Braeburn and that interest remained property of the Partnership's estate; (ii) the Partnership's interests were distinguishable from—and did not need to match with—Rigmora's parochial interests, especially when the latter had "nothing to do with the good of" the Partnership Debtor; and (iii) the GP Debtor acted to safeguard the Partnership Debtor's interests prior to and after the commencement of the Chapter 11 Cases. *See* Docket No. 548 at 2, 27, 30, 39, and 42-44. In addition, the May 5 Email mischaracterized the Opinion by stating that this Court authorized Rigmora "to wind up ATP and appoint a joint official liquidator to replace the General Partner." See Ex. I at 3 and 8.
Rigmora asserting that the Debtors have not communicated with Rigmora in connection with their reorganization efforts	*Rigmora:* "Your Honor, one thing that I find a little mystifying is that the good news that was announced with regard to the debtors' business operations, discussions with a potential new investor, progress towards a potential plan of reorganization, every part of that is news to us. It is confusing to me that we hear about this progress and this good news and efforts towards reorganization in the courtroom for the first time. I am going to begin where I thought I might end my remarks today which is to continue making a plea that the debtors talk to their largest stakeholder. We should be talking. We should not be hearing about news like that for the first time in the courtroom." *See* **Exhibit J**, May 19, 2026 Tr. at 15:1-13. *Refuting Evidence:* "Q. Mr. Mandarino, have you been attempting to keep Rigmora informed about the bidding process and the sales process, so far as

Other Improper Conduct of Rigmora	
	well as periodic updates for Rigmora through your relationship with Rothschild? A. Yeah, I've had a number of conversations with them; again, it's been very high level to be clear, like, there's – there hasn't been a lot of detail for the reasons we just discussed, but, you know, I have an immense amount of respect for Mr. Aebersold and try to have a good, you know, dialogue and relationship with him. And, you know, if he will get me the brokers to try to get something positive accomplished." *See* Ex. H, June 3, 2026 Tr. at 77:3-14. "[I]n the last two months, I had at least nine telephone conversations with Mr. Aebersold to provide Rigmora with an update regarding the Chapter 11 Cases. Specifically, I spoke with Mr. Aebersold on: (i) April 10; (ii) April 21; (iii) April 24; (iv) April 26; (v) April 30; (vi) May 7; (vii) May 8; (viii) May 13; and (ix) May 20, [discussing] various topics, including information requests, process updates, and potential strategies to exit chapter 11. On at least three calls, we discussed Oaktree Capital Management, L.P.'s ("Oaktree") interest in a transaction with the Debtors and on at least one call, disclosed that Oaktree is working with a partner who is a larger global asset manager." *See* Docket No. 749-3 at ¶ 5.
Rigmora asserting that RTW only used publicly available information in communicating with Rigmora	<u>Rigmora:</u> "Subject to a standard non disclosure agreement, the LPs provided RTW only with basic details about the amounts the LPs had invested in the portfolio companies and its ownership stake … and did not provide RTW with any information that was not made public in the Court of Chancery proceedings." *See* Docket No. 285 (Rigmora's February 10, 2026 Letter). "As a factual matter, the LPs provided information that had already been made public to RTW, which is not subject to the LPA's confidentiality provisions, … and information provided to Dr. Lu was pursuant to a confidentiality order to which the Debtor GP consented." *Id.* "RTW does not rely on any information that had not already been made public in preparing the two presentations that Debtors cite. The information … is in fact a projection based on information on Deep Apple's website." *See* Docket No. 348 (Rigmora's February 12, 2026 Redacted Letter).

Other Improper Conduct of Rigmora	
	Refuting Evidence "[T]he RTW presentations contain the go forward timeline for Deep Apple, even though that timeline has never been made public. There are only two ways RTW could have learned this information. Either Rigmora provided it to RTW, or RTW used confidential information subject to a non-disclosure agreement. Indeed, [in] 2023, RTW signed two separate nondisclosure agreements with Deep Apple and another Portfolio Company … In connection with those 2023 non-disclosure agreements, RTW repeatedly accessed data rooms of the portfolio companies." *See* Docket No. 297 (Debtors' February 11, 2026 Letter). "Deep Apple does not share any timeline details on its website … Additionally, Deep Apple does not present publicly on its portfolio at any conferences or meetings, and the few public presentations from the Deep Apple team have focused on platform advancement in AI or structural biology … Deep Apple has only shared timelines with potential investors via confidential presentations and only subject to a non-disclosure agreement." *See* Docket No. 332, Debtors' Sealed February 15, 2026 Letter.
Rigmora objecting to Quinn Emanuel's retention because Quinn Emanuel received $20 million to prosecute the Chancery Action, without mentioning that the same theory would apply to all transactions already approved by this Court	*Rigmora's Objection to Quinn Emanuel's Retention:* "To preview the issue for this Court, if the winding-up proceeding in the Cayman Court is successful and the GP does not seek a validation order (as it has thus far failed to do) or such an order is not granted, the Fund is entitled to bring a claw back claim to recover its assets under Cayman law." Docket No. 226 at ¶ 21 n.17. *Rigmora acknowledging that section 99 of the Companies Act would apply to all transactions following the filing of the Winding Up Petition:* "Ms. Tomasco is correct in saying that payments are presumptively void, but that doesn't mean that they will be voided." *See* **Exhibit K**, April 28, 2026 Tr. (N. Labovitz) at 34:16-18.
The Court's assessment of credibility of statements by	*The Court:* "It is hard to credit some of Mr. Bogdanov's testimony. Except for perhaps Braeburn, funding the Portfolio Companies were and are not

Other Improper Conduct of Rigmora	
Rigmora Holdings Ltd.'s Co-Chief Executive Officer	part of Rigmora Holdings' cash buffer strategy regardless of their respective merit. Mr. Bogdanov was sheepish when questioned on cross about the Bogdanov Memorandum suggesting he was embarrassed it showed the real motivation behind the Rigmora LPs' decision not to fund certain Portfolio Companies — a motivation that had nothing to do with the good of the Fund and everything to do with the good of Rigmora Holdings." *See* Docket No. 548 at 42 n.177.

E. Rigmora's Improper Conduct Prejudices these Estates

41. Rigmora's violations of the automatic stay and disregard of this Court's rulings have caused, and continue to cause, prejudice to the Debtors and their estates.

42. First, Rigmora's unauthorized filing in the Cayman Court caused unnecessary costs and delay on these estates. Because Rigmora sought the JPL Relief, the Debtors have been compelled to prepare and prosecute the Stay Enforcement Motion and respond to the New Summons and Re-Amended Reply on entirely new grounds in the Cayman Court. As set forth in the accompanying affidavit of costs (the "Affidavit of Costs"), the attorneys' fees that the Debtors incurred because of Rigmora's conduct amount to $611,053.72.

43. Further, Rigmora's disregard of the stay and this Court's orders and authority undermine the Debtors' restructuring efforts in a manner that cannot be remedied by compensatory sanctions alone. Indeed, Rigmora's actions in the Cayman Islands intentionally inject uncertainty and risk into the solicitation process, undermining the ability of the estates to effectively market the portfolio companies and other assets of these estates in a comprehensive and value-maximizing transaction. Moreover, now that Rigmora intends to participate as a bidder in the Court-approved exit-financing process, Rigmora, through its repeated stay violations, signals to competing bidders that any transaction approved by this Court could face collateral attack in the Cayman Court. Through its brazen defiance of this Court, Rigmora threatens parallel foreign litigation against any

outcome it disfavors. But these estates cannot serve two masters,[28] and the Debtors and potential bidders need this Court's protection from the risk that a disappointed Rigmora will seek to undo or second-guess the exit financing and plan processes.

44. Even now, after the Court's explicit admonishment, Rigmora continues to pursue its *ipso facto* arguments, now arguing that the Partnership Debtors' financial distress creates a loss of substratum. In its skeleton to the Cayman Court, filed after the Court's comments at the June 24, 2026 hearing, Rigmora states that "an established situation in which it will be just and equitable to dissolve a partnership or wind up a company for loss of substratum is where the business cannot, in a practical sense, be continued without further capital which the partners or members will not contribute." *See* **Exhibit L**, Rigmora Skeleton dated June 25, 2026 at ¶ 80. Rigmora's past actions have demonstrated that this pattern and practice of defiance will persist unless this Court enters prospective relief that prevents its recurrence.

BASIS FOR RELIEF

45. At the June 24, 2026, hearing, the Court held that Rigmora violated the stay in connection with the JPL Relief, and asked that the Debtors provide "suggestions" regarding appropriate sanctions against Rigmora, noting that "[a]ttorneys' fees [were] easy," although acknowledging that the recovery of these fees "[was] not a satisfying form of relief in th[ese] circumstances given the economics…." *See* Ex. B at 65:4-10; *see also In re Obmann*, 2011 WL 7145760, at *4-5 (B.A.P. 9th Cir. Dec. 9, 2011) (section 105(a) of the Bankruptcy Code "allows the bankruptcy court to act sua sponte to issue any order that is necessary to carry out the provisions

[28] In that respect, Rigmora's view of the authority of this Court is exemplified by the following statement in the Affirmation (at ¶ 31): "The General Partner's most recent representations to the Delaware Bankruptcy Court [at the May 19 hearing] further illustrate its intentions to proceed — in disregard of the Rigmora LPs' rights and **this Court's supervisory jurisdiction**—to pursue a reorganisation plan that would dilute or eliminate the Rigmora LPs' participation." (Emphasis added.)

of the Bankruptcy Code," including injunctions, if "the defendant is afforded the procedural protection of due process," and "the remedy must conform to the objectives of the Bankruptcy Code.").[29] In addition to the professional fees that the Debtors incurred because of Rigmora's violation of the stay—relief that is available under sections 362(k) and 105(a) of the Bankruptcy Code—the Debtors respectfully ask that the Court consider (i) an award of punitive damages under section 362(k) of the Bankruptcy Code; and (ii) additional non-monetary relief under section 105(a), as further described in section IV below.

I. The Debtors Request the Mandatory Award of Actual Damages Pursuant to Section 362(k)

46. Section 362(k) of the Bankruptcy Code mandates that when a party willfully violates the automatic stay, an injured debtor "*shall* recover actual damages." 11 U.S.C. § 362(k) (emphasis added); *In re Weisberg*, 218 B.R. 740, 753 (Bankr. E.D. Pa. 1998) ("It is clear that damages in some amount are mandatory whenever a stay violation occurs."); *In re Schwartz-Tallard*, 803 F.3d 1095, 1099 (9th Cir. 2015) ("[Section 362(k)] makes an award of actual damages and attorney's fees mandatory ...."). The Third Circuit found that this provision applies to corporate debtors. *See In re Atl. Bus. & Cmty. Corp.*, 901 F.2d 325, 329 (3d Cir. 1990); *In re Lansdale Family Rest., Inc.*, 977 F.2d 826, 828-29 (3d Cir.1992); *In re High Strength Steel, Inc.*, 269 B.R. 560, 570 (Bankr. D. Del. 2001); *In re U Lock, Inc.*, 663 B.R. 30, 46 (Bankr. W.D. Pa. 2024) ("Under Third Circuit precedent, an 'individual' includes a corporate debtor and a bankruptcy trustee operating in a representative capacity for the estate."); *In re Prithvi Catalytic,*

[29] *In re Obmann*, 2011 WL 7145760, at *5 (B.A.P. 9th Cir. Dec. 9, 2011) ("Due process requires a notice and an opportunity to be heard." (citation omitted)). At the June 24, 2026, hearing, the Court made sure that Rigmora's due process is safeguarded. *See* Ex. B at 65:11-15 ("So, if you want something different, and there's a different type of relief, I need suggestions for what that is and very specific suggestions for what it is that you think is appropriate. And, again, on notice so that there can be a response.").

Inc., 571 B.R. 105, 143 n.220 (Bankr. W.D. Pa. 2017) ("[T]he Third Circuit has held that section 362(k)(1) also applies to corporate debtors.").

47. Under section 362(k) of the Bankruptcy Code, "[a] 'willful violation' does not require a specific intent to violate the automatic stay. Rather, the statute provides for damages upon a finding that the defendant knew of the automatic stay and that the defendant's actions which violated the stay were intentional." *In re Atl. Bus. & Cmty. Corp.*, 901 F.2d at 329 (quoting *In Re Bloom,* 875 F.2d 224, 227 (9th Cir.1989)); *see also In re Lansdale Family Rest., Inc.*, 977 F.2d at 829 ("It is a willful violation of the automatic stay when a creditor violates the stay with knowledge that the bankruptcy petition has been filed. Willfulness does not require that the creditor intend to violate the automatic stay provision, rather it requires that the acts which violate the stay be intentional.... [A] creditor's 'good faith' belief that he is not violating the automatic stay provision is not determinative of willfulness...." (citation omitted)); *In re Manley Toys Ltd.*, 2019 WL 3229301, at *5 (D.N.J. July 18, 2019) ("Willfulness, in the context of a § 362(k)(1) claim, is not tantamount to a specific intent to disobey a court order. As the Bankruptcy Court correctly stated, a violation of the stay is willful under section 362(k) upon a finding that the defendant knew of the automatic stay and that the defendants' actions which violated the stay were intentional." (cleaned up)) (finding that appellant, who knew of the existence of the automatic stay, violated it by making a legal filing in another forum, and denying appellant's argument that its violation of the stay was not willful because the actions were allegedly based on a reasonable interpretation of a stay order).

48. In seeking the JPL Relief, Rigmora acted with knowledge of the automatic stay;[30] thus, its actions were willful and warrant recovery of its actual damages, including costs and

[30] The same is true for Rigmora's other violations of the stay in connection with PTR and Braeburn. *See supra* at ¶¶ 21-29, 40.

attorneys' fees. *See* 11 U.S.C. § 362(k)(1); *In re Manley Toys Ltd.*, 2018 WL 1033426, at *7 (Bankr. D.N.J. Feb. 14, 2018), *aff'd*, 2019 WL 3229301 (D.N.J. July 18, 2019) ("Actual damages are awarded to a complainant in compensation for his actual and real loss or injury …." (internal quotes and citation omitted)); *In re Rodriguez*, 2012 WL 589553, at *5 (Bankr. D.N.J. Feb. 22, 2012) ("[A]ttorneys' fees under § 362(k) are an element of damages when a party seeks to remedy an automatic stay violation."); *In re Schwartz-Tallard*, 803 F.3d at 1099-1101 (9th Cir. 2015) ("Both parties agree that § 362(k) authorizes an award of attorney's fees incurred in ending a violation of the automatic stay …. [section 362(k) also] authoriz[es] an award of attorney's fees incurred in prosecuting an action for damages under the statute.").

49. The Debtors' actual damages—in the form of attorneys' fees—are apparent: the Debtors spent time and money enforcing the automatic stay through expensive, avoidable litigation—even after informing Rigmora of its stay violation. Every dollar spent to address Rigmora's stay violation diverts from the Debtors' efforts to advance a value-maximizing outcome for the benefit of all stakeholders. The Debtors' damages caused by Rigmora's latest violation consist of the attorneys fees associated with: (i) the Stay Enforcement Motion, (ii) the response to the New Summons that the Debtors were required to file in the Cayman Court, and (iii) the Rigmora Clarification Motion, which forced the Debtors to defend against Rigmora's efforts to justify its stay violation. As set forth in the accompanying Affidavit of Costs, the attorneys' fees that the Debtors incurred because of Rigmora's conduct amount to $611,053.72.[31]

[31] The Debtors reserve the right to seek additional monetary damages stemming from Rigmora's interference with the Debtors' ongoing solicitation of Exit Financing. As further discussed below, Rigmora's statements in support of its new cause of action have chilled bidding, resulting in a less competitive sales process. The Debtors cannot yet determine the full extent of the lost value, but there can be no question that it represents a significant injury to the Debtors' estates.

The Debtors additionally reserve the right to seek the mandatory compensatory damages associated with Rigmora's first stay violation, which, as the Court confirmed, also exceeded the bounds of the Court's limited grant of relief. *See* Docket No. 548 at ¶ 18-19 ("I certainly did not grant relief from stay for the Rigmora LPs to file an eighteen page

II. The Court also Has the Power to Award Attorneys' Fees Pursuant to 11 U.S.C. § 105(a)

50. In addition to the directives found in section 362(k), the Court may award contempt sanctions pursuant to its inherent authority. *In re Odom*, 570 B.R. 718, 722 (Bankr. E.D. Pa. 2017) ("The statutory remedy, § 362(k), supplements, but does not replace the contempt remedy."). Section 105(a) of the Bankruptcy Code provides that "[t]he court may issue any order, process, or judgment that is necessary or appropriate … to enforce or implement court orders or rules, or to prevent an abuse of process. 11. U.S.C. §105(a). The Court may also enforce its own orders. *In re Protarga, Inc.*, 329 B.R. 451, 479 (Bankr. D. Del. 2005) ("It is axiomatic that a court possesses the inherent authority to enforce its own orders.") (quoting *In re Cont'l Airlines, Inc.*, 326 B.R. 318, 325-26 (Bankr. D. Del. 1999)). Where a party fails to follow an order of the bankruptcy court, the court may find such party in civil contempt under the authority granted to it by section 105(a). *In re EHT US1, Inc.*, 633 B.R. 223, 232 (Bankr. D. Del. 2021); *In re Vaso Active Pharms., Inc.*, 514 B.R. 416, 421 (Bankr. D. Del. 2014).

51. Sanctions for civil contempt may "be employed for either or both of two purposes[:] to coerce the defendant into compliance with the court's order, and to compensate the complainant for losses sustained." *United States v. United Mine Workers of Am.*, 330 U.S. at 303 (citations omitted). This includes authority to award attorney's fees. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 45 (1991). To obtain sanctions for civil contempt, three elements must be established: (1) a valid order of the court must exist; (2) the person to be charged with contempt must have actual knowledge of the order; and (3) the person must have disobeyed the order. *In re Continental*

skeleton argument with the Grand Court outlining new arguments, nor did the Rigmora LPs ask me to grant such relief.").

Airlines, Inc., 236 B.R. 318, 330 (Bankr. D. Del. 1999); *In re Baker*, 195 B.R. 309, 317 (Bankr. D.N.J. 1996).

52. Here, Rigmora violated at least two orders that it inarguably knew existed: the self-executing automatic stay order, *see In re Odom*, 570 B.R. at 724, and the Court's direct and specific order granting only limited relief from the stay. And because Rigmora acted with full knowledge that the automatic stay was in effect, its actions were wilful and warrant compensatory damages. This is an "objective standard," and a finding of civil contempt does not hinge on whether Rigmora subjectively believed its actions to violate the automatic stay or whether it acted in good faith.[32] *See id.* at 722 (quoting *Univ. Med. Ctr. v. Sullivan*, 122 B.R. 919, 932 (E.D. Pa. 1990), *aff'd sub nom. In re Univ. Med. Ctr.*, 973 F.2d 1065 (3d Cir. 1992) ("As a remedial measure, civil contempt sanctions are imposed whether or not the offending party acted in good faith or without willfulness or a specific intent to violate a court order."); *In re Atl. Bus. & Cmty. Corp.*, 901 F.2d 325, 329 (3d Cir. 1990) (upholding award of punitive damages, attorney's fees and costs for violation of the automatic stay). Accordingly, under section 105(a) of the Bankruptcy Code, the Court is entitled to award the Debtors the fees included in the Affidavit of Costs.

III. To Prevent Future Stay Violations, the Debtors Suggest the Court Award Punitive Damages Pursuant to 11 U.S.C. § 362(k)

53. In addition to requiring that violators of the automatic stay pay the Debtors' actual damages, section 362(k) allows punitive damages "in appropriate circumstances." 11 U.S.C. § 362(k). "[O]ne of the purposes behind punitive damages is to deter future misconduct." *In re*

[32] When determining appropriate sanctions, the Third Circuit uses the willfulness standard. However, based on *Taggart*, other courts have stated that sanctions should be awarded if there no "fair ground of doubt" that the action in question was prohibited. *See In re Windstream Holdings, Inc.*, 105 F.4th 488, 495 (2d Cir. 2024); *Taggart v. Lorenzen*, 587 U.S. 554, 565 (2019). The *Taggart* standard is also an objective standard that does rely on Rigmora's alleged good faith or subjective belief. *See Id.* at 563, 565. As the Court noted, Rigmora's actions "go[] beyond any reasonable interpretation of the [Lift Stay Order]." *See* Ex. B at 62:19-24. Therefore, under either standard, compensatory damages should be awarded.

Lansaw, 853 F.3d 657, 670 (3d Cir. 2017) (finding appropriate punitive damages in presence of several willful violations of the stay that the stay violator "attempt[ed] to downplay … at trial."). Punitive damages are appropriate if "the defendant … acted with actual knowledge that he was violating the federally protected right or with reckless disregard of whether he was doing so." *In re Gardner*, 2016 WL 1576700, at *7 (Bankr. D.N.J. Mar. 31, 2016) (citations omitted). Moreover, "[w]hen a party acts in 'arrogant defiance' of the Bankruptcy Code, punitive damages are particularly merited." *Id.* (citation omitted); *see also In re Klein,* 226 B.R. 542, 545 (Bankr.D.N.J. 1998) ("Punitive damages are appropriate '[w]here an arrogant defiance of the federal law is demonstrated.'").

54. To determine the need for punitive damages, the Court should consider: "(1) the nature of [Rigmora's] conduct; (2) [Rigmora's] ability to pay; (3) the motives of [Rigmora]; and (4) any provocation by the [Debtors]." *In re B. Cohen & Sons Caterers, Inc.*, 108 B.R. 482, 487 (E.D. Pa. 1989). Here, the factors weigh firmly in favor of contempt sanctions.

55. First, in the Court's own words, Rigmora's stay violation was "blatant," and it came after the Court had already put it on notice of its prior stay violation. *See* Ex. B at 24:2-3. As a result, Rigmora's claim that it did not understand its most recent actions to be in violation of the automatic stay defies credulity. *See* Ex. B at 50:15-22. Since the entry of the Opinion (at 18-19), Rigmora knew that its conduct relating to the PTR in the Cayman Court went beyond the scope of the Court's limited grant of relief. And Rigmora's most recent stay violation matches its prior violation beat for beat and step by step. There too, Rigmora: (i) disregarded the limitations of the Court's Stay Relief Order, (ii) made arguments advocating a new basis for relief; (iii) made statements condemning the Debtors' filing and prosecution of the Chapter 11 Cases; and (iv)

continued its stay violation despite the Debtors' repeated demands to stop. *See* Docket No. 83 ¶¶ 4, 5.

56. Second, as Rigmora has represented to the Court on numerous occasions, it faces no liquidity issues or financial limitations that would limit its ability to pay both actual and punitive damages.[33] Rigmora's billion plus dollar financial position means that the award of compensatory damage alone will not sufficiently deter future stay violations, and Rigmora's extensive resources allowed it to retain experienced bankruptcy counsel that should have been able to assess the boundaries of the Court's order and act within those limits. *See In re Mullarkey*, 81 B.R. 280, 284–85 (Bankr. D.N.J. 1987) ("Particularly with such experienced bankruptcy counsel…, who is so consistently involved in these processes, counsel's failure to seek relief from the stay prior to acting represents 'an arrogant disregard for federal law' which must have as its consequence the awarding of punitive damages").

57. Third, Rigmora's cynical motives to liquidate the Debtors for Rigmora's own pecuniary gain could not be more clear. Essentially, Rigmora disregarded the automatic stay because Rigmora prefers a Cayman Court liquidation and disregard for creditors' rights so it can reap the updraft benefit for itself to the detriment of other stakeholders. Rigmora couches its disdain for Delaware courts as a desire to "move forward with [the Cayman] proceedings," but its

[33] *See, e.g.*, Docket No. 449 at ¶ 10 ("the LPs have ample liquidity"); Docket No. 425 (February 25, 2026 Tr. at 27:16-28:9 (Yuri Bogdanov Direct Examination) ("Q. Did the LPs pay the May 30 capital calls before the Chancery Court issued its decision in that case? A. No, we didn't. Q. And is the reason that the LPs did not pay the capital calls that the LPs could not afford to do so? A. Of course not. Q. So you could have paid the capital calls? A. Yes. Financially, yes. Q When you say 'financially, yes,' what do you have in mind? A. Just have in mind that we had sufficient funds to pay whatever hundred ten, 111 million called in late May. Q. And does Rigmora's CFO occasionally put together a snapshot of the trust's cash and marketable securities? A. Yes. Alexei -- this is the name of the CFO. Alexei preparing – is preparing the snapshots for our banking partners. **And the most recent, at the time of the May capital calls, was the year end of 2024, and the trust has almost 400 million in cash and marketable securities**." (emphasis added)).

disdain cannot justify acting without regard to whether its actions violate the automatic stay.[34] Rigmora also believes they "already own" the Debtors' assets,[35] and every action Rigmora has taken in the Chapter 11 Cases has been to secure the estate value that it believes it is owed. Moreover, as a prospective bidder in the Debtors' exit financing process, Rigmora benefits from chilling competing bids. Its statements in the Cayman Court do just that: by disparaging both the Debtors' management of their estates and suggesting that Cayman law supplants the Bankruptcy Court's jurisdiction, Rigmora's actions threaten to drive away parties who had previously expressed interest in participating in the auction process.

58. *Fourth*, not only did the Debtors do nothing to provoke Rigmora's behavior, at the time Rigmora filed the New Summons, the parties were engaged in productive negotiations, and the Debtors had agreed to consider Rigmora's proposal to appoint JPLs in lieu of JOLs upon conclusion of the authorized trial in the Cayman Court. The Debtors additionally gave Rigmora numerous warnings that its conduct violated the stay and multiple opportunities to cure its violation.

59. Any one of these factors would justify an award of punitive damages; taken together, punitive sanctions must be imposed not only to deter future violations by Rigmora in this case, but to preserve the integrity of the automatic stay and its essential protections. The amount of punitive damages awarded must be sufficient to achieve both "deterrence and retribution." *In re Glenn*, 2026 WL 970383, at *9 (Bankr. E.D. Pa. Apr. 9, 2026). Courts have found that single-digit multipliers at a minimum are appropriate to accomplish this goal. *Id.* ("The amount of

[34] *See* Ex. B at 45:6-14 (N. Labovitz): "But it's crystal-clear to me that, if we had done that, then they would have said we can't go forward on this JPL issue, on this trial that's scheduled for June 30th and July 1st, which they've already tried to delay twice….At some point, the delay has to come to an end. We need to be able to move forward with these proceedings, and that's all we're trying to do."

[35] *See* Ex. H at 63:18-21 (N. Labovitz"): "And I hope I don't have to go into this, this question of why did the Rigmora LPs want to purchase P&F bidders to buy-back the asset they already know that they already own?"

punitive damages…is around six (6) times the amount of actual damages awarded…. Such a single digit multiplier is not uncommon."). The Debtors therefore request an award of $1,833,161.16 in punitive damages. This amount represents three times the Debtors' compensatory damages, and it is the minimum amount necessary to deter future violations.

IV. The Debtors Suggest Additional Nonmonetary Sanctions to Protect the Debtors' Estates

60. The Court's inherent authority allows it to craft whatever sanctions necessary to "coerce … compliance with the court's order," *United Mine Workers of Am.*, 330 U.S., at 303-04 (citations omitted), and to address bad faith conduct, *Martin v. Brown*, 63 F.3d 1252, 1265 (3d Cir. 1995). The Court may exercise its discretion to fashion appropriate relief, considering the harm threatened by continuing non-compliance, and the effectiveness of a proposed sanction to cause compliance. *United Mine Workers of Am.*, 330 U.S. at 304. The sanctions a bankruptcy court may impose in response to civil contempt are "many and varied." *In re Vaso Active Pharms., Inc.*, 514 B.R. at 423 (citation omitted).

61. In assessing the need for additional nonmonetary sanctions, the Court should consider that the prejudice that Rigmora has caused to the Debtors exceeds the attorneys' fees incurred. The Court already noted that the mere recovery of these fees "is not a satisfying form of relief in th[ese] circumstances." *See* Ex. B at 65:8-9.

62. Rigmora's ploys in the Cayman Islands—the latest example of which was the seeking of the unauthorized JPL Relief—undermine the Debtors' restructuring, because they "inject uncertainty and risk in the ability of the estate to effectively market the portfolio companies and other assets of these estates in a comprehensive and value-maximizing transaction." *See* Docket No. 749-3 at ¶ 6. Indeed, Rigmora's self-serving suggestion that it possesses veto power or hold-out leverage over any restructuring transaction "cannot coexist with normal restructuring

efforts and functions under the Bankruptcy Code, including its sale free and clear and equal treatment of stakeholders under a plan." *See* Docket No. 749-3 at ¶ 6. Rigmora, which is now a participant in the exit financing solicitation process, sends the market the message that it can use the Cayman Islands to second-guess or even derail the Debtors' efforts to identify plan sponsors or purchasers. And Rigmora's conduct obviously chills the competitive process upon which value maximization depends. In fact, previously engaged bidders may have already discontinued their participation, explicitly referencing Rigmora's litigiousness.

63. Rigmora's conduct in relation to the Winding Up Proceeding not only undermines this Court's supervisory authority over the bankruptcy in the eyes of potential bidders, but also erodes such authority before the Cayman Court itself, which Rigmora improperly suggests has "supervisory jurisdiction" over the Chapter 11 process.[36] The Affirmation, which frames Court-approved restructuring activities as evidence of mismanagement and dissipation, is a further example of Rigmora asking the Cayman Court to sit in judgment over this Court's authority.[37] The automatic stay, and its adequate enforcement, prevents uncertainty and chaos where multiple proceedings involving the debtors coexist. *See In re Nakash*, 190 B.R. 763, 768 (Bankr. S.D.N.Y. 1996); *In re Rimsat, Ltd.*, 98 F.3d 956, 961 (7th Cir. 1996). Through its actions in the Cayman Court, Rigmora runs roughshod over the very purpose of the automatic stay. Under both the automatic stay and under section 105(a) of the Bankruptcy Code, this Court has the tools to prevent collateral attacks on existing injunctions in the Chapter 11 Case, especially if these attacks endanger the integrity of the bankruptcy process. *See In re Christ Hosp.*, 502 B.R. 158, 183, 185-86 (Bankr. D.N.J. 2013), *aff'd*, 2014 WL 4613316 (D.N.J. Sept. 12, 2014) (enjoining state court's

[36] *See* Docket 714-4 at ¶ 31.

[37] *Id.* at ¶¶ 23 et seq.

litigation because it constituted a collateral attack on an order approving § 363 sale, endangering the integrity of the sale).

64. Rigmora's actions also detract from good-faith negotiations between the parties. The Debtors must always fear that while Rigmora gives the impression of negotiating in good faith, it simultaneously plans unilateral action in the Cayman Court, often within hours of the conversation. Without appropriate redress, this situation erodes the trust necessary for any consensual resolution and prejudices the Debtors' ability to engage constructively with Rigmora.

65. In light of the foregoing, the Debtors suggest potential (cumulative or alternative) solutions to curb Rigmora's conduct:[38]

- During the pendency of these Chapter 11 Cases, Rigmora is explicitly enjoined from taking any action in the Cayman Court or any other fora, except for those actions authorized in the Stay Relief Order and the *Order Clarifying Order Granting, in part, Motion for Relief from Stay* [Docket No. 823] (the "Clarification Order"). Rigmora's right to seek relief from the stay before this Court remains unabated.

- During the pendency of these Chapter 11 Cases, to ensure Rigmora's compliance with the automatic stay, the Stay Relief Order, and the Clarification Order, Rigmora must retain independent ethics counsel to review every written submission in the Cayman Court or any other fora if such submission relates to the Debtors, their estates, and/or these Chapter 11 Cases to ensure both candor to the tribunal as well as compliance with the automatic stay and this Court's orders.[39]

[38] As previously stated, section 105(a) of the Bankruptcy Code allows the Court to act *sua sponte* to issue any order that is necessary to carry out the provisions of the Bankruptcy Code. *In re Obmann*, 2011 WL 7145760, at *4-5. In any event, the Debtors would be entitled to proceed by motion because they are seeking to enforce an existing injunction—the automatic stay—against Rigmora. The Debtors thus do not need to file an adversary proceeding to obtain the relief sought in this Supplement. *See, e.g.*, *In re Christ Hosp.*, 502 B.R. 158, 183, 185-86 (Bankr. D.N.J. 2013), *aff'd*, 2014 WL 4613316 (D.N.J. Sept. 12, 2014); *In re Cont'l Airlines, Inc.*, 236 B.R. 318, 327 (Bankr. D. Del. 1999), *aff'd sub nom. In re Cont'l Airlines*, 2000 WL 1425751 (D. Del. Sept. 12, 2000), *aff'd sub nom. In re Cont'l Airlines, Inc.*, 279 F.3d 226 (3d Cir. 2002) ("In this case, Continental is not seeking an injunction, it is merely seeking to enforce an injunction already in place—that created by sections 1141 and 524 of the Bankruptcy Code and the express terms of the Confirmation Order.").

[39] At the June 24, 2026, hearing the Court noted: "I expect that if there's an action that needs to be taken that even comes close at this point to any concern that the stay might be violated that you bring a protective motion." *See* Ex. B at 66:18-21. Accordingly, the suggested relief would help Rigmora complying with this Court's remarks.

66. The Debtors submit that these proposed non-monetary solutions are adequate to ensure protection of the Debtors and their estates, to maintain the integrity of this Court's exclusive jurisdiction, and to avoid these Chapter 11 Cases being subject to two masters, thereby preventing confusion and chaos.

NOTICE

67. The Debtors will provide notice of this Supplement to Stay Enforcement Motion to the following parties and/or their respective counsel, as applicable: (i) the United States Trustee for the District of Delaware; (ii) the Committee; (iii) the United States Attorney's Office for the District of Delaware; (iv) the Internal Revenue Service; (v) the attorneys general in the states where the Debtors conduct their business operations; (vi) the Cash Management Banks; (vii) Rigmora; and (viii) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, considering the nature of the relief requested, no other or further notice need be given.

CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court (i) enter the Proposed Order, substantially in the form attached hereto as **Exhibit A**; and (ii) grant such other and further relief as is just and proper.

Dated: July 1, 2026
Wilmington, Delaware

Respectfully submitted,

/s/ L. Katherine Good

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
Apple Tree Life Sciences, Inc., *et al*.,[1]	Case No. 25-12177 (LSS)
Debtors.	(Jointly Administered)
	Hearing Date: July 22, 2026 at 10:00 a.m. (ET) **Objection Deadline: July 15, 2026 at 4:00 p.m. (ET)**

NOTICE OF SUPPLEMENT TO DEBTORS' MOTION FOR AN ORDER (I) ENFORCING THE AUTOMATIC STAY AND (II) IMPOSING SANCTIONS ON RIGMORA

PLEASE TAKE NOTICE that the above-captioned debtors and debtors in possession (the "Debtors") filed the *Debtors' Supplement to Debtors' Motion for an Order (I) Enforcing the Automatic Stay and (II) Imposing Sanctions on Rigmora* (the "Motion") with the United States Bankruptcy Court for the District of Delaware (the "Court").

PLEASE TAKE FURTHER NOTICE that objections to the Motion, if any, must be filed in writing, with the Clerk of the United States Bankruptcy Court for the District of Delaware, 3rd Floor, 824 N. Market Street, Wilmington, Delaware 19801, on or before **July 15, 2026 at 4:00 p.m. (ET)** (the "Objection Deadline"), and served upon and received by the undersigned counsel for the Debtors.

PLEASE TAKE FURTHER NOTICE that, if any objections to the Motion are received, the Motion and such objections shall be considered at a hearing before the Honorable Laurie Selber

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number include: Apple Tree Life Sciences, Inc. (4506); ATP Life Science Ventures, L.P. (8224); ATP III GP, Ltd. (6091); Apertor Pharmaceuticals, Inc. (3161); Initial Therapeutics, Inc. (2453); Marlinspike Therapeutics, Inc. (4757); Red Queen Therapeutics, Inc. (8563); Evercrisp Biosciences, Inc. (4437); Nine Square Therapeutics, Inc. (4503); and Nereid Therapeutics Incorporated (8493). The location of the Debtors' service address in these chapter 11 cases is 230 Park Avenue, Suite 2800, New York, NY 10169.

Silverstein at the Bankruptcy Court, 824 N. Market Street, 6th Floor, Courtroom No. 2, Wilmington, Delaware 19801 on **July 22, 2026 at 10:00 a.m. (ET)**.

IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

[*Remainder of Page Intentionally Left Blank*]

Dated: July 1, 2026
Wilmington, Delaware

Respectfully submitted,

/s/ L. Katherine Good

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Exhibit A

Proposed Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
Apple Tree Life Sciences, Inc., *et al*.,[1]	Case No. 25-12177 (LSS)
Debtors.	(Jointly Administered)
	Re: Docket Nos. 749 & __

ORDER (I) ENFORCING THE AUTOMATIC STAY AND (II) IMPOSING SANCTIONS AGAINST RIGMORA

Upon the *Debtors' Motion for an Order (I) Enforcing the Automatic Stay and (II) Imposing Sanctions Against Rigmora* ("the "Stay Enforcement Motion") and the *Supplement to Debtors' Motion for an Order (I) Enforcing the Automatic Stay and (II) Imposing Sanctions Against Rigmora* (the "Supplement," and together with the Stay Enforcement Motion, the "Motion") [2] filed by the debtors in possession in the above-captioned chapter 11 cases (collectively, the "Debtors"), and upon consideration of the Mandarino Declaration; and the Court having found that (i) this Court has jurisdiction over the Debtors and their estates, and to consider the Motion and the relief requested therein under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012, (ii) this Court may enter a final order consistent with Article III of the United States Constitution, (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (iv) venue of this Motion in this

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number include: Apple Tree Life Sciences, Inc. (4506); ATP Life Science Ventures, L.P. (8224); ATP III GP, Ltd. (6091); Apertor Pharmaceuticals, Inc. (3161); Initial Therapeutics, Inc. (2453); Marlinspike Therapeutics, Inc. (4757); Red Queen Therapeutics, Inc. (8563); Evercrisp Biosciences, Inc. (4437); Nine Square Therapeutics, Inc. (4503); and Nereid Therapeutics Incorporated (8493). The location of the Debtors' service address in these chapter 11 cases is 230 Park Avenue, Suite 2800, New York, NY 10169.

[2] Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to them in the Motion.

District is proper under 28 U.S.C. §§ 1408 and 1409, and (v) no further or other notice of the Motion is required under the circumstances; and this Court having found at the hearing held on June 24, 2026, that Rigmora violated the automatic stay by filing the New Summons and Affidavit in the Cayman Court (the "Stay Violation"); and this Court having reviewed the Motion and having heard the statements in support of the relief requested in the Motion at a hearing before this Court; and this Court having determined that the legal and factual bases set forth in the Motion and the referenced declarations establish just cause for the relief granted in this Order; and this Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and after due deliberation, and sufficient cause appearing therefor,

IT IS HEREBY FOUND AND DETERMINED THAT:

A. Rigmora's Stay Violation was willful and, to the extent relevant for any portion of the relief granted in this Order, Rigmora had no fair ground of doubt that the filing of the New Summons and Affidavit in the Cayman Court violated the automatic stay and was prohibited by the Stay Relief Order.

B. As a result of Rigmora's Stay Violation, the Debtors are entitled to recover from Rigmora all the fees and costs listed in the Affidavit of Costs, which are deemed reasonable, under either or both of sections 105(a) and 362(k) of the Bankruptcy Code.

C. Rigmora's Stay Violation further warrants punitive damages under section 362(k) as appropriate circumstances for such relief exists under the statute.

D. Rigmora's Stay Violation further warrants the non-monetary relief set forth in this Order.

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED** as set forth herein.

2. The New Summons and Affidavit are hereby void. Rigmora shall withdraw the New Summons and Affidavit from the Cayman Proceedings within three (3) days of entry of this Order.

3. Rigmora shall pay to the Debtors all fees and costs listed in the Affidavit of Costs, totaling $611,053.72, within five (5) days from the entry of this Order.

4. Rigmora shall pay $1,833,161.16 in punitive damages to the Debtors within five (5) days from the entry of this Order.

5. During the pendency of the Chapter 11 Cases, Rigmora is enjoined from taking any action in the Cayman Court or any other fora, except for those actions authorized in the Stay Relief Order and the Order Clarifying Order Granting, in part, Motion for Relief from Stay [Docket No. 823] (the "Clarification Order"). Rigmora's right to seek relief from the automatic stay before this Court remains unabated.

6. During the pendency of these Chapter 11 Cases, to ensure Rigmora's compliance with the automatic stay, the Stay Relief Order, and the Clarification Order, Rigmora must retain independent ethics counsel to review every written submission in the Cayman Court or any other fora if such submission relates to the Debtors, their estates, and/or these Chapter 11 Cases to ensure both candor to the tribunal as well as compliance with the automatic stay and this Court's orders.

7. The entities collectively defined in the Motion and this Order as Rigmora[3] are jointly and severally responsible for the amounts granted to the Debtors under paragraphs 3 and 4 of this Order.

[3] These entities are Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP.

8. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

9. The Debtors are hereby authorized to take all actions they deem necessary to effectuate the relief granted in this Order.

10. This Court retains jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Exhibit B

June 24, 2026 Transcript

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE:	Chapter 11
	Case No. 25-12177 (LSS)
APPLE TREE LIFE SCIENCES, INC., *et al.*,	(Jointly Administered)
	Courtroom No. 2
	824 Market Street
Debtors.	Wilmington, Delaware 19801
	Wednesday, June 24, 2026
	10:23 a.m.

TRANSCRIPT OF HEARING
BEFORE THE HONORABLE LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

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(Proceedings commenced at 10:23 a.m.)

THE CLERK: Please rise.

THE COURT: Please be seated.

MS. GOOD: Good morning, Your Honor.

THE COURT: Ms. Good?

MS. GOOD: Katie Good of Potter Anderson on behalf of the debtors. We're here for an omnibus hearing in the Apple Tree Life Sciences, Inc. and affiliated cases.

Thank you, Your Honor, for entering the one resolved item on our agenda today at Item 2.

And we have two items going forward today. The first is the debtors' motion for -- or, I guess I should say three items going forward today: we have a continuation, I guess, of the debtors' motion for clarification; the debtors' motion to enforce the automatic stay; and Rigmora's motions for -- motion for clarification.

And I would turn the podium over to Ms. Tomasco to present the debtors' arguments.

THE COURT: Thank you.

MS. SELDEN: Your Honor, Shannon Selden of Debevoise & Plimpton for the Rigmora LPs.

We have one point of clarification, I think, before we proceed, which we had hoped to work out in the hallway this morning and have been unable to resolve. We are, frankly, confused as to why the April 27th motion by

debtors for clarification remains on the agenda and is purported to be continued and why there have been new witnesses and exhibits submitted yesterday on that motion. That was the one agenda item, two hearings ago, on May 19th Your Honor heard argument for several hours. My partner Natasha Labovitz was here. That was fully addressed. Your Honor held at that hearing that you were not going to enter the order that debtors had proposed in connection with that motion and invited the parties to discuss and to submit further clarification orders, if needed, which we did.

And I think that this hearing today on June 24th was scheduled in response to the Rigmora LPs' motion for clarification, which we submitted after the May 19th order where Your Honor gave us some guidance. And my understanding is that that is the first open item on today's agenda.

I don't know that there is any rule that permits an evidentiary hearing or exhibits or witnesses on a clarification motion seeking to clarify Your Honor's order that followed in a hearing and a trial that we had over many days back in February, where that was a lengthy decision that Your Honor entered. So I don't know that there's any basis for an evidentiary hearing on it whatsoever, much less an evidentiary hearing after that motion had already been heard and argued, and I thought addressed fully by this Court. So, we had understood the first open item of business to be our

own order for clarification.

Ms. Labovitz has a family medical issue this afternoon and is appearing by Zoom. Unfortunately, she's not able to be here in person and, obviously, I'm losing my voice. But we had hoped to proceed with that and see no basis, kind of, for the witnesses and exhibits and I just hope that we can clarify, kind of, the order of proceedings this morning.

I'm sorry we weren't able to reach agreement on that, and, frankly, we had hoped to reach agreement on the clarification order itself. I understand debtors submitted a new order last night. We reviewed that. We gave them a markup this morning. I think there are only a couple points of difference, but, unfortunately, those remain to be addressed.

THE COURT: Okay. Thank you.

So, Ms. Tomasco, that's a fair question. Why are we back here on a motion that was already presented?

MS. TOMASCO: Your Honor, because the Court didn't rule one way or the other. The Court, at the May 19th hearing, said specifically:

I have no idea. I can see a reason for some kind of clarification, but I think we need to have education from the appropriate lawyers.

When we attempted to meet and confer with the

debtors, we, on May 26th, we believed that we were moving forward towards a clarification order of some kind with them. We -- I'm happy to report that there's been some progress made on that. There's still a sticking point.

The reason for that sticking point, I think, could benefit from some evidence, but the evidence goes to a number -- both -- all of the motions, the evidence is overlapping -- and that is, to the extent that there has been this stay violation and to the extent that Rigmora continues to use the Cayman Court as a check on this Court and what the debtors are doing in this Court with this Court's approval, is an issue for both, the functioning, the proper functioning of the governance of the portfolio companies, as well as the way in which we're able to advance the exit-financing procedures.

That is the point of the evidence and I think the Court should hear from the people that are affected by not just the stay violation, but also --

THE COURT: How does that -- if there's a stay violation, I'm not sure the effect matters -- maybe for sanction and I don't know if I'll decide a sanction today. I will say I think there's been a violation, okay. I think there's been a violation of the automatic stay and it concerns me, okay. But, and also, I think, since the parties can't seem to agree on an order and it's my order that needs

clarification, I don't know that I need evidence on my order.

So give me some specifics about what the evidence is going to be that is going to help me clarify my order.

MS. TOMASCO: This has to do, Your Honor, with the concern that I have from an estate maximization and preventing anything that happens in the Caymans from deleting or from the value of these estates.

THE COURT: I've granted relief from stay --

MS. TOMASCO: I understand, but the way --

THE COURT: -- okay. I think the debtors have a problem with that. I granted it.

I think the Rigmora LPs are way over their skis, okay, and are violating the order that you are -- you have injected new matters into that case, which I did not permit. But the debtors also just want me to say, No, it's not going forward. I've made that decision. It's going forward. If it impacts this case, it will, okay.

So, what do I need by way of evidence in terms of, not the impact at the moment, but how my order should be clarified?

MS. TOMASCO: Your Honor, if you -- well, we could hand up a -- the Rigmora markup and I can walk through, the Court, where my concerns are. And it's not necessarily that we don't think this is going forward. We know this is going forward in the Caymans, but if the result is in the Caymans

that the JPLs or JOLs will be appointed, what their next steps are at this very delicate time in the case, we think, should have to come back to this Court for further rulings from this Court. And that's where -- that's, essentially, the sticking point. It's not that we're saying, you know, we have a motion for clarification and, frankly, from relief from the order, which has not yet been ruled on. So, procedurally, that motion --

THE COURT: No, I denied it in the sense that I did not enter the order that was put in front of me, which asked me to approve this governance structure and I didn't even understand how I could do that.

MS. TOMASCO: That's --

THE COURT: But that's what you put in front of me, so that was denied, okay.

MS. TOMASCO: Where we are now, and I'm happy to report, that there have been a lot of -- there's been a lot of progress; although, it may not seem like that to the Court right now. For example, Rigmora has decided that it is going to be a bidder, with respect to the exit financing, which I think is a momentous and positive result. It gets us a format to resolve differences, but it also means that Rigmora has interests other than just governance. And it also means that we need to be very vigilant about how, with that development, which has happened just in the last week, with

that development, we need to be even more conscientious about how all of these things get implemented.

So let's just talk about that. When we are estate fiduciaries and we are protecting the value, not just, you know, of all of these assets, and we have to be very cognizant of the effect that all of these things have on the process: the process that the Court approved, the exit-financing process, which was also a very positive result for these estates; the fact that Rigmora is now going to be a participant, instead of, you know, throwing popcorn from the galley, is also a very positive development. Because what we want is a robust auction or process by which we maximize the value of these assets and protect these estates from all comers, right; not just Rigmora, but from anybody. That is something that we -- I consider to be a mission of the debtor in this regard and that is the proposed order, clarification order that we have put in front of the Court as of yesterday.

So the Court has a clarification order in front of it. We were making some progress with Rigmora. We came very, very close with one exception and that one exception is the role that the general partner's management plays within the portfolio companies. And in order to understand that role, we have some witnesses because it's not just that you have a holding company that does nothing but, you know, clip coupons and attend a few board meetings. It's much more

involved than that because this general partner management also provides, you know, scientific and strategic advice to each of these companies. It cannot be supplanted by officeholders from the Cayman Islands.

THE COURT: I don't know that they would seek to do that --

MS. TOMASCO: Well --

THE COURT: -- and I don't know the -- whatever we want to call them -- the joint official liquidators, the joint provisional liquidators, an officeholder is going to be making the decisions for the fund, okay. It will be making the decisions for the fund. I do have a question as to -- there was a suggestion in something I read that they would appear separately for themselves. I don't understand how that works, okay. They will be making decisions for the fund --

MS. TOMASCO: Understood.

THE COURT: -- okay. The fund has agreements with the general partner. The fund has agreements with the management company. Those are in place, okay.

If the fund debtor wants to do something with respect to those contracts, they've got to come here, okay. The joint provisional liquidators aren't out there, in my mind, as some separate entity that gets to do something that's beyond what happens here. They're the voice of the

fund in this case. They make decisions, which the general partner may disagree with, the portfolio companies may disagree with, and I guess we'll figure that out.

MS. TOMASCO: Those comments are actually very helpful, I think, to the parties in understanding what the Court has envisioned, because I think in Rigmora's mind, the JOLs or JPLs would come in and completely replace all of the management functions that are currently being provided.

THE COURT: I don't know that they can under the agreement. If there's management under the limited partnership agreement that's in place, it's in place. They can decide if they want to reject an agreement, they can bring a motion. If they decide they want to, you know, whatever's in the agreement, they are the fund.

MS. TOMASCO: I understand, Your Honor.

I'm going to suggest that with those comments, that maybe we could -- let me ask Your Honor how you would like to proceed. We have a clarification order that's been uploaded as of yesterday that's in front of the Court. That is a -- that is what the parties have been working on since the May 19th hearing and we have some additional tweaks. We may be able, based on the Court's comments, add some additional language to the effect that the management agreements, et cetera, would not be rejected without further order of the Court, which may provide some clarity that we

need to understand that there will not be a "bull in a china shop" sort of event in the event that officeholders are appointed in the Caymans.

THE COURT: Well, maybe -- I think the problem is trying to anticipate what's going to happen that hasn't happened yet.

MS. TOMASCO: Correct.

THE COURT: And, but if there is an officeholder that's appointed in the Cayman Islands, I don't know that that's equivalent to a CEO, a CRO, et cetera. It strikes me it's something different. But that's how I would expect that officeholder to act in this court. And if there are decisions that are made in the ordinary course that it doesn't need approval for, then it doesn't need approval for it. If there are decisions that are outside of the ordinary course and actions they want to take, then they need approval.

So my concern with an order -- and I've been working on one because it is my order, okay, that people are asking to be clarified -- and to date, y'all haven't come up with an agreed-upon order and I'm not even sure that I would like your agreed-upon order, okay. My -- the agreed-upon order should help Justice Asif. It's not really for your benefit. It's his questions that he had that concern me. But I'll take a look at whatever the latest version is. If

there's one dispute, put it in front of me.

But could the point of an officeholder disrupt what the debtors, here today, want to do? Maybe. It might happen. I can't anticipate that. I'm not going to anticipate that. And what I would expect is that that officeholder, as I said, is the voice of the fund, makes decisions for the fund under the limited partnership agreement. And if he wants to go in and fire everybody, can he do it? I don't know. Is that in the ordinary course? I don't know. You have to figure that out.

MS. TOMASCO: Well, what we're trying to accomplish with the clarification is it avoid further confusion as to what the governance of each of the companies -- each of the debtors in the portfolio companies would look like.

THE COURT: The portfolio companies has whatever governance the portfolio companies have. I don't actually know, particularly, what that is. I know a little bit from what we had before: there's a board. I assume the board of each of the portfolio companies is making the decisions for each of the portfolio companies, right?

MS. TOMASCO: Right.

THE COURT: They have a board.

MS. TOMASCO: Can the officeholders change that governance without coming back to the court?

THE COURT: Can they do it under the limited partnership agreement?

MS. TOMASCO: I would assume so, yes.

THE COURT: I don't know.

MS. SELDEN: Your Honor, whenever there's an appropriate moment, I would be happy to address the Rigmora LPs' views on both of those questions: the governance of the portfolio company and the clarification order and the extent to which the joint provisional liquidators or other officeholders might return to this court.

I do hope -- I very much hope that we can achieve some clarification with Your Honor's guidance, and we have been working hard in that direction. We did send a revised form of clarification order to debtors this morning, which addresses one of those questions, and if I could approach the bench, I would pass it to Your Honor to consider it with the others that you have.

THE COURT: Thank you.

MS. SELDEN: And I think, Your Honor, on this particular question of if Justice Asif, after a trial, decides to appoint officeholders, they would be officeholders under the auspices of the Cayman Court, answering to the Cayman Court, appoint by order of that Court.

But our anticipation always has been that they would also have to come back and answer to Your Honor here in

this court, and if you see in paragraph 4, that is what the Rigmora LPs are proposing. We do think it will be important, even in light of Your Honor's decision on the lift stay order, that the trials on substratum and loss of trust in confidence can go forward, and that if still appointed, an officeholder might displace the GP from managing the fund.

As Your Honor has said this morning, that comes into an existing structure. There is a limited partnership agreement. There is the ELP Act. There is the Bankruptcy Code. There is Your Honor's existing orders of this Court. And not just that, but there is also the way in which the Cayman limited partnership interacts with the portfolio companies, is, itself, governed by contract and those are some of the stock purchase agreements that Your Honor and I looked at back if February when we did the lift stay on the motion to dismiss hearing. And each of the portfolio company debtors is its own entity, most of them Delaware entities. They are governed sometimes by Massachusetts law, I think, and sometimes by Delaware law. They have their own boards. But they have their own agreements with the fund, which govern the fund's rights as an equity investor in those portfolio companies and affect the governance questions there.

So there's no kind of free-floating risk that a JPL or an officeholder would be unconstrained by the many

orders and contracts and agreements and laws that, in fact, govern those intersecting relationships, including, and centrally, I think this Court and the Bankruptcy Court and Your Honor's orders.

And our proposal this morning was that upon appointment, if an officeholder is appointed and has authority, that that would be subject to all applicable requirements of the Bankruptcy Code and any order of this Court. And that, further, promptly following the appointment of the officeholder and the retention of their attorneys, that they would come back here before Your Honor and that they would seek from this Court, any further direction that might be necessary or appropriate, including through any intercourt communications protocol. That was our proposal this morning, Your Honor, and I -- so that you had it for your benefit, as you consider these clarification orders.

I want to say on behalf of the Rigmora LPs, that it is very much our view that any officeholder would not just be appointed by the Cayman Court and subject to the Cayman Court's orders and to Cayman law and rules governing the appointment of such fiduciaries, but would also have to come back and appear before Your Honor in this court and adhere, obviously, to this Court's orders and the Bankruptcy Code.

THE COURT: How would they appear, as officeholders or as the debtor -- a partnership?

MS. SELDEN: Your Honor, I understand that if, upon the conclusion of a trial for loss of substratum, if Justice Asif appoints Cayman officeholders in lieu of the general partner, to displace the general partner from management of the fund following Your Honor's -- pretty close to verbatim in your lift stay order -- following that direction, that they would, then, step into the shoes of the GP to manage the fund, but as Your Honor has pointed out, into shoes which are surrounded by the LPA and the ELP Act and the Bankruptcy Code and Your Honor's orders and the Cayman Court's orders. I do not think that they would be free-floating, but rather, they would step into that situation and have to appear before Your Honor, having taken that role.

THE COURT: So they would make decisions for the fund under the limited partnership agreement.

(Pause)

MS. SELDEN: I think that's correct, Your Honor. I think it would serve an important interest in these bankruptcy cases and in the kind of orderly running of the sales process to resolve, as Your Honor has lifted the stay, to permit to resolve the question of who is doing that during the pendency of these cases. Who is the appropriate voice as the fiduciary of the fund and its assets? That is the question on loss of substratum before Justice Asif.

And officeholders are creatures of the Cayman Court. They would have no more powers than the Court's order gave to them and so I think that's --

THE COURT: Well, I might have concerns over what powers the Court's order gave to them. I saw something in the -- saw some things in the draft orders that I had questions about.

MS. SELDEN: In which case, Your Honor, I think the best thing that I could ask from Your Honor and from Justice Asif is for clarity for the Rigmora LPs and for all the debtors in the case and any participants in the bidders -- in the bidding process. It is so important for all of these cases and all of these parties to have the clarification, I think, that the Cayman trial will provide and that an order appointing officeholders, if they are appointed, would provide.

The joint liquidators, the officeholders are fiduciaries of the Cayman Court. They are independent of the Rigmora LPs. We can make requests, as permitted by Your Honor and Justice Asif, within that process, but at the end of the day, it is the Court's order and they're independent fiduciaries. And if there are ways in which that order or of a Cayman Court should be adjusted to reflect Your Honor's concerns, I think there are at least two ways to address that: one is through the intercourt protocol, another is

through the clarification order before Your Honor today.

But I do think it would be tremendously helpful to enter a clarification order that recognizes the central fact that both parties have agreed, which you will have seen in debtors' proposed order from yesterday and in the draft I just handed you and in our prior draft, that everybody agrees that at the conclusion of the substratum trial under Cayman law and under Your Honor's lift stay order, Justice Asif could appoint Cayman officeholders to come in. And that, I think, is an important clarification and it would be helpful to have that order clarified to that extent.

And then there are some questions that remain and that we had hoped to negotiate and got very close that morning, on how exactly the officeholders would, then, appear back before Your Honor. I don't think, actually, Your Honor, that all of those questions need to be resolved *ex-ante* today and before the substratum trial. I think that the central issue is that the officeholders, if appointed, upon conclusion of that trial, would be independent of the Rigmora LPs; would step into their role as fiduciaries for the fund; and would come back before Your Honor with their counsel.

And they may have their own views and their counsel may have their own views and they will seek instruction from this Court and fit into this bidding process, but I would think that it would be important to hear

from them, as well as from us, because they are independent fiduciaries for the fund and can work through that process and may be an important voice in these bidding procedures between the Rigmora LPs and the other debtor entities, who would remain, of course, debtors in this case.

I know my colleague Ms. Labov --

THE COURT: The fund remains a debtor in the case, too?

MS. SELDEN: Yes.

THE COURT: And is there -- and this is just a conceptual thing here -- but is there no one representing the fund if the officeholder is separate and apart from the fund?

MS. SELDEN: No, and I don't think the officeholder is separate and apart from the fund. Right now, the general partner is fiduciary who manages the fund.

And the central question of the substratum trial is whether the substratum has been lost, such that the general partner can no longer service that fiduciary and --

THE COURT: So why is --

MS. SELDEN: -- should be displaced.

THE COURT: So why does the fiduciary need counsel, as opposed to the fund? I'm just trying to understand how you think those two things interact.

MS. SELDEN: I can sense, even from afar, that Ms. Labovitz would like to give you a bankruptcy-related

answer to that. And if Your Honor doesn't mind -- I know Zoom is not ideal and she would be here in person if she could at all -- but I think that kind of the way that this would work within the context of the Bankruptcy Code might be something Ms. Labovitz would like to weigh in on.

THE COURT: Ms. Labovitz?

MS. LABOVITZ: Your Honor, thank you, and let me also thank you for permitting me to appear by Zoom. I need to be in a medical appointment with my husband in New York City this afternoon and I'm very grateful that I --

THE COURT: I understood that --

MS. LABOVITZ: -- could be here.

THE COURT: -- which is why I made the exception.

MS. LABOVITZ: Thank you.

Your Honor, I wish I was in court right now. I think we are grappling with some interesting bankruptcy issues. Let me try to answer the specific question about counsel, which is, I believe that based on the language that Your Honor has used many times, that the debtors have adopted in their proposed submission, which is that the officeholders, if appointed, would be appointed to act in the stead of the general partner in connection with the fund. I believe that they would, then, play the role that the general partner right now is playing in connection with the fund. And I think the right answer may be that the attorneys that

they would bring on would be attorneys for the fund.

Candidly, Your Honor, the debtors had proposed an order yesterday saying that the officeholders would be able to retain their own attorneys. We were looking for ways to minimize the areas of dispute, which is something we've really been trying to do, and so we didn't take that up and say, No, they would be the fund's lawyers. That wasn't a fight we wanted to fight. But I think that the officeholders may have an opinion on that and they may come back to you.

THE COURT: Thank you.

MS. TOMASCO: Your Honor, if you look at the markup that's been handed up to you, which is Rigmora's markup of the order that the debtors uploaded yesterday, if you look at paragraph 2, the first thing that they struck goes to the stay violation; in other words --

THE COURT: I agree, I think that's a problem.

MS. SELDEN: And that's a point that we had been willing to agree this morning, if --

MS. TOMASCO: Correct.

MS. SELDEN: We are navigating between the Cayman law and Your Honor's order. And believe me when I say, Your Honor, we have -- you know, I've been at Debevoise more than 25 years, Natasha has been practicing in this court for 30 years -- we have no intention or desire, on behalf of our firm or our clients to violate the automatic stay. I

think we are --

THE COURT: Well, I understand that, but it's just blatant and concerning, so we'll talk about that.

MS. SELDEN: Your Honor, I do know that Ms. Labovitz and I very much want to address that, but I would say, with respect to this provision in the order, the finding of necessity is, as I understand Cayman law, a, you know, lesser-included argument within a form of motion as part of the substratum.

But, look, this is not a -- if it gives Your Honor concern and where it gave debtors concern, as we had said this morning, we will leave that struck out and just say, you know, without entry pending further of this Court or further order of this Court, the officeholders can act in the stead of the general partner, that is, we don't need to have this language in.

THE COURT: And you're filing in connection with -- the stay enforcement order suggested to me, I thought, found parts of it contradictory, but parts of it suggested to me that Justice Asif just can, if he finds loss of substratum and he thinks it's appropriate, appoint someone, so, not through this second standard that's been injected into the filing. So, that's how I read your papers. At one point it seemed not, but another point, which I circled, that says, Oh, he can just do it.

MS. SELDEN: Your Honor, I think there are two legal bases that Justice Asif has available to him upon a finding of a loss of substratum: One is the Companies Act, and the other is his general powers that would allow appointment of the fiduciary. The finding of necessity relates to the Companies Act relief. So, yes, there are -- just as there are -- you know, it's not unheard of in Delaware law, either, that there be multiple legal bases for the same relief. The same is true in the Cayman Islands. The necessity finding relates to a Companies Act rule regarding the appointment of joint provisional liquidators.

But we have, again, no desire to get out ahead of Your Honor on that point. We are content to agree, as we had told debtors already, that we can go forward on the substratum trial and Justice Asif can appoint office holders without making those findings of necessity. And if they become necessary later, that can be addressed at the loss of trust and confidence hearing. And we will have another omnibus hearing before Your Honor in between those two trials, should further clarification be required.

But for purposes of moving forward next week and resolving the immediate need for clarity as to what Justice Asif can do next week, we are content to agree with debtors that he doesn't need to reach that finding of necessity, which is the Companies Act basis for appointment.

MS. TOMASCO: Your Honor, we -- they could put this language back in. But they also wanted to be able to keep the -- what I'm going to call the "Companies Act's Section 104," which is the allegations of mismanagement and dissipation of assets, on for the second phase of Justice Asif's trial later in July.

In my view, if it's a stay violation, it's void.

THE COURT: It is a stay violation and it is void.

MS. TOMASCO: And that they couldn't bring it up in the second phase of Justice Asif's trial.

THE COURT: It's void.

MS. TOMASCO: And so that was the intent of the language that we put in.

If we put it back in as we had originally written, I think that's satisfactory to the debtors, that the Section 104 of the Companies Act necessity, JPL necessity, is just void.

We understand from Cayman counsel that there is the equivalent of a Section 105 in their Companies Act; it's Section 95 that the -- Justice Asif can enter in any order. In light of the tightrope that we're walking between the appointment of JOLs, which was the original subject of Rigmora's stay relief motion -- and a JPL, based on the Court's comments on the May 19th hearing that you couldn't have a winding-up, there would be a narrow pathway if Justice

Asif found it to be supported under Cayman Law, under his, you know, equivalent of 105, to appoint a JPL instead of a JOL. And that's, of course, Cayman Law and he can make that decision.

But understanding where the Court wants to go, that seemed, to us, to be the rational thing and what we were sort of working towards on that fateful May 26th meet-and-confer where we said let us get back with counsel. We also suggested, by the way, that there be court restructuring officers, equivalent to a CRO, which is allowed if, but only if, the general partner puts the limited partnership in, but they didn't want to do that.

So we have been trying to work in this structure. It's -- and it's obvious -- you know, we have been. And so this is how we got to that language. But we felt like their stay violation threw a monkey wrench into all of that and has caused an enormous amount of cost and delay in implementing the Court's order. We can address that.

But I do think that that was the intent of that language, is that a stay violation is void and you don't get to use it later or come back to the Court because you're not going to meet the Third Circuit's factors for retroactive relief.

THE COURT: What this doesn't do -- and I didn't print out what I've been working on-- is it doesn't say --

which I thought Justice Asif might find helpful -- what I believe "in the stead of the general partner" means. Okay? So that he would understand what I think it means, which I think is what I'm hearing you think it means, but that I thought he might find helpful, here's what you can appoint the office holder to do. Okay? That's what I'm giving relief from stay to do.

MS. TOMASCO: So, if I'm reading -- if I'm hearing the Court correctly, the office holder would be appointed over the partnership. The management contract, vis-a-vis the general partner that exists, ATP III --

THE COURT: Still in place.

MS. TOMASCO: -- still in place.

THE COURT: Still in place.

MS. TOMASCO: Which addresses -- my main concern is not like how do we divide up the pie once the equity gets up to the limited partnership, which is a concern for, you know, months from now, but we are still living in a world in which the general partner plays an intimate function with each of the portfolio companies in administering and helping them, particularly in Pool 5, for the preclinical companies.

Those are -- you know, the child analogy still stands, right?

THE COURT: Well, if --

MS. TOMASCO: So --

THE COURT: If there are contracts between the portfolio companies and the general partner for services or guidance or whatever it is, they're still in place. They don't go away.

MS. TOMASCO: Okay.

MS. LABOVITZ: Your Honor --

MS. TOMASCO: What --

MS. LABOVITZ: -- while we're on that point -- because I think it may be useful for us to get clarity and then perhaps we can come back with a form of order that is consensual and has Your Honor's input -- I think I understand what the Court is saying and what Ms. Tomasco is saying.

The way we have conceived this -- and I'd like to put it out there, so that I can make sure there's not a misunderstanding. The way I view it is that the office holder, if appointed, would step into the shoes of the general partner for purposes of the LPA, and then would be subject to the Bankruptcy Code. So, if there is something that needs to be done with a contract, Section 365 says what happens.

If a contract -- you know, if the office holder wants to reject a contract, they make a motion. And I have no idea whether they would want to or not. These are independent fiduciaries. Similarly, if the office holder wants to take an action with respect to the fund that would

be outside the ordinary course of business, that would require a motion under Section 363. If there was a need for financing, that would require a motion under Section 364, all to the extent that Section 363, 364, and 365 require that relief.

I -- that's what we're trying to put into the order. And if there's something that we should be changing or solving for that is different from that, I think it would be helpful to clarify that.

THE COURT: Well, that's, I think, very close to what I had drafted, quite frankly, steps into the shoes of the partner under the limited partnership agreement, but it's spelled out. I don't yet see that in here. Maybe it's somewhere else. I mean, that's what happens.

MS. TOMASCO: Well --

MS. LABOVITZ: Yeah, I think it is in Paragraph 4 of our markup, Your Honor. Our proposal was that the office holder's authority with respect to the fund or any assets of the fund shall be subject to all applicable requirements of the Bankruptcy Court -- Code -- sorry -- and any order of this Court.

THE COURT: Ms. Tomasco.

Okay. So Paragraph 2, we've agreed, right? What else is in Paragraph 2 that's problematic?

MS. TOMASCO: Oh, well, so, if you're looking at

the Rigmora walk -- markup --

THE COURT: Yes.

MS. TOMASCO: -- we've agreed that the language that they struck has to come back in.

THE COURT: The "provided" language.

MS. TOMASCO: Yeah.

THE COURT: Yes.

MS. TOMASCO: Okay. And that's --

THE COURT: I guess that's a way to do it. Okay.

MS. LABOVITZ: Yeah. I think, Your Honor, we understand that.

The language at the end that they -- that we have struck:

"-- unless the same is determined by final order of this Court."

I'm not even sure I know what that means. And so I would suggest, even if the provisos come in, that last provision, I'm not sure what it means.

MS. TOMASCO: Well, I think -- well, I think that Rigmora was putting back in there the provisions of the original lift-stay order --

MS. LABOVITZ: Well, we were --

MS. TOMASCO: -- hat there will be --

MS. LABOVITZ: What I --

MS. TOMASCO: Yeah. It didn't -- in other

words --

MS. LABOVITZ: What I'm focused on, Patty -- what I'm focused on, Ms. Tomasco, is the last clause of the proviso that was deleted, which says:

"-- unless the same is determined by final order of this Court."

I think we have heard that the Court would prefer to the two provisos to come back in and, obviously, it's the Court's order, and so they will come back in. But I think that language would require further clarification. I think the better language there would be "subject to any further order of this Court."

THE COURT: Okay. I don't even see that language, but okay.

MS. TOMASCO: Well, I mean --

MS. LABOVITZ: I --

MS. TOMASCO: -- I think that the -- any allegations under Section 104 of the Companies Act needs to be void. I don't think that there should be the opportunity to come back in this court and seek a retroactive --

THE COURT: Say --

MS. TOMASCO: -- application.

THE COURT: I'm sorry. Say that again.

MS. TOMASCO: I think my interpretation of what Rigmora is trying to do with that language is to leave open

the idea that they could come in with additional relief in the Cayman Court with respect to the necessity, which is mismanagement and dissipation of assets. I think that has to be stricken.

MS. LABOVITZ: That deleted language, Ms. Tomasco, is language that you had included in your order yesterday that we had deleted. So it -- we don't know what you were trying to do with that language. It is not something that -- it is not something that the Rigmora LPs are trying to do because it's not our language.

THE COURT: Okay. We're going to take a recess. You guys are going to talk and you're going to see if you can come up with an agreeable order.

If not, I want to know what the very discrete differences are, and then I will compare it with what I think is appropriate because I want to make certain that Justice Asif has what he needs and -- I don't know. I'll take a look at these recent things to see if I think that's the case.

But you guys need to talk. I think I've said that at every single hearing. And I get how it works. Okay? I was where you were for 30 years. I get where it works, how it works, et cetera. This seems to have -- case seems to have more dysfunction than usual among the parties.

We're in recess.

MS. LABOVITZ: Thank you, Your Honor.

(Recess taken at 11:09 a.m.)

(Proceedings resume at 12:07 p.m.)

(Call to order of the Court)

THE COURT: Please be seated.

I was, Ms. Johnson was sent, what I guess -- oh, we're missing --

MR. SHAMAH: Oh, we have Ms. Labovitz and --

THE COURT: Ms. Selden.

MR. SHAMAH: It's okay. We can proceed, Your Honor.

THE COURT: Okay. I was sent -- or through Ms. Johnson, what I believe is an agreed-upon form of order. Is that correct?

MS. TOMASCO: Miracles do happen, Your Honor. We have agreed.

THE COURT: Okay. Given miracles ...

(Laughter)

(Pause in proceedings)

THE COURT: My form of order that I was working on had a couple of concepts in it that your order doesn't:

One was very explicit, that the automatic stay in the other debtor cases remains in place. Okay? That, I take it, is sort of the implicit underlying, but not explicit, statement --

MS. TOMASCO: Well --

THE COURT: -- underlying, but it's what is underlying Paragraph 4 in your form of order?

MS. TOMASCO: I believe that -- I -- speaking for myself, I thought that was implicit.

It was also in the original lift-stay order that the Court entered, that the automatic stay remains in place for all other purposes other than this one narrow thing. So it -- we could repeat that same language, but to me, it was explicit. But perhaps we should make sure that Rigmora understands that.

THE COURT: Well, and what I attempted to do -- and quite frankly, I didn't clarify it, I just was redoing the order, here's what it is, boom. Okay? So we weren't dealing with my original order, then some clarification order, then whatever, but this might work.

But I was making a distinction in my order, very explicit, that there are other debtors in this case because this is a jointly administered case. People sometimes forget. This is not a substantively consolidated case. These are however many we are, eight separate cases, and every debtor has the benefit of the automatic stay, and one debtor cannot take an action that violates the automatic stay of another debtor.

We don't usually think about that when we're in, you know, corporate group cases or family cases, whatever you

want to call it. We don't think about it that way, but that is the case here, and I think it's important to understand that, given where this case could head. Okay? So --

MS. LABOVITZ: I'll respond, Your Honor, and say --

THE COURT: I thought it worth a specific mention in the order, so that, particularly, joint provisional liquidators or any office holder who may not be fluent in bankruptcy law understands that just being appointed the joint official liquidator for one debtor doesn't give them reign over the rest of the case and doesn't permit actions to be taken that would violate the stay in the other debtor cases.

MS. TOMASCO: I believe that's clear.

And if you wanted --

THE COURT: Okay.

MS. TOMASCO: -- us to fashion a paragraph to add to that, I'm pretty sure we could because the Court's comments were so clear.

MS. LABOVITZ: Agreed, Your Honor.

(Pause in proceedings)

THE COURT: Again, I'll state -- I may just enter your order, but I'll state here: My proposed new order had a provision defining what "acting in the stead" means, and it made a reference to paragraph -- of the limited partnership

agreement, Section 2(b). But specifically, "to act in the stead" means that each -- the way I had drafted it:

"Each court-appointed office holder, individually or collectively, shall, on a prospective basis, carry out the management policies and controls of the affairs of the limited partnership, consistent with the limited partnership agreement."

And I made clear the limited partnership agreement is not in any way modified.

And as a limited partnership is a debtor-in-possession, all actions it may take are subject to the dictates of the Bankruptcy Code.

I want it to be very specific, so that people understand. I think these concepts are implicit in what has been agreed to, but I don't want any misunderstandings with respect to what can be -- what can be done in the Cayman Court, and what any potential joint official liquidator or other office holder thinks they can do.

So I'll enter the agreed-upon form of order, but I don't want there to be any mistake among counsel as to the impact of the automatic stay in this case, of its individual application to each debtor and each debtor's estate going forward, that the appointment of joint provisional liquidators doesn't change that, that they are subject to the automatic stay as well. And that needs to be very clear

given the --

MS. TOMASCO: We're happy to take the Court's comments and add two more paragraphs or one paragraph that includes both those concepts, that the automatic stay remains in effect with respect to all of the other debtors, and that the JPLs will be subject to that, and to the LPA will remain in force and effect.

THE COURT: It is, it absolutely is.

MS. TOMASCO: And with those two additions, would that be preferable to the Court? Because, obviously, we want there -- the Court to be happy with the order that the Court signs. But we did make progress.

THE COURT: You put -- you did. And you made progress -- as I say, I don't want to -- I don't want to discount the progress, so I want to work within your order. But I also -- I think those concepts need to be explicit, given the experience I've had in this case.

And I think it will benefit any office holder who may be appointed, who would then realize, yeah, I guess I need to get counsel who's fluent in the Bankruptcy Code.

MS. TOMASCO: I assume --

MS. LABOVITZ: Your Honor, we agree.

MS. TOMASCO: I assume that the JPLs --

MS. LABOVITZ: It --

MS. TOMASCO: -- would get counsel -- if

they're -- if appointed, would hire counsel familiar with Chapter 11. Otherwise, how would they function?

THE COURT: Yes.

MS. TOMASCO: But with that, that leaves us with the stay enforcement motion and Rigmora's clarification. I don't know what the Court wants to do with that today, given the Court's comments.

We do believe that, because this was the second stay violation, we do need to move forward with sanctions to discourage this conduct because it has been a pox on the case and prevented and delayed a lot of progress.

THE COURT: Thank you.

Well, I'm assuming that the -- Rigmora's motion for clarification is resolved by the agreed upon order.

MS. LABOVITZ: It is, Your Honor.

I would just add a point about timing. We are very happy to work with the debtors to add the two sentences that I think Your Honor made very clear should be added.

We think that it would be helpful to the overall process for this order to be entered, so that it can be communicated to Justice Asif before the hearings in the Cayman Court that are scheduled to be -- take place early next week. So I think there should be plenty of time to do that and to have the order entered, but I just wanted to make sure that timing was on the Court's radar.

THE COURT: Actually, given my schedule, it gets entered today.

MS. LABOVITZ: Okay.

THE COURT: All right?

MS. LABOVITZ: So that has to happen today.

MS. TOMASCO: Oh --

THE COURT: And if there's any problem --

MS. LABOVITZ: Yes.

THE COURT: -- I can put the two paragraphs in myself.

MS. TOMASCO: Thank you, Your Honor.

So then --

MS. LABOVITZ: Thank you.

MS. TOMASCO: Then that just leaves us with the enforcement motion --

THE COURT: Yes.

MS. TOMASCO: -- on the agenda.

THE COURT: Yes.

MS. TOMASCO: We've got an argument. It sounds like the Court has already made some conclusions. I think the Court mentioned, in your earlier comments, that we may not get to sanctions today.

When I've experienced this in the past, not having ever violated the stay, but having enforced the stay, the Court generally wants for there to be an affidavit of costs

prior to ruling on sanctions. And if that's where the Court would want to go, based on my experience, maybe that would be a way to deal with that part of it.

THE COURT: What other evidence do you think that there -- that is necessary? I've read the papers. I know what my order permitted. I think -- I'll hear from -- I'll certainly hear from Rigmora. But I think the submission in the Cayman Court violated stay and was -- and it was not consistent with my order. So what other evidence do you think I need other than what is an appropriate sanction?

MS. TOMASCO: Well, it could -- so this is completely off the cuff. But I can tell you, from my perspective, it's not -- it's caused, not only the delay in reaching this agreement -- well, at the May 26th meet-and-confer, we were headed towards this particular result. Maybe we would have gotten here without all of these hearings, and maybe we wouldn't have, but there is that delay.

The other effect that it has had is that it -- you know, we can debate whether or not it has tainted the process in the Cayman or not.

But the other effect that it has had -- and Mr. Mandarino can testify to this -- is that it has taken the marketing of these portfolio companies and the exit financing process, it has injected a great deal of confusion with respect to the bidders.

It's hard for us to articulate that, but I do think it's had an overall negative effect on these cases because the allegations were so pejorative. And frankly, the allegations were also indicative of a desire to collaterally attack whatever result happens in this court, which, as you know, running a process for the marketing of assets or investments in a debtor, it's quite delicate.

And one of the things that we always say is, you know, a 363 order or a confirmation order is better than any title policy you would get anywhere else. But if you had a title policy that somehow a court in the Cayman Islands could undo or could collaterally attack through whatever orders that Rigmora might seek in the Cayman Islands -- and clearly, now that Rigmora is a bidder, that juxtaposition becomes even more acute -- that Rigmora is scaring away competition for these cases, for the exit financing process.

Now how do we get that case back on track? Is it just replacing the attorneys' fees? Well, frankly, as Rigmora likes to say, it's a round trip, right? Whatever sanctions Rigmora has to pay to compensate these estates is essentially compensating itself.

And so, when I think about what the enforcement needs to look like, well, I think it should be monetary, not necessarily -- but to make up for the costs. But I also think, consistent with the order that we just marked up,

their -- if an act is void because it violated the stay, you don't get a second bite at the apple. You don't get to come back and retroactively approve the stay being lifted. That should be off the table.

I think that, if the Court looks at the submission in the Cayman Islands, Rigmora continues to throw out their concepts regarding Section 99 of the Companies Act, that things that will happen in this court could someday be undone if Justice Asif decides, or Rigmora decides to do something to undo the orders of this Court. I think that canard needs to be put to bed once and for all. There will no -- there will not be a Section 99 relief.

And the reason why I say that is because, when you're -- like I said, when you're trying to run a process, the reason why we are able to maximize value in any bankruptcy case is because we have fair competition amongst the bidders. Rigmora should not have a leg up on the bidders because it can threaten additional action in the Cayman Islands that affects the process.

And to the extent that Rigmora wants to be a bidder, you know, it really does put the estate in a very interesting position. But that being said, what do we do to make sure that the solicitation process for exit financing is run in a way where Rigmora doesn't have an unfair advantage, in addition to having the ability to round-trip some of the

money that it might pay for these portfolio companies?

So, number one, we can put together a cost affidavit that shows the attorneys' fees that were spent, not just here, but in the Cayman Islands, because these -- all of these allegations had to be answered because they are now in front of Justice Asif. And I do think that they will -- maybe a little, maybe a lot -- taint that process. But it's hard to put that genie back in the bottle.

But I have a broader concern, and that is: How do we prevent Rigmora from interfering with the maximization of the value of this estate and the fair distribution of the assets of this estate as we go through the Chapter 11 process? And I'm doing this, not just for myself. But if JPLs are appointed, I don't think that it's fair to put them in the position of having to constantly worry about something that Rigmora is going to seek from Justice Asif that interferes with the process that the JPLs might be wanting to run. This is for the estate as a whole, not just for these debtors, under this management, but this is for the estate -- the case as a whole.

If this were a first violation, I would feel -- I wouldn't be this vociferous; I'd be like yeah, okay, we fixed it, you know, maybe a little slap on the wrist. But this is really more fundamental to how do we get these cases back on track because, as much as the parties disagree, the stay

violations make it very difficult to conduct a case and run a fair process where a bidder such as Oaktree, or whomever might -- whoever else might be out there, feels as though they can put a proposal on the table that Rigmora is not going to litigate against them in the Cayman Islands, as somehow interfering with the way Rigmora thinks this case should go.

It's clear to me that what Rigmora has done is they started out saying that Pool 5 was full of hopeless investments. But guess what? They now want to bid on those hopeless investments, they want to be a bidder. And so we have to view all of these machinations, these cross-border machinations and attempts to undermine this Court's authority and the sanctity of the automatic stay through a much more jaundiced eye.

And that is that we cannot have two masters. This court is the Court that's going to run the process. This Court has to be able to assure bidders that their bids are going to be treated like every other bid, in every other bankruptcy court, and the process is going to be fair, and there's not going to be these opportunities to run to the Caymans and second-guess what this Court has decided.

And so I believe that there should be, not just costs, but there should also be -- we've lifted the stay for one thing, right? And one thing only. And that is the

conduct of the substratum and loss of trust and confidence trial in the Cayman. That is it. Rigmora should have the equivalent of a gatekeeper injunction before filing any other action or pleading outside of this court.

And I say that because it's usually reserved for vexatious litigants, and I understand that the standard is high. But the Court has seen the effects that it has had on this case and our ability to run a process that's fair and normal and what we expect to be able to offer to bidders.

Because what happens affects not only this case, right? But if what Rigmora is doing works -- right? If it works to discourage bidders, if it works to discourage people showing up in court because they're concerned that Rigmora is going to file litigation against them -- because what Rigmora has wanted all along is all of these assets for themselves and with no competition. And how are we going to accomplish that if we don't have something akin to a gatekeeper injunction?

So we will put together a group of costs. And if you want for Mr. Mandarino to take the stand, we can because he can tell you the effects that this has had on his conversations -- we can't disclose who they're with, and so that's a problem from an evidentiary standpoint -- but from his perspective, how it has grossly diminished our ability to market these assets. It can't happen again. Thank you.

THE COURT: Let me hear from whoever's going to argue. Is that Ms. Labovitz?

MS. LABOVITZ: Yes, Your Honor. I will do my very best to argue by Zoom.

Your Honor, a few points. We have heard the Court loud and clear that you believe there was an automatic stay violation. And frankly, out of respect, I do not want to go and read the entire argument that I intended to make --

THE COURT: I'll give you the --

MS. LABOVITZ: -- saying that there was no stay --

THE COURT: I'll give you --

MS. LABOVITZ: -- violation.

THE COURT: -- the opportunity to convince me otherwise. I don't want to say Rigmora --

MS. LABOVITZ: Okay.

THE COURT: -- didn't have that opportunity. But I do want you to know where I'm starting from. But let me hear why. Let me hear why --

MS. LABOVITZ: I --

THE COURT: -- filing -- making a filing that seeks different relief and on new grounds is not a violation of the order that I entered granting limited relief from stay.

MS. LABOVITZ: I appreciate the opportunity, Your Honor, and I very much, actually, appreciate the opportunity

to do this.

Your Honor, the lift stay order that was entered based on the February trial permitted the Rigmora LP's to continue the winding up petition that had already been commenced before the bankruptcy cases began. And there, I just want to take an issue for a moment with opposing counsel's statement that there are cross-border machinations. There are no cross-border machinations. The winding up proceeding was happening before the Chapter 11 was filed.

We think the Chapter 11 was filed to stop the winding up proceeding and the Rigmora LP's have had a singular focus since the winding up petition was filed of answering the question of whether the general partner should be continuing to manage the fund under the LPA or whether other office holders should be appointed. We believe that they should be JOL's. That is what we're about to discuss.

To be clear, there are not cross-border machinations and from the Rigmora LP side there is not a shifting ground of different goals that the Rigmora LP's want to pursue. On the debtor side I do think we see that and that is part of the difficulty that the Rigmora LP's are having in trying to navigate the situation. The clarification motion the debtors started out with sought to compromise board, then they sought to stop the proceeding from going forward, then they sought to change the dates of when the proceeding was

going forward.

It is very difficult to follow the bouncing ball. By contrast, the Rigmora LP's have been entirely focused on how do we answer what we believe is a corporate governance question and I think now that is conceded. It's a corporate governance question of who should be managing the fund. That is all we want. Your Honor, we still take the view that that didn't require relief from the automatic stay and I'm disagreeing with you but I'm laying out our argument as you have given me some indulgence to do.

The Marvel case in the Third Circuit makes clear that corporate governance issues are not subject to the automatic stay. Your Honor declined to reach the question on your lift stay ruling of whether this was or was not a corporate governance issue. The debtors, after vigorously contesting and saying this was not a corporate governance issue they're now saying it was. It doesn't matter, you granted relief from the stay, we appreciate that.

I think the key point that I want to come back to is there aren't cross-border machinations. We would like to have justice Asif have the opportunity to enter an order appointing office holders to clarify who the corporate -- who should speak for the fund going forward.

We do not think that asking for appointment of JPL's, when it became impossible for JOL's to be appointed,

was adding a new proceeding. It was not. It was a motion in an existing proceeding. Let me be very clear about that. It was not seeking new relief, much more or less included relief. We asked for joint official liquidators, which would be the typical result upon entry of a winding up order or, therefore, upon finding of a loss of trust and confidence. When that remedy was no longer available, we sought an alternate and lesser remedy which was the summons asking for appointment of JPL's or other office holders.

It is telling that in the debtors own filing last night they conceded that that is what the clarification order should have said. It is consistent with what Your Honor posited on the 19th and we do not believe that modifying the relief in advance of the clarification order being entered to say no JOL's but let's try JPL's or other office holders. We don't believe that was a violation of the automatic stay anymore, then it was a violation of the automatic stay to say to Justice Asif we are no longer seeking entry of a winding up order, which we did proactively and immediately upon the Court's clarification on May 19th.

So that is our perspective. Our perspective is we were operating within the relief that was already granted. We were trying to navigate a difficult situation. We were attempting to work collaboratively with the debtors to discuss what Ms. Tomasco concedes was about to be an agreed

order. The debtors are now seeking sanctions because we filed that motion, basically they are saying out of order but we all knew what the relief was. We all knew and understood the Court on May 19th.

We should not have gone forward to tell Justice Asif, hey, wait, we know you have a trial coming up at the end of June but we should not have said don't enter a winding up order. We are looking for different remedies and we should not have given the other side the notice that would be normal and necessary in advance of a hearing that Your Honor has made very clear is going forward.

They are saying shouldn't have given notice. We should have waited. Then what? Then we would have been here today getting this clarification and they would have been arguing that we can't possibly go forward with a motion for JPL's and office holders next Monday and Tuesday because you didn't give us enough notice of what your argument was. That is all we were trying to do.

THE COURT: That would then be for Justice Asif to decide. But how does -- I have read, I think in particular, Mr. Bogdanov's declaration which talks about other grounds, mismanagement -- now I've got my papers mixed up -- which talks about other grounds other than loss of substratum and --

MS. LABOVITZ: Loss of trust and confidence.

THE COURT: -- loss of trust and confidence for the appointment of this alternative type of office holder.

MS. LABOVITZ: Your Honor, the affidavit that went in was evidence that Justice Asif could have -- now to be clear, that has been -- we have asked Justice Asif not to move forward with that but what it would have been would have been evidence that could be considered at that hearing to decide the appropriate remedy.

Just the way the debtors today offered to provide evidence in support of a remedy that they are seeking. Them offering to provide evidence of Mr. Mandarino saying what an impact was -- and I really want to get to that point too, but them offering to provide evidence is not filing a new motion. It is just not.

So, here, we put in evidence. Now we originally had some questions about whether the debtors would declare an automatic stay violation if we tried to say to Justice Asif anything that happened in the Chapter 11 case. We were actually concerned that they might say that. And Your Honor may recall, there was some back and forth at the May 19th hearing where I made very clearly we have been careful and to that point we have been careful to refer to the Chapter 11 case only in the sense of saying Judge Silverstein has entered an order and we are trying to follow it. That was our concern.

The debtors took great issue with that too. Mr. (inaudible) did not appreciate me saying, no, we walked only up to the line of the Chapter 11 and no further. He said absolutely not, we are going to use evidence from the Chapter 11 in our case in chief in front of Justice Asif on loss of substratum and loss of trust and confidence. If I am mixing up the words, I apologize. He made very clear that the debtors intended to use things that were happening in the Chapter 11 case and he made clear that will be litigated in front of Justice Asif. That is not different from what we did. We took our cue from that. Your Honor, in response to that statement, you know, where the debtor said we are bringing in the fact of these Chapter 11 cases, Your Honor said that will be for Justice Asif to decide.

Based on that, we thought and still believe that its fair game to argue what the debtors are intending to do, what they are goals are in the Chapter 11 case in front of Justice Asif. If that weren't fair game how could we ever respond to the affidavits they have put in.

THE COURT: I think those are two different things. Okay. I will -- if we're going to talk about that, I do have some views on the Mandarino declaration and debtor response. So, that is different. That is still talking about the substratum.

Where I am having a problem is with the different

standard for the JPL's, which looks at different issues, that were not part of, at least, the substratum as I understood it and not necessary to decide to put in, apparently, joint official liquidators.

And let me make clear that the discussions we have in Court, discussions we had today, questions I ask, they're not rulings, they're not necessarily guidance. I might have given some guidance today but that is unusual. Those are the discussions. And to have them cited back as authority for permitting -- having ruled or permitting the filing concerns me.

I did not authorize anything at the last hearing in terms of a filing in front of the Judge. I talked about, well, maybe we all need to be educated on what other possibilities there might be because, obviously, I am not the authority on Cayman law. But if the lesser included remedy includes an entirely different standard I needed to be educated on that and I wasn't.

MS. LABOVITZ: I'd like to address that point as well, Your Honor.

THE COURT: Okay.

MS. LABOVITZ: I think you are correct and I hope I am not going to get the equivalent of a kick under the table from my London and Cayman colleagues, but I can understand the point that the facts asserted in that

declaration may not be squarely equivalent with the facts in the loss of substratum but they are absolutely subsumed in the trial that Your Honor has ruled can and will go forward in July on loss of trust and confidence. In fact, those are the same facts.

So, we did not view that as going beyond the relief that Your Honor permitted. We did not view it as going beyond the permitted scope of argument. Those facts, the facts -- the actions of the GP and the attempts to displace the LP's will be litigated in the context of loss of trust and confidence if we have to get there.

At this point then, immediately upon -- relatively immediately upon the debtors Cayman counsel raising these issues an agreement was reached among Cayman counsel to defer the request on this ground until that hearing, until the hearing on loss of trust and confidence. It did not require any extra work on the part of the debtors because at the point when they have to respond to these allegations, they will have to respond to them in the context of a loss of trust and confidence. That is if we get there, right, but they haven't had to do any extra work.

There is not anything that came out in that declaration. I will take some issue about the sale procedures. I want to come back to that. There is not anything that came out in that declaration that was not (A)

already public knowledge. We are citing to Court transcripts, right, to exhibits that were handed up at the hearing in which the debtors made a statement about what they intended to do in the Chapter 11 case.

There is nothing there that created any new concerns or issues on behalf of buyers or anyone else. And I want to come back and make this very clear, the debtors do not like that the Court has granted relief from the automatic stay to allow this corporate governance decision to be decided. They have made that very, very clear. They have asked to, basically, have the Court impose a settlement. They have asked you to revisit your decision and say the hearing can't go forward. They have asked you to change the dates. They have asked you to change the relief. They do not like it.

I understand. Your Honor, my clients do not like some of the rulings that the Court has made. We get it but the fact of the process, the fact that it is possible that we could come out of a hearing as early as next Tuesday with a new party who speaks for the Fund, which is one of the debtors. That situation was not caused by any filing that my clients have made recently. It was not caused by this motion or by the evidence that was asserted. That is inherent in a difficult situation where there is an open corporate governance question as to who speaks for the Fund. That

surely, I'm sure, causes great consternation for bidders. It causes great consternation for my client because we don't know who speaks. We don't know who the decisionmaker will be in the context of the sale procedures. Maybe I should have made that point more forcefully at the last hearing, Your Honor, since I'm pressing my luck.

Our major concern with having these sale procedures go forward at this time was that I don't know how you run an auction when it's not clear who the decisionmaker is but that was not caused by Rigmora's filing seeking to clarify what the remedy will be. That situation just exists. There is also another situation that we have heard sometimes about in this Court. I think the debtors take great umbrage at the fact that the Rigmora LP's have taken an appeal of this Court's decision on the motion to dismiss.

Your Honor, as I said before, we have done that. It's an important issue. It is an issue of first impression and, you know, it's an international complex issue. It is a jurisdictional issue. I've advised enough buyers and enough sales processes to know that even a free and clear order entered in a bankruptcy court or even a confirmation order, even mootness does not solve a problem when there is a jurisdictional question.

Those issues exist and I understand that they may be clouding the sale process, that is why we should be

talking but those were not caused by any filing that Rigmora made in the Cayman Islands. We are trying to get to clarity on this corporate governance because being honest, Your Honor, I view that as a gating item for this Chapter 11 case to move forward.

Maybe the Rigmora LP's will lose. Maybe it will be determined very clearly that the GP speaks for the Fund, acts for the Fund, and the debtors move forward. That would be a gamechanger int his case but, likewise, the appointment of an officer holder would be a gamechanger in this case. I don't believe though that that is our fault. That is a dispute that existed before the Chapter 11 cases were filed, when it gets resolved, the cases will move forward.

I am genuinely hopeful that, my gosh, we've had two consensual orders now, it's been difficult, halting, but we agreed on a sales procedures order. We agreed now on this clarification order. I am hopeful that there is a path forward where the parties could get to some agreement, can make constructive progress but I need to come back to a phrase that I think Ms. Tomasco used in a prior hearing when she was very concerned that we sought to add a reservation of rights in an interim fee order. Just a reservation of rights, Your Honor. It really is just a reservation of rights but what they said was that is *in terrorem* lawyering. That we were trying to hold this over their heads to prevent

them from taking actions in the Cayman Court or wherever.

Your Honor, that is how I feel about this constant stay violation motions and enforcement motions, or allegations. Sometimes they don't make it into the courtroom, allegations of filing the automatic stay. The only thing the Rigmora LP's are trying to do is move the Cayman proceeding forward so that we get clarity. We think that benefits the case. It's not undermining the Court's jurisdiction. It's not intended to undermine the Court's jurisdiction. And we, frankly, think no sanctions are warranted even if the Court believes that we misread the situation and did it wrong.

THE COURT: Thank you.

Ms. Tomasco.

MS. TOMASCO: So, as I have explained, the ability to talk about what is happening in the Chapter 11 case, *vis-à-vis* the general partners defense in the Cayman Islands is very much about the topic of loss of substratum, right. I don't know what loss of substratum means but I believe it means that the limited partnerships business it no longer should be carried on, right.

The Chapter 11 itself is evidence that the limited partnerships business should be carried on because we have started a sales process, we have attracted significant attention to that sales process. Rigmora has now indicated

that they want to be a bidder and its very relevant to the issue of what is and isn't loss of substratum which, essentially, what I think means that you have no reason for being, right. And there is a reason for being and the Court recognizes that there is a reason for being.

What Rigmora did was not use the allegations, their allegations in the amended summons and petition. And I do think the Court should read the Bogdanov affirmation because it is so full of criticism of the Chapter 11 process and what happens in a Chapter 11 process. And not just that I said something but that the bankruptcy code allows for things that the LPA can be modified if it's necessary to confirm a plan. And that Rigmora may not be able to get assets out of these estates just because it is the majority owner without accounting to all of the other constituencies and creditors in this case.

So, for Ms. Labovitz to make this false equivalency between what the debtors have said in defense of the loss of substratum and then to say that it was okay for them to add an entirely new battlefront, and if you read Section 104 of the Company's Act it is preventative, in other words. It is talking about what is going to happen. So, imagine Justice Asif thinking about, well, if the Chapter 11 case proceeds then it's going to impact my decision on whether or not to appoint JPL's. It's very much a collateral

attack on the bankruptcy itself.

THE COURT: How do you want me to micromanage what evidence Justice Asif is going to consider at the loss of substratum?

MS. TOMASCO: I'm not suggesting that at all. It's how the evidence fits the cause of action and they've added a whole new cause of action.

THE COURT: Well, I don't -- since neither you nor I know what loss of substratum means, how could I possibly say what evidence is relevant to that determination. I will say I read Mr. Mandarino's declaration and Dr. Harrison's declaration. Mr. Mandarino talks about the bankruptcy case and what it can achieve, and how it can work.

So, how is it unfair for Rigmora to put in their view if its relevant to substratum? I trust that Justice Asif, as it appears to me to be a fellow Judge who has bench trials and, therefore, is both the fact finder and the adjudicator where sometimes we have to ignore what has been put in front of us because it was hearsay, because of whatever reason and we have to -- and its difficult sometimes, we have to put aside what was permitted to come in or what we learned some other way and rule on the relevant evidence in front of us. I'm sure Justice Asif can do that. I am not concerned he's been tainted by anything. I'm not concerned that he can't decide appropriately what's subject

to substratum and what is not. Once Mr. Mandarino puts in evidence about the Chapter 11 and the case itself, I think its fair game.

MS. TOMASCO: To be fair, Your Honor, Mr. Mandarino's affirmation came after and in response to the Bogdanov affidavit.

THE COURT: Its fair game. Maybe there was some other thing you could have done in front of Justice Asif to say exclude all that, we don't want to respond to it, it's irrelevant. I don't know what you could have done but it's now all in there. Justice Asif will do with it what he chooses.

My focus was on a filing that I think clearly went beyond what my order permitted, which permitted a trial on two grounds and not a third to get additional relief and nothing that I permitted in the May 19th hearing should have given solace to anybody that they could inject into that proceeding new grounds for the appointment.

As I also, I thought, read in Rigmora's filing, you don't need this. He can just do it. So, why inject something new. And that, I think, is going beyond any reasonable interpretation of the order and the May 19th hearing, to the extent that is relevant to anything, what was said at a hearing.

MS. TOMASCO: Well, correct, Your Honor. I was

not meaning to suggest that Justice Asif can take whatever evidence Justice Asif wants. But I think we are in agreement that the filing of the amended summons with a new cause of action that the Court had not authorized and injecting new issues that the debtor then had to respond to was a stay violation and it caused damage.

I am not asking at all and nor do I mean to suggest that this Court should tell Justice Asif what he can and cannot consider but I am focused on this case and maximizing the value of these assets and avoiding unnecessary expense and cost because somebody has violated the stay twice. And on the effect that it has on the process and it does effect the process.

THE COURT: And that I will confess, I am struggling with. I also don't see that in the proposed form of order that was submitted. I went back and looked while you were talking. This seems to be some new relief that you want, which Rigmora hasn't had an opportunity to even respond to. You know, I don't know.

I think Ms. Labovitz is correct that there is uncertainty in this case, and there is. That is disruptive. And I think you are correct that that is disruptive to a sale process but I am not sure how I can solve for that and so far, at least, given the relief that was requested in the proposed form of order there's been no specific relief

proposed to solve that problem assuming that is a proper sanction for a violation of the stay.

So, that is what I'm struggling with. It's almost like some sort of you can't credit bid kind of analogy, right. I don't know where you're coming from but that is what struck me.

MS. TOMASCO: Well, Your Honor, we haven't suggested that. In fact, we have a mechanism in the procedures order that the Court entered for Rigmora to, you know, have not the same deposit as other bidders. We have already embraced the idea that Rigmora wants to be a bidder and they would benefit from a process that is run fairly and clearly. We just don't want them to have an untoward or an unfair advantage vis-à-vis filings in the Caymans.

I will say, we did definitely ask for our attorneys' fees. I'm happy to submit an affidavit of costs for that. To the extent that the Court wants to prevent this in the future, the Court can fashion whatever relief the Court wants and I am just simply making suggestions by identifying the problems that I perceive and what I would do if I were in your shoes.

What I am trying to convey to the Court is this has something other than a monetary effect on the estate, in particular because all of this will come back to Rigmora in the form of reduced costs or etc. So, all I am suggesting is

that we have asked clearly for attorneys' fees. Maybe the Court can fashion a relief beyond that. That is certainly within your purview *sua sponte*.

THE COURT: Yeah, it might be but I want suggestions. This is unusual. So, I need to hear what the suggestions are and I would want to hear a response from Rigmora. This is an unusual situation. Attorneys' fees is easy. I understand why that is not a satisfying form of relief in this circumstances given the economics here but nonetheless, that is what was asked for.

So, if you want something different, and there's a different type of relief, I need suggestions for what that is and very specific suggestions for what it is that you think is appropriate. And, again, on notice so that there can be a response.

MS. TOMASCO: So, what I'm hearing from the Court is you would like for us to have a supplemental filing of costs and proposed sanctions and Rigmora would have a chance to respond.

THE COURT: Yes.

MS. TOMASCO: I have no -- if I could confer just one second.

THE COURT: Certainly.

(Pause)

MS. TOMASCO: I am not changing. I mean, we have

this situation where the Court has lifted the stay to allow this proceeding to continue. It was on a very narrow ground. We need for the Court's admonition pending the development of appropriate sanctions to be that Rigmora cannot do this again. What I suggested, a channeling injunction which I think is what every bankruptcy practitioner in the world does when in doubt ask the Court for relief from stay and that is what they have failed to do. And if they do it a third time I mean I don't know what the stay means anymore.

So, while we are coming up with some procedural protections around what kind of sanctions would be appropriate and submitting an affidavit of costs, I just hope that the Court can admonish Rigmora to do what bankruptcy lawyers do which is to not ask for forgiveness but to ask for permission.

THE COURT: I kind of think I've admonished them a lot during this hearing but if you want me to say it specifically, yes, I expect that if there's an action that needs to be taken that even comes close at this point to any concern that the stay might be violated that you bring a protective motion. And I do expect the stay to be respected, which is, again, why, in my draft order I made it clear that there was an automatic stay with respect to all the other debtors. That is to be respected. And I feel like I've admonished them enough.

MS. LABOVITZ: Thank you, Your Honor.

MS. TOMASCO: We would just -- and we will get something on file and I assume that the regular 21 days' notice or I don't -- what is the period here, 14 days? 14 days' notice.

THE COURT: I don't know if we have a hearing already scheduled.

MS. TOMASCO: July 22nd.

THE COURT: Okay. So, nothing before then. You are not going to get a hearing before then.

MS. TOMASCO: Thank you.

THE COURT: People should be focused on the trial in the Caymans and on trying to reconcile issues. But, yeah, no hearing before then. We will see what gets on file.

MS. TOMASCO: Thank you, Your Honor.

MS. SELDEN: Thank you, Your Honor. We appreciate that very much. We appreciate the opportunity for notice and an opportunity to respond. I think today's verification order will do a great deal to help as will next weeks' trial. We are dually admonished and hear Your Honor loud and clear. There will be -- you know, those final pretrial filings will go in, the trial will happen. I think that will help all of us a great deal in moving forward. We appreciate the Court's patience.

THE COURT: Okay. We have concluded for today.

We're adjourned.

(Proceedings concluded at 1:03 p.m.)

CERTIFICATION

We certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter to the best of our knowledge and ability.

/s/ William J. Garling June 24, 2026
William J. Garling, CET-543
Certified Court Transcriptionist
For Reliable

/s/ Mary Zajaczkowski June 24, 2026
Mary Zajaczkowski, CET-531
Certified Court Transcriptionist
For Reliable

/s/ Coleen Rand June 24, 2026
Coleen Rand, CET-341
Certified Court Transcriptionist
For Reliable

Exhibit C

Chancery Court Defendants' Opposition to Motion to Expedite

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ATP III GP, LTD., in its capacity as General Partner of ATP Life Science Ventures, L.P., Plaintiff, v. RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP, Defendants,	C.A. No. 2025-0607-KSJM **CONFIDENTIAL FILING**

DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION TO EXPEDITE PROCEEDINGS

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IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ATP III GP, LTD., in its capacity as General Partner of ATP Life Science Ventures, L.P., Plaintiff, v. RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP, Defendants,	C.A. No. 2025-0607-KSJM **CONFIDENTIAL FILING**

DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION TO EXPEDITE PROCEEDINGS

1. Plaintiff ATP III GP, Ltd. (the "General Partner" or "GP")'s Motion to Expedite Proceedings (the "Motion") inappropriately seeks to ratchet up pressure on Defendants Rigmora Biotech One LP and Rigmora Biotech Two LP (together, "Rigmora" or the "Limited Partners"), who collectively contributed 99% of the capital in ATP Life Science Ventures, L.P. ("the Fund"), in furtherance of the General Partner's audacious scheme to seize half of Defendants' multi-billion dollar investment. But the supposed "emergency" underlying the Complaint is entirely manufactured. Although the General Partner now claims that certain of the Fund's portfolio companies are at imminent risk of bankruptcy, it does not identify a single capital call that the Limited Partners have not paid, the General Partner waited to

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issue new capital calls until ***the night it filed the Complaint***, and the Limited Partners have subsequently offered to provide interim funding in excess of their maximum subscribed commitments to preserve the status quo. The General Partner's self-interested desire to bypass the contractual budgeting process, obtain funds without issuing capital calls, and seize half of the Limited Partners' stake in the Fund calls for skeptical and searching adjudication; not the rushed schedule sought in the Motion.

2. The Court should deny the Motion and, as the Limited Partners explain in greater detail in their accompanying Motion to Stay Proceedings, instead stay these proceedings while Cayman Islands courts resolve pending cases addressing the validity of the recently issued capital calls and the Limited Partners' petition to wind up the Fund in accordance with Cayman Islands law.

BACKGROUND

3. The Fund is a Cayman Islands exempted limited partnership and its Limited Partnership Agreement (Dkt. 1 ("Compl.") Ex. 1, "LPA") is governed by Cayman Islands law. (Compl. ¶¶ 17, 22 n.2.) The LPA governs the interests of the Fund's five partners: ATP III GP, Ltd., which is "owned exclusively by Dr. Seth L. Harrison," is the general partner (Compl. ¶ 42.); Dr. Harrison, Les Pommes, LLC, a family trust associated with Dr. Harrison, and the two Defendant Limited Partners are the limited partners. (Compl. ¶ 44.) The Defendant Limited Partners have

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contributed 99% of the $2.7 billion invested in the Fund while Dr. Harrison and his trust contributed approximately $54 million, almost all of which was funded by a loan from an affiliate of the Limited Partners. (Compl. ¶ 44; Compl. Ex. 5 ¶ 6; Ex. 2, Cayman Winding Up Petition ¶ 14.) The Complaint's assertion that there are 17 other limited partners is disproven by the LPA. (Compl. ¶ 43; Ex. 2, Cayman Winding Up Petition ¶ 13.)

4. The LPA requires the Limited Partners to "contribute to the capital of the Partnership" up to an amount "equal to" their "Contingent Subscription." (Compl. ¶ 47 (quoting LPA § 5(a)(i)).) As relevant here, the GP "may only call capital" to "invest in Projects approved by" the Limited Partners and "in accordance with a budget therefor approved" by the Limited Partners. (Compl. ¶ 46 (quoting LPA § 5(a)(ii)).) When the GP makes a valid capital call, the Limited Partners have ten business days to respond after receiving effective notice. (LPA § 5(a)(iii); § 18(a) (notices effective two days after receipt).) The LPA contains a provision concerning "Defaults on Contributions" that permits the GP to deem a limited partner in default where the limited partner has failed to satisfy a valid capital call five business days after it is due and 30 days after the GP has delivered a default notice. (LPA § 5(c).) Thus, the Limited Partners have more than six weeks after receiving a valid capital call before they are deemed to be in default. According to the GP, even though no capital call was due, and no default notice delivered, it is

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entitled to "impose a 'Default Charge'" of "up to 50% of the [Limited Partners'] interest in the Fund, with those interests then being distributed to the non-defaulting holders of interests in the Fund," *i.e.* the GP, Dr. Harrison, and his family trust—who have collectively contributed only approximately 1% of the Fund's capital. (Compl. ¶ 172.)

5. The Limited Partners have fully satisfied their Contingent Subscription and have expressed concern that continuing to invest capital in certain portfolio companies is not in the Fund's best interests. (Compl. ¶ 134.) Nonetheless, the Limited Partners have continued to fund the GP's capital calls, including two capital calls issued on May 6, 2025, less than a month before the Complaint was filed. (Compl. ¶¶ 147-48; Compl. Exs. 8, 11.)

6. On May 15, 2025, the Limited Partners explained that they saw no "path to commercial success" for certain portfolio companies and asked the GP to explain why it believed that the Limited Partners were "obligated to contribute further capital" to these companies. (Compl. ¶ 134.) Instead, two weeks later, the GP filed this preemptive suit claiming that the Limited Partners had repudiated the LPA and forfeited billions of dollars of assets. (Compl. ¶¶ 1, 161-62, 172.) The GP does not identify any supposedly unpaid capital calls, and first issued approximately $110 million in new capital calls ten minutes before it filed the Complaint. (Ex. 3, Capital Calls.)

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7. On June 4, 2025, the Limited Partners offered $15 million to fund the portfolio companies on an interim basis in light of the GP's assertion that some of them were otherwise at risk of bankruptcy. (Ex. 4.) To date, the GP has ignored this offer. The Limited Partners also initiated two proceedings in the Cayman Islands last week seeking a declaration that the recently issued capital calls are not permitted by the LPA and to wind up the Fund in accordance with Cayman Islands statutory law based on their justifiable loss of trust and confidence in the GP. (Exs. 1, 2.) As explained in detail in the Limited Partners' accompanying Motion to Stay, this case should be stayed to permit the Cayman Islands courts to determine under Cayman Islands law (i) the parties' rights and obligations under the LPA and (ii) the Limited Partners' petition to wind up the Fund.

ARGUMENT

8. The GP cannot establish the requisite good cause for expediting this case. Requests for expedition are "review[ed] seriously," and they are denied unless "the facts alleged justify the burdens involved." *Ehlen v. Conceptus, Inc.*, 2013 WL 2285577, at *1 (Del. Ch. May 24, 2013).

9. The GP bears the burden of establishing both a colorable claim and "threatened imminent irreparable harm, such that the threat of harm justifies the costs to the litigants and the court of an expedited proceeding." *Lechliter v. Del. Dep't of Nat. Res. & Env't Control*, 2013 WL 5718888, at *2 (Del. Ch. Oct. 22,

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2013). This includes a showing that "a true exigency exists that is not caused by a lack of diligence of the plaintiff." *In re Gen. Motors (Hughes) S'holders Litig.*, 2003 WL 26474920, at *1 (Del. Ch. Oct. 2, 2003). The GP here has shown neither a colorable claim nor true exigency.

I. The General Partner Fails to Allege a Colorable Claim

10. A "colorable" claim is one that is "worthy of serious consideration." *CBOT Hldgs., Inc. v. Chi. Bd. Options Exch., Inc.*, 2007 WL 2296356, at *4 (Del. Ch. Aug. 3, 2007). But the GP's claim here does not meet even that low bar. As an initial matter, the core allegation that the Limited Partners are systematically seeking to destroy the value of a Fund into which they invested almost all the capital is implausible on its face and underscores the profound conflict of interest infecting the GP's conduct. Further, this Court lacks jurisdiction to hear a breach of contract claim that does not actually seek equitable relief. In any event, the plain terms of the LPA foreclose the GP's assertions that it is entitled to issue capital calls that are not in accordance with an approved budget or to impose a default charge outside of the contractual mechanism therefor.

A. This Court Lacks Jurisdiction Over the General Partner's Contract Claim

11. As this Court has repeatedly held, it "must look beyond the remedies nominally being sought" "to prevent plaintiffs from praying 'for some type of traditional equitable relief as a kind of formulaic 'open sesame' to the Court of

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Chancery.'" *All. Compressors LLC v. Lennox Indus. Inc.*, 2020 WL 57897, at *3 (Del. Ch. Jan. 6, 2020) (citation omitted). Because the GP's "complaint, objectively viewed," does not evince a "genuine need for such equitable relief," this Court lacks jurisdiction.[1] *Id.* (citation omitted).

12. The General Partner's requests for specific performance—for payment of sums of money—do not support equitable jurisdiction. (*See* Compl. ¶ 22; *id.* at pp. 84-86.) Nor do claims for declaratory judgments create jurisdiction in this Court. *See Athene Life & Annuity Co. v. Am. Gen. Life Ins. Co.*, 2019 WL 3451376, at *8 (Del. Ch. July 31, 2019) (holding that court lacked jurisdiction for breach of contract claim seeking specific performance where past harms could be remedied with damages and future conduct addressed by a declaratory judgment); *All. Compressors*, 2020 WL 57897, at *5 (holding that an order to "breach no more" is both "entirely unnecessary" and "inappropriate" when the court may issue a decision "clarifying" the relevant contract, "identifying any breach[] thereof," and awarding any resulting damages) (citation omitted).

[1] The GP's bare assertion in a footnote that "some" of their claims "are matters and causes that arise in equity under the law of the Cayman Islands" does not preserve any additional argument for equitable jurisdiction. (Compl. ¶ 22 n.2.)

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B. The General Partner's Claim Is Foreclosed by the LPA

13. Plaintiff's breach of contract claim is contrary to the plain terms of the LPA and thus not "worthy of serious consideration." *CBOT Hldgs.*, 2007 WL 2296356, at *4.

14. The LPA requires that any capital calls issued by the GP be "***in accordance with*** a budget therefor approved" by the LPs. (LPA § 5(a)(ii) (emphasis added).) Yet the GP now insists that the Limited Partners must comply with capital calls regardless of whether the capital call is "in accordance with" an approved budget. (*E.g.*, Compl. ¶¶ 2, 5, 14, 164.) Indeed, the GP asks this Court to order the Limited Partners "to pay" $43 million in "budget requests from January 2025," in addition to ***future*** "budget proposals drawing on up to $331.3 million in remaining capital commitments," on the basis that the LPs "waived [their] right to approve budgets." (Compl. at pp. 84-85.) Striking out the budgeting requirement would be an extraordinary revision of the LPA.

15. Equally absurd is the GP's assertion that it may now appropriate ***fifty percent*** of the Limited Partners' interest in the Fund.[2] (Mot. ¶ 21; Compl. ¶¶ 15, 171-72, 175.) Remarkably, the GP invokes a provision permitting a default charge if a "Limited Partner does not make a capital contribution" five business days after

[2] The Limited Partners dispute the GP's interpretation of the default clause, which is incompatible with the language of the LPA, as amended, and the structure of the Fund, and would amount to an unenforceable penalty under Cayman Islands law.

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the due date and 30 days after receiving a default notice even though the GP ***does not identify a single unpaid capital call*** and ***has not issued any default notice***. (Compl. ¶ 52 (citing LPA § 5(c)).) The lone case the General Partner cites to justify this precipitous approach applies Delaware, not Cayman, law and is inapposite because it describes, in the context of a pre-suit notice provision, a narrow exception to the general rule that "contractual notice and cure provisions cannot be ignored no matter how urgently parties may seek to do so." (Mot. ¶ 21 (citing *Cornell Glasgow, LLC v. LaGrange Props., LLC*, 2012 WL 6840625, at *13 (Del. Super. Ct. Dec. 7, 2012)).) Here, the GP is not only trying to avoid a notice and cure provision before seizing billions in assets, but attempting to avoid the contractual obligation of issuing capital calls in the first place.

II. Neither the General Partner nor the Fund Will Suffer Irreparable Harm Absent Expedited Proceedings.

16. The GP has not shown "irreparable injury," which is the "*sine qua non* to establishing good cause" to expedite proceedings. *Ret. Bd. of Allegheny Cnty. v. Rothblatt*, 2009 WL 3349262, at *1 (Del. Ch. Oct. 13, 2009). Where, as here, "the injury to Plaintiff is merely speculative," or "the injury can be fully compensated after a full trial on the merits," the burdens and costs of expedited proceedings are unwarranted. *Sonet v. Plum Creek Timber Co.*, 1998 WL 749445, at *2 (Del. Ch. Sept. 23, 1998) (citation omitted).

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17. The GP's primary contention—that "the majority of the Fund's portfolio companies" will supposedly "cease to exist in the next six to eight weeks"—is moot. (Mot. ¶ 1.) On June 4, 2025, a few days after the Motion was filed, the Limited Partners informed the GP that they "are willing to cover funding in the amount necessary to maintain each portfolio company in good standing," have presently "allocated $15 million for this purpose," and would consider requests to increase that amount if a greater sum is ultimately necessary to preserve the status quo. (Ex. 4.) The GP's decision to ignore the funding offer cannot manufacture an emergency warranting expedited proceedings.

18. In any event, the supposed risk to the portfolio companies and their employees and research does not constitute irreparable injury to either the Fund or its GP. (*See* Mot. ¶¶ 1, 4, 16; Compl. ¶¶ 149-51.) As the GP concedes, the relevant inquiry is whether ***Plaintiff***—not some third party or society writ large—will suffer the requisite injury (Mot. ¶ 2 (asserting that courts may expedite proceedings where "the injured party faces irreparable injury unless its contractual counterparty lives up to its obligations").) *See, e.g.*, *Oliver Press P'rs, LLC v. Decker*, 2005 WL 3441364, at *2 (Del. Ch. Dec. 6, 2005) (denying motion to expedite because "the plaintiffs" had not "articulated a basis for concluding that ***they*** would be irreparably harmed" (emphasis added)).

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19. Nor has the GP alleged any irreparable injury to the Fund, much less to the GP. The GP's suggestion that winding up a small subset of portfolio companies poses a "fundamental threat[]" of insolvency to the Fund as a whole is not supported by any plausible allegations. (Mot. ¶ 25.) Indeed, the GP itself alleges that the Fund's investment in just one company (Braeburn, which is not at issue in this dispute) is worth "approximately $2.2 billion," indicating that the Fund has assets substantially in excess of the "hundreds of millions of dollars' worth of assets" that will supposedly be lost absent further investment. (Compl. ¶ 61; Mot. ¶ 25.) The purported critical importance of continued funding for these smaller investments is further belied by the fact that the GP very recently proposed a plan that would have reduced their funding by $170 million and wound-up several of them. (Compl. ¶ 125.)

20. The alleged loss of asset value and future returns is also not irreparable because it can be remedied with an award of damages. *See MyCarrier, LLC v. Project44, LLC*, 2025 WL 674212, at *11 (Del. Ch. Mar. 3, 2025) ("P44's concern can be boiled down to a future harm in the form of lost revenue, for which a remedy at law is adequate."); *Gradient OC Master, Ltd. v. NBC Universal, Inc.*, 930 A.2d 104, 132 (Del. Ch. 2007) (holding that "loss of market value between two dates seems to be a classic example of the type of injury that is compensable with monetary damages"). And the GP's assertion that it will miss out on unspecified potential

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future profits if it cannot invest more money now (Mot. ¶ 16), is sheer speculation. *See Cantor Fitzgerald, L.P. v. Cantor*, 724 A.2d 571, 587 (Del. Ch. 1998) (concluding that "imagined loss of market share" and "loss of revenues" are "speculative at best and illusory at worst"); *Giammargo v. Snapple Beverage Corp.*, 1994 WL 672698, at *3 (Del. Ch. Nov. 15, 1994) (denying expedition and finding no irreparable harm where plaintiffs sought to prevent transaction that would extinguish their status as stockholders because a money award would be a sufficient remedy).

21. Contrary to the GP's sweeping assertions, this Court does not expedite proceedings whenever "the loss of ***any*** contractual right" is alleged. (Mot. ¶ 24 (emphasis added).) Instead, the Court carefully assesses the particular loss alleged and expedites proceedings only where that loss cannot otherwise be adequately remedied. *Laborers Loc. 235 Benefit Funds v. Starent Networks, Corp.*, 2009 WL 4725866, at *1 (Del. Ch. Nov. 18, 2009) (expediting schedule because "disclosure violations" generally threaten irreparable harm by "misleading stockholders regarding information that a reasonable investor would want to know before making a decision"): *AM Gen. Hldgs. LLC v. Renco Grp., Inc.*, 2012 WL 6681994, at *5 (Del. Ch. Dec. 21, 2012) ("Under Delaware law, a deprivation of the corporate governance process . . . may constitute irreparable harm."); *Qwest Commc'ns. Int'l*

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Inc. v. Nat'l Union Fire Ins. Co. of Pittsburgh, 821 A.2d 323, 329 (Del. Ch. 2002) (threatened loss of right to mediation and litigation).

22. Neither of the GP's two alleged losses of contractual rights warrant expedition. (Mot. ¶¶ 24, 26.) Although the GP asserts that its supposed right to collect capital for certain portfolio companies will be lost if those companies "go bankrupt," as discussed above, the Limited Partners have offered to provide interim funding. (Mot. ¶ 24; Ex. 4.) And the GP does not even attempt to explain how its alleged rights under the LPA's "default clause" would be "impair[ed]" if the Court does not immediately approve the GP's lawless attempt to distribute to itself and its affiliates half of the Limited Partners' interests in the Fund. (Mot. ¶ 26; Compl. ¶ 172.)

CONCLUSION

23. For the foregoing reasons, Defendants respectfully request that the Court deny Plaintiff's Motion.

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Exhibit D

Chancery Court Defendants' Motion to Stay Proceeding

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ATP III GP, LTD., in its capacity as General Partner of ATP Life Science Ventures, L.P., Plaintiff, v. RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP, Defendants,	C.A. No. 2025-0607-KSJM **CONFIDENTIAL FILING**

DEFENDANTS' MOTION TO STAY PROCEEDINGS

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IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ATP III GP, LTD., in its capacity as General Partner of ATP Life Science Ventures, L.P., Plaintiff, v. RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP, Defendants,	C.A. No. 2025-0607-KSJM

DEFENDANTS' MOTION TO STAY PROCEEDINGS

Defendants Rigmora Biotech One LP and Rigmora Biotech Two LP (together, the "Limited Partners"), by and through their undersigned counsel, hereby move for an order staying proceedings in this action.

1. This is an action by a foreign plaintiff against two foreign defendants that asserts claims under a contract governed by Cayman Islands law concerning the management of a Cayman Islands partnership. There are two pending litigations in the Cayman Islands concerning substantially the same issues between substantially the same parties, and the Cayman courts can provide broader and more comprehensive relief in those cases than this Court can in this one. Indeed, the

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Cayman courts are considering a petition to wind up the partnership that is the subject of the parties' dispute in this case, which would render this action moot. This Court should accordingly stay this action pending the resolution of the proceedings in the Cayman Islands (the "Cayman Proceedings").

BACKGROUND

2. The parties' dispute concerns the operation of ATP Life Science Ventures, L.P. ("the Fund"), a Cayman Islands exempted limited partnership. (Dkt. 1 ("Compl.") ¶ 17.) Plaintiff ATP III GP, Ltd. is a Cayman Islands exempted limited company and the general partner of the Fund (the "GP" or "General Partner"). (Compl. ¶¶ 17, 42.) The Limited Partners have contributed approximately 99% of the $2.7 billion invested in the Fund. (Compl. ¶ 44; Compl. Ex. 5 ¶ 6; Ex. 2, Cayman Winding Up Petition ¶ 14.) The Limited Partners are organized under the laws of the British Virgin Islands. (Compl. ¶¶ 18-19.)

3. The Fund's Limited Partnership Agreement ("LPA") is governed by Cayman Islands law. (Compl. ¶ 22 n.2.) Section 18(g)(i) of the LPA thus provides that "all terms and provisions hereof shall be construed under the laws of the Cayman Islands[.]" (Compl. Ex. 1, LPA § 18(g)(i).) In addition, the LPA contains a non-exclusive forum selection clause permitting disputes to be litigated in the Cayman Islands or Delaware. (LPA § 18(g)(vi).) Pursuant to that provision, just last year (in 2024) the parties litigated and ultimately settled a dispute concerning the LPA in the

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Financial Services Division of the Grand Court of the Cayman Islands (the "Cayman Court"). (Compl. ¶¶ 100, 106.)

4. Plaintiff filed this action near midnight on May 30, 2025, a Friday. The GP claimed that the Limited Partners had breached the LPA by failing to properly review and approve budgets for portfolio companies and by repudiating their contractual duty under Section 5(a) of the LPA to contribute capital to the Fund. (Compl. ¶¶ 14, 103, 153, 156-63, 166-71.) The GP moved to expedite these proceedings on the grounds that the alleged breaches supposedly put certain portfolio companies at imminent risk of bankruptcy. (Mot. to Expedite ¶ 5.) The GP did not, however, identify a single capital call that the Limited Partners had failed to pay, and it inexplicably waited to issue approximately $110 million in new capital calls until the night it filed the Complaint (the "May 30 Capital Calls"). (Ex. 3, Capital Calls.) Remarkably, the GP asserted that it is nonetheless entitled to impose a "Default Charge" under Section 5(c) of the LPA and distribute ***half*** of the Limited Partners' interest in the Fund to itself and its affiliates. (Compl. ¶ 15.)

5. The following business day, on Monday, June 2, 2025, the Limited Partners (by their general partners Unicorn Biotech Ventures One Ltd and Unicorn Biotech Ventures Two Ltd), filed suit against the GP in the Cayman Court concerning the May 30 Capital Calls. (Ex. 1. Cayman Writ of Summons.) The Limited Partners' Writ of Summons sought declarations that, among other

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things, they were not required to contribute any further capital to the Fund because they had met or exceeded their funding commitments and that the GP's May 30 Capital Calls violated Section 5(a) of the LPA because they were not issued in accordance with approved budgets. (*Id.* at 4-5.)

6. On June 6, 2025, one week after this case was filed, the Limited Partners (by their general partners) also filed a Winding Up Petition in the Cayman Court under the applicable Cayman Islands statutory law based on a complete loss of trust and confidence in the GP due to its serious mismanagement of the Fund and conflicts of interest. (Ex. 2. (citing Section 36(3) of the Exempted Limited Partnership Act, Section 92(3) of the Companies Act (2025 Revision), and Section 35 of the Partnership Act (2025 Revision).) As the Petition explains, the GP improperly charged expenses to portfolio companies, failed to provide the Limited Partners with the information necessary to assess proposed budgets, issued the May 30 Capital Calls seeking to compel the Limited Partners to contribute over $100 million in excess of their funding commitments and in breach of the LPA, and sought to confiscate 50% of the Limited Partners' investment in the Fund (amounting to billions of dollars in assets). (*Id.* at 2.) Given the complete breakdown in the relationship, the Winding Up Petition asks, among other things, that the Fund be wound up and that Official Liquidators be appointed. (*Id.* at 28.)

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ARGUMENT

7. "This Court possesses the inherent power to manage its own docket, including the power to stay litigation on the basis of comity, efficiency, or simple common sense." *Paolino v. Mace Sec. Int'l, Inc.*, 985 A.2d 392, 397 (Del. Ch. 2009). As the Delaware Supreme Court has long recognized, courts should seek to avoid both the "wasteful duplication of time, effort, and expense that occurs when judges, lawyers, parties, and witnesses are simultaneously engaged in the adjudication of the same cause of action in two courts," and "the possibility of inconsistent and conflicting rulings and judgments and an unseemly race by each party to trial and judgment in the forum of its choice." *McWane Cast Iron Pipe Corp. v. McDowell-Wellman Eng'g Co.*, 263 A.2d 281, 283 (Del. 1970).

8. In determining whether to "stay an action before it in favor of another," this Court considers whether the Delaware action involves questions of law that Delaware courts should decide and whether similar proceedings are pending elsewhere, among other factors. *See In re Bay Hills Emerging P'rs I, L.P.*, 2018 WL 3217650, at *7 (Del. Ch. July 2, 2018) (citation omitted). Because the Limited Partners seek only to stay and not dismiss this action, their burden is "much lighter." *Azurix Corp. v. Synagro Techs., Inc.*, 2000 WL 193117, at *5 (Del. Ch. Feb. 3, 2000). And where, as here, the proceedings are filed contemporaneously, the Court exercises its discretion without a presumption in favor of either jurisdiction. *HFTP*

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Invs., L.L.C. v. ARIAD Pharms., Inc., 752 A.2d 115, 122 (Del. Ch. 1999) (when "two lawsuits are simultaneously filed . . . the Delaware court should decide a motion to stay the Delaware action as a discretionary matter, without giving deference to either party's choice of forum"); *see also Phillips v. Phillips*, 2021 WL 772619, at *3 (Del. Ch. Mar. 1, 2021) (same).

9. This action and the Cayman Proceedings were filed contemporaneously for purposes of this analysis. The GP filed its Complaint in this Court on May 30, one and five business days, respectively, before the Limited Partners filed their Writ of Summons and Winding Up Petition in the Cayman Court on June 2 and June 6. *See Azurix Corp.*, 2000 WL 193117, at *3 (cases filed in Delaware on Friday afternoon and elsewhere the following Monday were contemporaneous because the "difference in time of filing is so close"); *Zilberstein v. Frankenstein*, 2021 WL 5289104, at *4-5 (Del. Super. Ct. Nov. 12, 2021) (Delaware suit and suit filed 13 days later in Israel "contemporaneously filed").

10. Moreover, because the GP's "declaratory judgment action was filed in an anticipatory nature," it is "not entitled to the deference generally afforded to first-filed actions." *Nat'l Union Fire Ins. Co. of Pittsburgh, PA v. Turner Constr. Co.*, 2014 WL 703808, at *3, *7 (Del. Super. Ct. Feb. 17, 2014); *see also Lincoln Benefit Life Co. v. Wilm. Tr., N.A.*, 2019 WL 1307870, at *3 (Del. Super. Ct. Mar. 21, 2019, corrected Apr. 4, 2019) ("When determining if deference [to another proceeding] is

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appropriate, the Court looks at the natural alignment of the parties."). The GP's action in this Court preemptively seeks a declaratory judgment on the Limited Partners' obligations to contribute capital (and the GP's rights insofar as the Limited Partners refuse) even though the GP had not actually issued any capital call until ten minutes before it filed the Complaint. (Compl. ¶¶ 14-15). Indeed, the GP filed the Complaint with no prior notice and without responding to the Limited Partners' May 15 correspondence asking the GP to explain why it believed further capital contributions were warranted (Compl. ¶¶ 12, 132-34). *See In re IBP, Inc.*, 2001 WL 406292, at *8 n.18 (Del. Ch. Apr. 18, 2001) (giving no deference to an action "filed in a trivially faster manner, especially where the first-filing party rushed into court without giving prior notice").

11. As discussed below, every relevant factor weighs in favor of staying this action to permit the Cayman Court to resolve the two pending cases concerning the validity of the recently issued capital calls and the Fund's winding up under Cayman Islands law.

I. Cayman Islands Law Governs This Action

12. The parties agree that the LPA is governed by Cayman Islands law. (Compl. ¶ 22 n.2; LPA § 18(g)(i).) And, as this Court has consistently recognized, it is "appropriate that" a foreign court "take the lead in interpreting" its own law. *See, e.g.*, *In re Bay Hills* 2018 WL 3217650, at *8–9 (issuing stay pending

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proceedings in Kentucky because "the parties agree that Kentucky law will govern the interpretation of the LPA"); *see also Joint Stock Co. Com. Bank PrivatBank v. Kolomoisky*, 2021 WL 3722095, at *7-9 (Del. Ch. Aug. 23, 2021) (issuing stay "as a matter of efficient case management" and explaining that "[w]ere this Court to move forward with this case now, it would be forced to adjudicate . . . issues of Ukrainian law at the same time those issues are being litigated before" Ukrainian courts and that "[t]he risk of inconsistent judgments is high").

13. This is particularly true where a dispute implicates the construction of a foreign partnership agreement and the claim is governed by foreign law. *See In re Topps Co. S'holders Litig.*, 924 A.2d 951, 958 (Del. Ch. 2007) ("Venerable authority recognizes that a chartering state's interest in promoting an efficient and predictable corporation law can be undercut if other states do not show comity by deferring to the courts of the chartering state when a case is presented that involves the application of the chartering state's corporation law."); *Diedenhofen-Lennartz v. Diedenhofen,* 931 A.2d 439, 442 (Del. Ch. 2007) (declining to "proceed with an expensive, inefficient, burdensome, error-hazarding, and unnecessary attempt" to "resolve a dispute involving partners to a German partnership" when a German court can do so "efficiently and expertly," and referencing "the need to afford comity to the courts of the jurisdiction that charters an entity"). Here, the Cayman Court has

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a strong interest in regulating an entity established under the Exempted Limited Partnership Act.

14. This Court should permit the Cayman Court to interpret the LPA pursuant to Cayman Islands law in the first instance.

II. The Pending Proceedings in the Cayman Islands Will Resolve the General Partner's Claim in Delaware

15. This action and the Cayman Proceedings involve substantially the same parties, the same facts, and the same legal issues under the same Cayman contract. A decision in the Limited Partners' favor on their Writ of Summons would resolve the GP's claim in this action and the Winding Up Petition will moot this case if it results in the Fund being wound up. This case thus implicates every concern that the Delaware Supreme Court sought to avoid in *McWane*, including "wasteful duplication" of adjudicating "the same cause of action in two courts," the risk of "inconsistent and conflicting rulings," and an "unseemly race" to "trial and judgment" in two forums. *McWane Cast Iron Pipe Corp.*, 263 A.2d at 283.

16. For all practical purposes, the same parties appear in each of the three actions. *See Derdiger v. Tallman*, 773 A.2d 1005, 1012, 1014 (Del. Ch. 2000) ("[s]ubstantial or functional identity" across the parties in "both actions" is "sufficient" to "grant a stay") (citation omitted). The Plaintiff here——ATP III GP, Ltd. —is the only defendant to the Limited Partners' Writ of Summons and (along

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with the Fund) one of the two respondents to the Winding Up Petition. (*See* Exs. 1, 2.) And the general partners of the Limited Partners—the Defendants here—filed both the Writ of Summons and the Winding Up Petition on behalf of the Limited Partners in the Cayman Court consistent with the law of both the British Virgin Islands and the Cayman Islands concerning suits by a partnership. (*Id.*)

17. In addition, the claims asserted in the GP's Complaint here and in the Limited Partners' Writ of Summons in the Cayman Court are sufficiently similar that the Cayman Proceedings will substantially adjudicate the claims of the parties. *See MICH II Hldgs. LLC v. Schron*, 2012 WL 2499507, at *11 (Del. Ch. June 29, 2012) (in determining whether to issue a stay, the Court should consider whether the other action has "the potential to resolve several, if not all, of the claims and issues"). In the Writ of Summons, the Limited Partners seek a declaration that the LPA does not require them to contribute any further capital to the Fund because they have already "contributed the full amount of (or have exceeded) their required capital contributions to the Fund under the LPA." (Ex. 1 at 4-5.) A ruling in the Limited Partners' favor would preclude the GP's claims in this Court that the Limited Partners waived their approval rights over budgets, are contractually obliged to contribute more capital, and are subject to a default charge for refusing to do so. (Compl. ¶¶ 14-15.)

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18. Moreover, the Limited Partners' Writ of Summons provides a superior vehicle for addressing the parties' dispute because it concerns a concrete dispute as to whether the GP breached Section 5(a)(ii) of the LPA by issuing specific capital calls. (Ex. 1 at 5.) The Complaint, by contrast, does not mention the May 30 Capital Calls at all, asserts an unripe claim resting on the purported anticipatory breach of the LPA, and principally seeks declaratory relief to establish the parties' rights and obligations in the abstract. (*Compare* Compl. ¶¶ 146, 161, 174 *with* Ex. 1 ¶¶ 2(a), 2(c).) In this context, the Limited Partners are the natural plaintiffs, supporting a stay of the General Partner's premature declaratory judgment action. *See Nokia Solutions v. Collison Commc'ns, Inc*., 2020 WL 2095829, at *4 (Del. Super. Ct. Apr. 30, 2020).

19. The Limited Partners' Winding Up Petition in the Cayman Court provides yet another reason to stay this case. The Petition may well moot the GP's claims in this Court by liquidating the Fund and obviating any need for further budgets or capital. (Ex. 2 at 28.) In addition, the Winding Up Petition is based in part upon the same disputes at issue in this litigation over the Limited Partners' supposed obligation to provide further capital and the scope of the LPA's default clause. (*Compare* Compl. ¶¶ 164, 175, 189-90, *with* Ex. 2 ¶¶ 26(c), 37(a).) This Court recognizes that "all claims arising from a common nucleus of operative facts should be brought in the same court at the same time whenever possible." *Phillips*,

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2021 WL 772619, at *4; *see also Conduent State Healthcare, LLC v. ACE Am. Ins. Co.*, 2022 WL 414597, at *2 (Del. Ch. Feb. 10, 2022) ("as a general matter, all claims arising from a single chain of events should, where practicable, be adjudicated in a single action in a forum having jurisdiction over all parties and capable of doing prompt and complete justice").

20. The only court that could possibly adjudicate all of the parties' pending claims is the Cayman Court, as this Court obviously does not have jurisdiction to wind up a Cayman Islands partnership pursuant to Cayman Islands statutes and the Winding Up Petition must proceed in Cayman. *See, e.g.*, *In re Coinmint, LLC*, 261 A.3d 867, 908 (Del. Ch. 2021) ("the principles delineating a sovereign's interest in its native entities compel the conclusion that this Court . . . cannot dissolve foreign entities"); *In re Carlisle Etcetera LLC*, 114 A.3d 592, 605 (Del. Ch. 2015) (a sovereign state's interest in its chartered entities "calls for preserving the ability of the sovereign's courts to oversee and, if necessary, dissolve the entity"). Because the Cayman Proceedings not only overlap with this action but provide the *only* forum for comprehensive resolution of the disputes between the parties over a Cayman Fund, the Court should grant a stay.

III. All Other Practical Considerations Call for a Stay

21. All the other relevant practical considerations that this Court considers when assessing a motion to stay in favor of foreign proceedings weigh in favor of a

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stay. *See Azurix*, 2000 WL 193117, at *5 (listing factors). The parties, witnesses, and relevant evidence are all located outside of Delaware. As discussed above, the General Partner is a Cayman Island company, the Limited Partners are BVI limited partnerships, and the Fund is a Cayman Island exempted limited partnership. (Compl. ¶¶ 17-19.) Their books and records are not in Delaware. Nor is there any indication in the Complaint that any of the potential witnesses mentioned in the Complaint live in Delaware. In addition, the Cayman Court is already familiar with the parties and the LPA because the parties litigated a previous dispute there late last year. (Compl. ¶ 100.)

CONCLUSION

For the foregoing reasons, Defendants respectfully request that the Court grant this Motion and stay all proceedings pending the resolution of the litigation proceeding before the Cayman Court.

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Words: 2,981 / 3,000

Dated: June 9, 2025

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Exhibit E

Chancery Court June 27, 2025 Transcript

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ATP III GP, LTD., in its capacity as General Partner of ATP Life Science Ventures, L.P.,	:	
Plaintiff,	:	
v	:	C. A. No. 2025-0607-KSJM
RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP,	:	
Defendants.	:	

- - -

Chancery Court Chambers
Leonard L. Williams Justice Center
500 North King Street
Wilmington, Delaware
Friday, June 27, 2025
3:15 p.m.

- - -

BEFORE: HON. KATHALEEN St.J. McCORMICK, Chancellor

- - -

TELEPHONIC ORAL ARGUMENT AND RULINGS OF THE COURT ON DEFENDANTS' MOTION TO STAY

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- - -

THE COURT: Hi. This is Kathaleen McCormick. Do we have a court reporter on?

THE COURT REPORTER: Yes, Your Honor. It's Karen.

THE COURT: Thanks, Karen.

I'm a little bit early, but do we have all the counsel and parties on the line?

ATTORNEY BARLOW: This is Mike Barlow for plaintiff. We do, Your Honor.

THE COURT: Great. Let's begin.

ATTORNEY BARLOW: This is Mike Barlow for plaintiff. I'll begin with introductions.

We have myself from Quinn Emanuel; Andrew Berdon, Rachel Epstein, and Kathryn Bonacorsi from Quinn Emanuel. And on behalf of plaintiff, Apple Tree Partners, we also have Seth Harrison and Dan Finkelman, the general counsel.

ATTORNEY ROHRBACHER: Your Honor, for defendants, Blake Rohrbacher, Daniel Kaprow, Christine Chen, Benjamin Allen from Richards, Layton & Finger; from Debevoise & Plimpton, William Taft, Natascha Born, Sebastian Dutz.

Mr. Taft, with Your Honor's permission, will be making the presentation for

defendants.

THE COURT: All right. Mr. Taft, take it away.

ATTORNEY TAFT: Thank you, Your Honor. Good afternoon.

As Your Honor knows, there are currently two proceedings in the Cayman courts that overlap with this case. The first is the Writ of Summons which concerns the capital calls that were issued on May 30th, and the second is a winding-up petition.

Last Friday, Justice Asif, the Cayman Grand Court judge presiding over actions, issued an order enjoining the general partner from issuing any new capital calls, enforcing the capital calls that were issued on May 30th, and for imposing any default charge. So as a result of that order, the general partner is currently precluded from acting on much of the relief that it seeks in this action.

We've attached that order as Exhibit 1 to our papers.

The parties are currently coordinating dates for a further hearing before Judge Asif that will take place this summer. That will be an

evidentiary hearing, and the general partner will have a further opportunity to seek modification of the injunction or other relief. A merits trial on the Writ of Summons can occur in September of this year based on the default schedule in the Cayman rules.

And in correspondence that we've attached at Exhibit 4 to the reply, the limited partners have committed to that schedule and confirmed that Judge Asif would be available in late September.

I start with these points because the general partner has claimed, incorrectly, that the Cayman courts are too slow to provide effective relief. In fact, the Cayman courts have shown that they're capable of providing very quick interim relief, in this case in a matter of weeks, and that they can resolve this entire dispute on the same timeline ordered by this Court.

Indeed, as things currently stand, unless Your Honor enters a stay, the same issues would be tried in two different courts in the second half of September.

This is precisely the type of wasteful duplication and race to judgment that the *McWane* doctrine seeks to avoid. Every single factor relevant

to this determination points in favor of resolving this Cayman partnership dispute in the Cayman Islands in the first instance.

Even if this Court were to afford the general partner's action first-filed status -- and it should not, for reasons I'll get into -- a stay would still be appropriate given the strong interest in having the Cayman courts resolve important questions concerning the governance of a Cayman-exempted limited partnership. The Fund is the Cayman-exempted limited partnership. That is a unique form of partnership to the Cayman Islands for which there's no analogue in English or Delaware law.

Now, this comity principle has been recognized by the Delaware Supreme Court in the *Martinez v. DuPont* case in 2014, and the numerous Chancery Court decisions that we've cited in our papers.

Unless Your Honor has any questions on the briefs, I would turn to the arguments relating to the forum selection clause, and then the applicable framework for the *Cryo-Maid* factors.

THE COURT: Go ahead.

ATTORNEY TAFT: Thank you.

So the first argument raised by the general partner concerns the nonexclusive forum selection clause. Now, that clause absolutely does not preclude a motion for a stay, and it does not prevent the Court from exercising its inherent discretion to grant a stay where that is necessary to avoid duplication and waste and trampling on the prerogatives of the Cayman courts.

As former Chancellor Bouchard confirmed in his ruling in *Kimberly-Clark* we cited in our reply, a motion seeking a stay based on principles of economy does not raise defenses asserting improper venue or inconvenient forum.

Now, in that case, a party bound by a nonexclusive forum selection clause with the same waivers that exist in the limited partnership agreement was permitted to seek a stay, and that stay was granted. This is all addressed at page 130 of the transcript.

What he said there is that "This motion is not based on the forum non conveniens doctrine or, more generally, the notion that Delaware is an inconvenient forum or necessarily an improper venue." So, again, this is on all fours with the

situation here, and it's clear that the Court found that the motion was proper. And the same distinction between an action for dismissal versus stay is addressed in the *Utilipath* case and also the *Dura Pharmaceuticals* case.

The arguments in our reply brief on this point apparently convinced our opponent because just yesterday the general partner filed an application in the Cayman courts seeking a stay of the Writ of Summons. We provided Your Honor this morning with copies of that filing, which we had received last night.

Under the general partner's reading of the forum selection clause, of course, they too waived their right to seek a stay of the Cayman action.

And they just can't have it both ways. The risks of inconsistent judgments in parallel proceedings are only compounded when you have parties opportunistically advancing inconsistent arguments before different courts.

So to be clear, our position is, as set forth in our reply, the forum selection clause does not limit this Court or any court from managing its docket and avoiding wasteful races to judgment.

So it's not a bar to the motion.

Turning to the applicable test. As I said earlier, a stay would be warranted under any framework. But here, the correct framework is to assess the *Cryo-Maid* factors neutrally and without any preference for Delaware or Cayman fora, and without any need to show an overwhelming hardship.

This standard applies for two reasons: First, because the motion only seeks a stay and not dismissal; and, second, because the action you have before you and then the two actions in the Caymans were filed contemporaneously.

The Cayman Writ of Summons challenging the limited partnership's obligation to fund additional capital was filed just one business day after the general partner issued those capital calls and, indeed, one business day after this claim commenced. And the winding-up petition was filed a few days later.

On paragraph 8 of our reply, we list several authorities confirming that cases filed just days apart should be deemed contemporaneous. And in particular, I'd draw Your Honor's attention to the *In re Bay Hills* case concerning where a stay was

granted to allow a Kentucky court to resolve a dispute involving a Kentucky limited partnership where that Kentucky action was filed eight days after the Delaware action.

This is not the rare case, as the other side has argued, where the action is just a response to the first one. As noted, the triggering event for the Writ of Summons action was the issuance of the capital calls on May 30th, which we contend was a breach of the limited partnership agreement, and if not responded to would have resulted in us potentially being in default.

Those capital calls were issued just 10 minutes before this case was filed. So we had no practical ability to win any sort of race to the courthouse. We didn't even know that this obligation -- that the race had started. And, again, so it can't be that this was responsive to the filing of the complaint. We needed to bring the action in the Caymans to protect our interests in the face of the concrete legal issues presented by the issuance of the capital calls.

Similarly, the wind-up petition rests on months of disagreements and a lack of information

and conduct by the general partner, which has undermined our confidence in their conduct, not simply the filing of the complaint.

Now, because Delaware courts did not treat the difference of a couple of days as material, the general partner is not entitled to any sort of presumption in favor of Delaware, and the factors should be applied neutrally.

Turning briefly to those factors. The most important, by far, is that this is a dispute that involves the interpretation of a partnership agreement. And that partnership agreement is governed by Cayman law. The fund is a Cayman-regulated entity. Delaware law does not apply to this action.

Now, the general partner wrongly asserts that the winding-up petition may involve Delaware law. But that's an error. The winding-up petition is a unique Cayman statutory process.

What the general partner says in their opposition is that, oh, this involves the removal petition from the limited partnership agreement. But that's simply an error. We have not sought removal under the LPA. That would not be something that could be pursued in a winding-up petition.

Now, this was a mistake, but it's the kind of mistake that unfortunately gets made when non-Cayman lawyers are rapidly applying Cayman law. And it's the kind of mistake that actually the *McWane* doctrine exists to guard against, by making sure that Cayman law issues in this case will be addressed by Cayman-qualified lawyers and presented to a Cayman judge.

That's especially important in this case because, as I mentioned, this is not necessarily a run-of-the-mill legal question. This involves the Cayman-exempted limited partnership law and a somewhat unique form of partnership.

Now, Delaware courts have recognized that foreign courts have a particular interest in resolving novel issues of their law. I mentioned the *Martinez* decision earlier from the Delaware Supreme Court. I'd direct Your Honor also to the *Focus Financial Partners v. Holsopple* case that both parties rely upon.

And this comity principle reaches its apex in governance disputes that involve entities organized under foreign law. This is addressed in *In re Topps Company*, the shareholder litigation, the

Diedenhofen-Lennartz case, and, again, in the *In re Bay Hills* case, all of which are cited in the parties's briefs.

Turning to the second factor, there's no dispute that there are parallel proceedings involving the same parties and issues in the Cayman action. The GP's only real argument for preferring Delaware is that they contend that this Court can win the race to the judgment on expedited proceedings.

But the Cayman court is also expedited. As I've said, they've engaged with the issues. They issued a preliminary injunction against the general partner. And there's nothing that prevents the general partner from going to the Cayman court, seeking modification of that injunction, and if they prevail, in the absence of an injunction, the limited partners would, of course, satisfy the disputed capital calls.

All of that could happen before September. All of that would be part of these accelerated interim relief proceedings that are already underway in the Cayman. And, again, as I mentioned, the merits trial in that action could happen in September, and we've agreed to that

schedule.

So to the extent the general partner is arguing that it's just too slow, we submit that that has been disproved. They don't argue that it would be impractical to proceed to trial in the Cayman action in September, nor could they, because they already argued before Your Honor for an even faster schedule here.

So, again, notwithstanding that they claim that expedition is essential, they are seeking to delay the Cayman proceedings, they're rejecting proposed schedules without proposing alternatives, they're arguing that this stay that they filed just last night -- despite the Cayman action being pending for now almost a month -- that that needs to be decided before a schedule is determined. That will all get dealt with.

But under the current situation, as I mentioned, the default schedule is going to lead to a trial as soon as September, which would mean that this dispute will be tried twice the same month, without a stay from Your Honor.

And also, just on the parallel proceedings factor, the Cayman courts are preferred

because they can provide comprehensive adjudication. In what is an obvious red herring, the general partner complains that the Cayman proceedings are somehow inadequate because, as pled, they don't include a count for specific performance against the limited partners that would require us to pay the capital calls.

That's only because the general partner has not asserted its counterclaims in that action. It has the right to do so, and presumably would include all of the relief there that it is seeking here. And, as I mentioned, the Cayman court is the only jurisdiction that can hear the winding-up petition.

Just closing on the practical considerations, none of the parties are in Delaware. This is a dispute between a Cayman GP concerning a Cayman fund, and the limited partners are British Virgin Island entities.

Indeed, there's no factual connection or legal connection to Delaware at all. This forum has no advantage with respect to either the access to proof or compulsory process. And the general partner doesn't argue otherwise.

And, finally, to the extent Your Honor considers the practical impact on the portfolio companies as opposed to just the interests of the fund, that too would weigh in favor of a stay. As the 99 percent owner of the fund, no one has a greater interest in the preservation of value than my clients, the limited partners.

You will recall that we initially offered $15 million in additional funding, which had been rejected. But shortly after the hearing, the general partner proposed $40 million, which it said would maintain the *status quo* through the end of the year. Now, the limited partners have confirmed their willingness to provide that money if it's truly needed, asking only for details about how it would be spent, which, that information is not forthcoming.

But again, all of that is taking place in the context of the Cayman order's injunction prohibiting issuance of capital calls. Again, it is the Cayman courts that the general partner needs to go to in order to raise any immediate funds. And yet, even though it claims that there are multiple portfolio companies that are *in extremis*, it has not sought that relief from the Cayman courts. It didn't

even show up to contest the injunction, despite having a week's notice. It didn't contest the injunction that's enjoined enforcement of the capital calls.

So, again, because the courts in the Cayman are actively engaged in addressing these issues, because those issues are governed by Cayman law, this Court should exercise its inherent discretion to stay this case pending the resolution of the Cayman proceedings with respect to the Writ of Summons on the funding dispute can go to trial in September of this year.

Thank you, Your Honor.

THE COURT: Thank you.

ATTORNEY BARLOW: Your Honor, this is Mike Barlow from Quinn Emanuel. May I address my friend Mr. Taft's presentation?

THE COURT: Please do.

ATTORNEY BARLOW: Thank you, Your Honor. Happy Friday.

Your Honor is obviously aware of the factual background in the case, as well as, candidly, these issues that arise in a number of different Delaware cases involving *forum non conveniens*.

So I'm going to focus on a number of

points here today. I'm going to start by sort of reminding us why some of these issues are really before the Court and exactly what happened. I'm going to focus on paragraph 18 of the limited partnership agreement, the very commitment not to assert *forum non* that is being asserted here today. I'm going to talk about the first-filed doctrine and why the overwhelming hardship standard applies, and I'm going to talk about the *Cryo-Maid* factors.

Your Honor, the limited partnership agreement has always provided, at paragraph 18, that the parties could elect to bring suit in Delaware. There's a lot of good reasons for that, including the fact that there are elements of Delaware law in the limited partnership agreement that were talking about creating and funding Delaware companies.

But on May 15th, Rigmora repudiated its funding obligations here. It described its obligation to make capital calls as "discretionary." It claimed it didn't have any outstanding commitments. It refused to provide any funding for more than $200 million in budgets that it had already approved, and basically said that if you want to discuss new budgets, you have to close a bunch of early-stage

companies.

So on May 30th, we sought relief in this Court for a number of reasons. Principally, because this Court was one that was adopted by the parties in paragraph 18. It's a jurisdiction that awards specific performance, and it's a jurisdiction that is well-known for moving expeditiously.

My friends on the other side reacted. They were so fearful that this Court might hear on the merits of the claims about Rigmora's violations and its contractual duties that three days later they filed the writ proceeding in the Cayman Islands, and then seven days later they filed the winding-up petition. And then they waited until the eve of the motion to expedite to file the *ex parte* application that my friend Mr. Taft mentioned so prominently. I'm going to get to each of those things.

But I think the motion can be denied on the basis of paragraph 18 of the limited partnership agreement alone.

My friend seems to read that provision extraordinarily narrowly. He reads it as, well, it just means that you waive *forum non* defenses, and none of that addresses these issues that are here before

the Court.

If you look at the language, Your Honor, it is actually quite a bit broader. It says that Mr. Taft's client agreed not to assert that Delaware is "an inconvenient forum or that the venue is improper." It is a broad waiver of those defenses. But also, it doesn't make a difference that this is in the context of a motion to stay. He promised not to make these arguments in any context.

So Mr. Taft is here in violation of his client's contractual commitment, making the very argument that his client contracted would not be made. And the gimmick that this is a motion to stay and not a motion to dismiss doesn't work with the plain language of that contract.

But more fundamentally, they moved to the law. And they say, well, Your Honor, cases like *Kimberly-Clark* and *Utilipath*, the Court retains discretion here and can address this as a matter of comity. Your Honor, obviously the Court has discretion as to how it handles these things, but I want to focus on something that I think is particularly significant that my friend alighted over when he made the presentation.

All of the cases that they're relying on for the proposition that they cited, *Utilipath*, *Kimberly-Clark*, are all cases in which the Delaware case is second-filed and the defendant invokes *McWane* to dismiss it and the plaintiff responds, no, we have a forum selection clause.

That is not this case. We are first-filed, and we filed it in the right jurisdiction. And why that matters is because it fundamentally changed the analysis.

Each of those cases is a *McWane* case where the Delaware action was secondarily filed. And *McWane* is a doctrine of comity. And the Court says obviously the Court can consider these issues of comity.

But where the action is not first-filed, and the Court invokes and relies on the *Cryo-Maid* factors, that is an inconvenient forum analysis, and that's the very assertion and the very argument that Mr. Taft's client promised not to make.

So I find it odd that they're invoking cases like *Kimberly-Clark* and *Utilipath* for the proposition that for some reason paragraph 18 should just be written out of existence.

While the Court certainly does have discretion here, it is absolutely the case that cases like *Utilipath* and *Kimberly-Clark* confirm that those waivers are effective, and they absolutely extend to the very arguments that are being made here by my friend, that essentially Delaware is an inconvenient forum to be hearing this case.

That's why I find the whole thing -- the whole argument, whole motion, a little remarkable, because *Cryo-Maid* was not even cited in my friend's motion. They were trying, quite desperately, to stay away when they filed that motion from making it seem like an inconvenient forum or a venue challenge, so they never cited it.

But then you get to their reply brief and we point out that that's the applicable standard, and all of a sudden they've embraced it and they've addressed it for the first time in their reply brief.

I think it's very clear that they can't cite a single case saying that waivers like the one that exist in paragraph 18 is ineffective in a *Cryo-Maid* case. And that's because *Cryo-Maid* applies *forum non conveniens* factors that they expressly agreed they would not argue.

Your Honor, the first-filed doctrine -- because that's fundamentally what this case is, it is first-filed. And I think the relevant precedent to focus on in that context is Vice Chancellor Lamb's ruling in *Dura Pharmaceuticals* where a case is actually filed in a different jurisdiction, someone waited the weekend and ran in to file a reactive pleading in Delaware when the weekend was over.

And the Court held -- Vice Chancellor Lamb held that a second-filed reactive Delaware action doesn't succeed in ousting a foreign plaintiff of its choice of forum simply with the speed which it was filed. The idea that you would honor a reactive complaint and treat it as first-filed or treat it as contemporaneously filed only rewards a sort of reactive race to the courthouse that Vice Chancellor Lamb expressly suggested was not advisable.

That's exactly what happened here. We filed in Delaware first, but then they waited, took the weekend and ran in and filed a reactive petition -- which, under this Court's precedent, should never be considered first-filed.

So how do they address that? They try

to reframe their writ petition. They reframe the writ position and say, "Oh, what the writ petition is really about is about the May 30th capital call." That's convenient for a couple of reasons, but it's also just wrong.

The May 30th capital calls are addressed in the writ petition. But the writ petition fundamentally seeks a declaratory judgment that tracks the very repudiation that they made on May 15th. There is no reason, having made the repudiation on May 15th of their obligations under the limited partnership agreement that they couldn't have gone into court and sought the very declaratory relief, a court blessing of the positions that they took on May 15th if they had no duty to fund capital calls. And they could have brought suit earlier. It is not the case that the May 30th capital calls were somehow the only trigger.

And I think it's a convenient argument for them, because by framing it that way, they will always get to choose the forum because they can then, in their view, sue immediately after the capital call while ATP has to wait and find out if they're going to fund the capital call or not under their perspective.

So Mr. Taft's argument, I would submit, is the kind of argument that essentially allows, as a matter of contract law, them to essentially get to pick all of when the lawsuits happen. I don't think that's how Delaware law works. And it's certainly not consistent with the allegations that are made in the writ petition, which essentially seeks validations of the positions taken as early as May 15th.

This is the case where we are the natural plaintiff, Your Honor. We are the party that was injured. We are the party that has been harmed. And we are the party that is seeking specific performance.

A reactionary declaratory judgment petition filed several days later, I would submit, does not qualify as contemporaneously filed or certainly not first-filed.

They say we didn't know that the race started. They started the race by sending their May 15th repudiation. They didn't sue at that point, but we did. And the courts traditionally have had some degree of solicitude for plaintiff's choice of the forum.

With respect to the *Cryo-Maid* factors, Your Honor -- and I want to talk a little bit about the proceedings that are going on in the Cayman Islands, because I think what's happening in the Cayman Islands is there tends to be a lot of movement right before we're about to get to a hearing before Your Honor. On the eve of the motion to expedite hearing, they pursued and filed the *ex parte* thing for the first time.

And the argument that you heard today about -- I think a central part of Mr. Taft's argument was the Cayman proceedings can proceed quickly, the Cayman proceedings will proceed expeditiously, we've committed to this schedule, isn't based on any schedule that they've submitted to the Court. It's based on a letter that their Cayman Islands counsel sent the same day they filed their reply in this action. The proposed schedule on which they want this Court to defer as potentially possible in the Cayman court, even though it's strictly hypothetical and only contained in their letter, is something they waited to propose until they submitted their reply in connection with this motion.

And I think that goes to the

motivation of what's going on here. They want to move the Cayman proceeding only as quickly as they have to to prevent this Court from ruling. That is their goal.

Let me just take a second and talk a little bit about the idea that Cayman can move quickly. And I'm sure, thinking about this in the context of the Cayman factors with an understanding that their obligation in applying of the *Cryo-Maid* factors is to show substantial undue hardship from litigating in Delaware.

And I want to focus on this idea, because I think it heard it -- I was counting -- I think I heard it about a half a dozen times in Mr. Taft's presentation, that we could do a trial in September under their proposed schedule.

Your Honor, that is simply not -- it's not consistent with Cayman practice. It's not consistent with their own submissions to this Court. I'm going to get into that for a few reasons.

So, first of all, there's no schedule in the Cayman proceedings, and his arguments are based entirely on his own proposal. Secondly, it's a proposal that they waited to submit literally the same

day as their reply. Thirdly, it's just wrong. They invoke what they quote as the "default rules" of the Grand Chamber in the Cayman Islands. In fact, this matter is scheduled before the Financial Services Division of this court -- of the Cayman court.

And under the Financial Services Division of the court, the court enters schedules and typically does so on substantially longer schedules than that proposed in the default proceeding.

And what's interesting about that is, under Cayman procedure, Your Honor, the schedule is typically set by the Court after the pleadings are issued. Essentially, the parties submit their pleadings -- each party submits their pleadings, and then they apply to the Court for a direction of summons.

What's interesting here is in the writ proceeding, they have not even filed their first substantive pleading. Their first substantive pleading, Your Honor, is their statement of claim, and it's due on June 30th. And they have not filed it, even a day early. Here we are, the Friday before. It's finally due, and it hasn't been filed. That is their pleading. They will file it on June 30th and

I'm sure not a day beforehand.

Thereafter, we get 14 days to respond and they get 14 days to reply. And only then is there a summons for direction from the court to apply a schedule.

And this is significant, Your Honor, because the Cayman courts have summer and winter sessions. And the Cayman court has essentially a vacation break, a summer vacation break, that begins on August 1st and proceeds until September 15th. I applaud the Cayman courts for their significant commitment to work-life balance in that respect.

But you actually have to apply through a specific procedure if you want to hold a hearing during that window.

So the suggestion is that, oh, well, we can get all this scheduled in September. The fact is, we're not even going to get to a place where there is a hearing on this matter, I would submit, until -- unless and until we get a contested hearing in the Cayman Islands until potentially August or even September for the first time we might have a contested hearing.

And we know that, Your Honor, because

of the *ex parte* proceedings that my friend decided to start with. My friend decided to start his presentation talking about the *ex parte* proceeding under his theory that it gives some sort of credence to the idea that that's proceeding.

But that is, to be clear, Your Honor, an *ex parte* matter. It is not an opportunity where we had an opportunity to be heard under Cayman procedure. It is a matter that they filed unilaterally, and then went to the court, and the court blessed. There has not been even a scheduling contested matter before the Cayman courts.

But what the Court did in that *ex parte* order is it set down an inter partes hearing. At the very end of that order it said, let's hold an inter partes hearing, which is where we would have the opportunity to come and present evidence explaining why the injunction was improvidently granted. And that hearing, it suggested, would be scheduled in July.

But my colleagues on the other side are not available on any of the days in July that worked. And as a result, the inter partes hearing hasn't even been scheduled yet on that very *ex parte*

hearing. And as a result, we're not likely to be even in the Cayman courts for a hearing on that matter until August, with a specific application to be heard during the court's vacation period, or potentially even September.

So these are proceedings in Cayman that do take a long time because they don't have the opportunity like we do to have expedited proceedings in the Court of Chancery.

And then, what I heard repeatedly was that, well, we can actually get to a trial in September. But as you look at the proposal that they set forth, it doesn't include, for example, any witness submissions. It is an incredibly incomplete schedule. So we did move to stay the petition.

But one thing that I want to just point out to the Court, Your Honor set out a schedule in this matter for September 18th and 19th. My friend must have said half a dozen times: We can get to trial in September. We can get to trial in Cayman in September.

I think he's perhaps overexuberant in his own suggestions. He's relying on Exhibit 4 to his reply, which -- in which they -- it's a letter from

Rigmora's Cayman counsel in which they purport to explain the scheduling direction they have been given through contacting court in an *ex parte* way to try to figure out when the Court might be available.

And what the Court actually says is that the affirming judge has availability from the end of September 2025 onwards. I mean, as a matter of scheduling, I interpreted it, "from the end of September onwards" as October, not September. And when my friend said more than half a dozen times that the Cayman proceeding is potentially available to go in September, it's not consistent with their own Cayman counsel's submission to us about what they were told by the Court.

So at best, if everything my friend says about the Cayman proceedings magically were to come true -- which I don't think is consistent with the Cayman rules, which don't apply in default proceedings; it's certainly not been endorsed by the Court -- at best you're talking about a potential hearing on this matter more than two weeks after we would potentially get here.

And I would suggest that Cayman practitioners realize that matters do not move that

quickly in that court and that schedule is unreasonable.

So I simply suggest that this is not a matter where the Court should give any credence to the fact that they have tried to move these expedited proceedings forward. The fact that, for example, in this specific orientation of these matters, that they proposed a TRO on an *ex parte* basis should not be of any consequence. That is not a contested matter.

And this is also, essentially, them taking advantage of a particular orientation of this case where they seek a negative injunction, but we're here seeking mandatory specific performance and don't have the same opportunity to run to Your Honor with a TRO petition or preliminary injunction petition. They shouldn't be allowed to take advantage of that to suggest the proceedings are proceeding at a pace in Cayman. And it's certainly not the case that they can't show that proceeding here in Delaware is an undue hardship.

Instead, they rely on Cayman law. But I think they're being very flip about the aspects of Cayman law they're addressing, and specifically I'd bring to Your Honor's attention to the *Dura*

Pharmaceuticals case.

In the *Dura Pharmaceuticals* case, the Court basically said, look, as a matter of looking at entity law, that might be one thing, but here we're actually speaking about contract law and the endorsement of a contract case. And the Court held that the fact that the Court would have to apply foreign contract law does not in any way suggest that it would only affect the *forum non* analysis.

I would suggest here that where they're principally invoking aspects of contract in an English common law jurisdiction, that factor does not certainly meet the standard of undue hardship from litigating in Delaware. But it also doesn't even favor them because there's aspects of this proceeding that are governed by Delaware law, including the fact that there are places in the limited partnership agreement that expressly invoke standards of Delaware law, including the standard of conduct and care for the general partners, in which the parties adopted the gross negligence standard of Delaware law.

So it is the case that there are matters of Delaware law that would be potentially presented to this Court as a matter of the proceeding,

and it's not the case that addressing Cayman law would be so extraordinary and create such an undue hardship that the *forum non* factors favor more in this case.

The cases that they've relied on, cases like the *Martinez* case, are situations in which the courts have acknowledged that you've got essentially legal documents in other languages, including -- the Court relied particularly in *Martinez* on the fact that the governing law was set forth in Spanish, not English. That was also the case in the *Diedenhofen* case, which was a German matter.

But those are also cases involving sort of significant issues of Argentine law that, candidly, are not nearly as -- are very much distinguishable from addressing matters of contract law in an English jurisdiction.

Finally, the relative ease of access to proof and the availability of compulsory process and those kinds of other *forum non* factors, Your Honor. They say we didn't identify any witnesses. We actually made quite clear that the portfolio companies in Delaware are here, and they are available in a way that is critical to this matter, to this litigation, and why it makes good sense to litigate here because

of the relative ease to access to proof.

They deride the fact that we make the point that the proximity to the offices of ATP in New York and Cambridge should somehow be significant. Your Honor, I don't know how to respond to that argument other than to refer my friend to a map, or perhaps a chartered flight to the Cayman Islands.

It is simply the case that litigating in Delaware for these parties where the injury's going to be wrecked upon this fund and the Delaware companies that rely on it, it is simply the case that those factors also favor litigating in Delaware.

Your Honor, you were kind enough to set us for September 18th and 19th. We're happy to move ahead --

(Unknown speaker.)

ATTORNEY BARLOW: I'm sorry, Your Honor. I don't have much more to say other than what we look forward to is a prompt proceeding on September 18th and 19th to talk about these matters in more detail. We are ready to move ahead with this matter in an expedited fashion, and want to do so to preserve value for the fund, including for Mr. Taft's client, to make sure that these companies that were

founded based on promises of funding that Rigmora is now reneging on actually have the opportunity to succeed, and that we're not put in a situation where those companies have to lay off dozens, if not hundreds of researchers, employees, and the like.

I'm happy to answer any questions you have.

THE COURT: Thank you, Mr. Barlow. I don't have any questions.

And just for the record, I don't know who was interrupting you earlier. I'm not sure who that was.

But before we go back to Mr. Taft, who I'm sure will want to speak in response, let me just take a three-minute break here, please.

(Brief recess.)

THE COURT: Let's hear from Mr. Taft.

ATTORNEY TAFT: Thank you, Your Honor.

So just to respond to my friend's points, starting with the forum selection clause. I do recommend that Your Honor compare this -- the language in our forum selection clause to the language in the *Kimberly-Clark* matter, where it's quoted on page 129 of the transcript that the parties -- and

this is from that contract -- "The Parties hereby irrevocably waive, to the fullest extent permitted by applicable law, any objection which they may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forums for the maintenance of such dispute."

So that is, if anything, broader than the language that Mr. Barlow quoted to you from the LPA. And yet, despite that language in the contract, the former Chancellor Bouchard agreed that the Court had the ability to hear the stay application, and that the Court's discretion was not limited. So, again, that's directly on point.

And, again, it's not that the limited partnership agreement only talks about jurisdiction in Delaware. It equally specifically mentions that the Cayman courts are an appropriate forum. So to the extent Mr. Barlow is suggesting that the parties were all excited and focused on Delaware as the forum, that is not correct.

So the fact that they're seeking a stay in the Cayman Islands would put them equally in breach of their argument. The idea that this is

different because they filed their claim one business day before the writ summons and that that requires changing the analysis for how the Court approaches this is disproved by all of the authorities cited in the papers showing that the difference of a day or even a week is not significant.

So here, they are trying to bootstrap this first-filed timing discrepancy, which all of the courts agree is not a material factor, and saying that that's actually determinative as to whether a party is able to turn what is explicitly a nonexclusive forum selection clause into a forum selection clause that gives all of the spoils to whoever is willing to rush to court and wins the race to court.

And I'll just return. This was not a fair race. This was a situation where they filed their claim minutes after issuing capital calls and gave us absolutely no opportunity to respond.

So, again, we are not making -- raising defenses seeking to dismiss on the grounds of *forum non conveniens* or inconvenient forum, which is the arguments -- the defenses covered by the waiver. The distinction between a motion to stay and a motion to dismiss is actually what the Court is addressing in

Kimberly and *Utilipath* and points out as dispositive.

And so -- and my friend admits that the Court actually does have the discretion to grant the relief that we're requesting if you conclude, as we submit that you should, that it makes no sense to have the same issues tried during the same month in two separate courts.

I'd say that the *Cryo-Maid* factors -- the fact that the *Cryo-Maid* factors apply to this test does not make it a *forum non conveniens* defense. The authorities say we are adapting the *Cryo-Maid* factors or referring to the *Cryo-Maid* factors. But that does not make it a *forum non conveniens* defense; it makes it an application to the Court to exercise discretion to grant a stay.

With respect to the first-filed question and whether -- which really goes to whether or not the defendants are entitled to a presumption in favor of Delaware. Their argument is that our motion, our Writ of Summons challenging the capital calls in the Cayman Islands actually isn't about the capital calls. And I submit that that is completely incompatible with the record.

We've attached the Writ of Summons.

It's in the record based on the motion to expedite. And it is only, and specifically, about the capital calls. We needed to file that that action because if we did not, the time to respond to the capital calls would have expired and we would have been in default under those, notwithstanding our position that the capital calls are invalid under the LPA. We were not prepared to risk going into default.

So we needed to go to the courts and get -- file the Writ of Summons and get the injunctive relief when the general partner refused to agree not to declare default. So this was a concrete legal issue that needed to be addressed by the courts, which is why we filed the writ of summons.

None of that was necessary before they issued the capital calls. Before they issued the capital calls on May 30th, there were no outstanding capital calls that had not been satisfied. We had satisfied capital calls that had been issued earlier that month, and so we were at no risk of being declared in default. We were under no obligation, even on their theory of the case, to contribute additional capital because the capital calls hadn't been issued.

All of that only became crystalized when the capital calls issued, which was 10 minutes before they filed this complaint.

So that's why we say it was not a fair race. And that's why we say there's no justification or basis for giving them any presumption or any advantage with respect to their chosen forum based on having tactically timed the issue of the capital calls just 10 minutes before the complaint.

Two other points with respect to that. The complaint never mentions the capital calls, right? So whereas the Writ of Summons is all about the capital calls, it can't be a reaction to the complaint because the complaint doesn't even mention that capital calls have been issued. It's a complete disconnect. And so, again, further evidence that the Cayman actions are not reactive such that they should be treated as second-filed.

The second point. My friend suggests that actually we repudiated on May 15th, and from that point on, you know, were at liberty to file a complaint, and just lost the race to the courthouse because we didn't.

Your Honor, I submit that is

completely wrong. One, because, as I said, we were under no obligation at that point because no capital calls had been issued, so there was no crystalized dispute as to our funding obligations.

But if you look at the May 15th email, we do not repudiate any obligations. We say specifically that we will comply with all of our obligations under the limited partnership agreement.

So, again, just on that basis, to suggest that having confirmed in writing on May 15th our intent to comply with all of our obligations under the limited partnership agreement that we should have then raced to the courthouse when there was no need to provide any additional capital because there was no pending capital call, really just -- it makes no sense.

The Writ of Summons was specifically and solely necessitated by the capital calls and not the filing of the complaint a few minutes later.

THE COURT: All right. Give me two minutes --

ATTORNEY TAFT: I'd like -- I'm sorry, Your Honor.

THE COURT: I said give me a few

moments to collect my thoughts and I'll give you a ruling. I've heard enough.

ATTORNEY TAFT: Your Honor, if I may just have two minutes on the Cayman process, which Mr. Barlow spent a fair amount of time on. Because it's -- with indulgence.

THE COURT: All right. I might still need a moment to be able to gather my thoughts, as I just said. But go ahead.

ATTORNEY TAFT: Again, the rules are the rules. The schedule that was set forth in Exhibit 4 is the schedule that is going to apply, unless the parties agree to something else.

We have agreed to a schedule on those rules. And that leads us to a trial in September. The calendar starts -- the hearing term starts in September, not October. And, therefore, it really is September.

It is not true that we were not available for the inter partes meeting on the injunction. We actually did agree to dates that they offered. So I don't believe Mr. Barlow has the facts right on that point. And even if -- I'm sorry.

Mr. Barlow also admits that they can't

get injunctive relief in this Court. But if they are interested in getting funding for the fund, they're going to have to go to the Cayman courts. They're going to have to engage, because that's where the injunction is in force.

This is not just a contract law case. I refer Your Honor to *In re Topps*. This a case about Cayman corporate entity law. That is where the apex of comity applies. So it's not just a question of, oh, this is a contract dispute governed by Cayman law. The cases we've cited give special consideration for disputes considering governance in this case.

And then, finally, with respect to access. To the extent discovery is needed in Delaware, or of Delaware companies, that will be completely available through -- to the same degree and through a 1782 proceeding, if necessary.

But the fact that the Cayman Islands is a flight away or a longer flight than Boston has been recognized by multiple authorities as having no relevance in the modern age, and certainly less relevant than the fact that this is a Cayman law dispute brought by a Cayman GP concerning a Cayman fund. And we think that that's the dispositive

consideration here, and that a stay should be granted.

Thank you, Your Honor.

THE COURT: Thank you. Give me a few moments, please.

(Brief recess.)

THE COURT: I'm going to give you my thoughts here. And I apologize that they're a little rough.

I'll begin with a background. This action arises from a dispute between parties that entered into a limited partnership agreement in 2012. The plaintiff alleges that the defendants have refused to follow through on their obligations under that agreement. Along with the complaint, plaintiffs moved to expedite and I granted that motion a few weeks ago.

The defendants moved to stay this action in favor of proceedings that they initiated in the Grand Court of the Cayman Islands. And this is my ruling on the motion to stay.

The plaintiffs -- which I'll refer to as "Plaintiff" or "ATP" -- is a Cayman entity. It brought this action in its capacity as general partner of Life Science Ventures, L.P., which is also a Cayman entity, which I will refer to as the "Fund" or the

"Partnership."

The Fund holds the portfolio companies that develop new technologies and medicines in the life sciences industry, focusing on early-stage drug research and clinical trials. Twelve of those portfolio companies are Delaware entities.

Dr. Seth Harrison, a trained surgeon and fund manager who has launched a number of medical companies, leads ATP. The defendants are the Fund's limited partners, Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP, which I'll refer to as "Rigmora" or "Defendants." They are British Virgin Islands entities. They are made up of affiliates of the family office of Dr. Dmitry Rybolovlev, a Russian-born citizen of Cyprus. And I will refer to that as the "Family Office."

The doctors met in 2010 and began investing in a variety of companies over the course of more than 10 years. As part of that process, ATP submitted detailed research and development plans and proposed budgets to the Family Office for review. Once the budget was approved by the Family Office, ATP had the discretion to call capital for projects. According to ATP, the limited partnership agreement at

issue here required the Family Office to contribute capital upon issuance of a capital call.

As of May 15, 2025, the Family Office refused to fund any future capital calls, review future budgets, or approve the budgets for continued operations of some of the portfolio companies, including the Delaware entities.

ATP filed this action on May 30, 2025, to enforce the limited partnership agreement, including the Family Office's capital call obligations. More specifically, ATP requests specific performance of provisions requiring the Family Office to fulfill capital commitments and to consider reasonable budgets in good faith, to fund capital calls, to consider future budget requests. Among other things, they also seek a default charge against the Family Office's interests, an order declaring that ATP's filing of this suit is not an act of bad faith, and a declaratory judgment that the Family Office has anticipatorily and materially breached its obligations under the limited partnership agreement.

ATP asserts that each of the Fund's portfolio companies -- again, Delaware entities -- face imminent collapse, and at least 11 have started

or soon will begin to wind down their efforts.

After plaintiff filed this lawsuit, defendants initiated two actions in the Cayman Islands. Again, plaintiff filed this action on May 30. And on June 2, I believe, defendants filed suit against plaintiff.

Ten minutes before plaintiff filed this action on May 30, plaintiff issued a capital call. And in the suit in the Caymans, the defendants dispute the capital call. They seek declarations that they are not required to contribute any further capital to the Fund because they've met or exceeded their funding commitments, and that the May 30th capital call violated the limited partnership agreement.

Defendants filed the second suit in the Caymans on June 6. Defendants filed a winding-up petition in the Cayman court under Cayman Islands law based on complete loss of trust and confidence in plaintiff due to its serious mismanagement of the Fund and conflicts of interest.

Defendants then moved to stay this action in favor of the Cayman proceedings.

On June 9, the defendants also moved

to dismiss the complaint, and I haven't considered that motion yet.

I'll turn now to the analysis of the motion to stay. This Court has discretion to stay actions before it. It's a scheduling matter. Generally we look to considerations of comity, efficiency, or common sense.

Here, certainly the parties' own contractual scheme played a role. Paragraph 18(g)(vi) of the limited partnership agreement provides that "To the extent not prohibited by applicable law, each Partner [] agrees any action, suit or other proceeding arising out or based on this Agreement or any Schedule hereto, the subject matter hereof or thereof or the dealings of any Partner or the Partnership in connection therewith shall be brought only in a court of applicable jurisdiction located in the Cayman Islands or a state or Federal court in the State of Delaware in the U.S., [] irrevocably submits to the jurisdiction of the courts of the Cayman Islands and the state and Federal courts in the State of Delaware in the U.S. and [] waives and agrees not to assert in any such action, suit or proceeding brought in any of the above named courts, any claim that such Partner is

not subject personally to the jurisdiction of such court or that such action, suit or proceeding is brought in an inconvenient forum or that the venue is improper."

That language is relevant here because it clearly states that the parties waive any argument once a suit is filed, in one of the selected forums, that the forum inconvenient. At least that's what I take away from this language.

The motion to stay is effectively a challenge to the convenience of this forum. When considering a motion to stay in favor of another action, this Court generally looks to two sets of doctrines. The first is *McWane*, the second is *Cryo-Maid*. And *McWane* deals with situations where the other action was first-filed.

The defendants argue here that the Cayman Islands filing was effectively contemporaneously filed. But I think it is properly viewed as a reactionary filing and does not deserve contemporaneous status.

So we're applying *Cryo-Maid*, which is effectively an analysis that looks to the convenience of the forum, the sorts of arguments that defendants

contractually agreed not to make.

In light of that, I'm not inclined to consider them when determining whether to grant a stay.

Ultimately, it boils down to a situation where defendants argue that I should exercise my discretion and stay these proceedings although plaintiff alleges that the livelihood of Delaware entities are at risk, because there's a potential for conflicting rulings in these proceedings and the Cayman proceedings.

That's a problem that defendants made when they filed the second action. I'm not inclined to credit them for their forum selection maneuvers.

For that reason, stay is denied. That means you're proceeding in Delaware, at a minimum, and perhaps in two actions. And all the risks that defendants identified are present.

Are there any questions?

ATTORNEY BARLOW: None on behalf of plaintiff, Your Honor.

ATTORNEY TAFT: None at this time, Your Honor. Thank you.

THE COURT: All right. Well, thank

you for your presentations. I hope you have a great weekend. We are adjourned.

(Proceedings concluded at 4:21 p.m.)

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CERTIFICATE

I, KAREN L. SIEDLECKI, Official Court Reporter for the Court of Chancery of the State of Delaware, Registered Diplomate Reporter, and Certified Realtime Reporter, do hereby certify that the foregoing pages numbered 3 through 53 contain a true and correct transcription of the proceedings as stenographically reported by me at the hearing in the above cause before the Chancellor of the State of Delaware, on the date therein indicated, except for the rulings at pages 46 through 52, which were revised by the Chancellor.

IN WITNESS WHEREOF I have hereunto set my hand at Wilmington this 30th day of June, 2025.

/s/Karen L. Siedlecki

Karen L. Siedlecki
Official Court Reporter
Registered Diplomate Reporter
Certified Realtime Reporter

Exhibit F

Chancery Court September 19, 2025 Transcript

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ATP III GP, LTD., in its capacity as General Partner of ATP Life Science Ventures, L.P.,	:	
Plaintiff,	:	
v	:	C. A. No. 2025-0607-KSJM
RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP,	:	
Defendants.	:	

- - -

Chancery Court Chambers
Leonard L. Williams Justice Center
500 North King Street
Wilmington, Delaware
Friday, September 19, 2025
1:30 p.m.

- - -

BEFORE: HON. KATHALEEN St.J. McCORMICK, Chancellor

- - -

TELECONFERENCE RE PLAINTIFF'S EMERGENCY MOTION FOR A STATUS QUO ORDER

APPEARANCES:

MICHAEL A. BARLOW, ESQ.
SHANNON M. DOUGHTY, ESQ.
Quinn Emanuel Urquhart & Sullivan, LLP
-and-
ANDREW M. BERDON, ESQ.
RACHEL E. EPSTEIN, ESQ.
KATHRYN D. BONACORSI, ESQ.
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ROGER S. STRONACH, ESQ.
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for Plaintiff

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ZACHARY R. GREER, ESQ.
BENJAMIN O. ALLEN, ESQ.
Richards, Layton & Finger, PA
-and-
WILLIAM H. TAFT V, ESQ.
SHANNON ROSE SELDEN, ESQ.
CARL MICARELLI, ESQ.
of the New York Bar
Debevoise & Plimpton LLP
for Defendants

- - -

THE COURT: Good afternoon, everyone. This is Kathaleen McCormick.

Do we have a court reporter on the line?

THE COURT REPORTER: Yes, Your Honor. It's Karen.

THE COURT: Hi, Karen. Thank you.

Can we have appearances for the record, please?

ATTORNEY BARLOW: Your Honor, starting with plaintiff, this is Mike Barlow from Quinn Emanuel from plaintiff ATP. I'm joined by Shannon Doughty, Rachel Epstein, Andrew Berdon, Kathryn Boncorsi, Roger Stronach of Ross Aronstam & Moritz, and I believe client representatives Dr. Seth Harrison and Dan Finkelman are also on the line.

ATTORNEY ROHRBACHER: For defendants, Your Honor, Blake Rohrbacher of Richards, Layton & Finger. From my firm, Dan Kaprow, Christine Chen, Zack Greer, Benjamin Allen. From Debevoise & Plimpton, William Taft, Shannon Selden. And I'll let Ms. Selden introduce anyone else who's there with her.

ATTORNEY SELDEN: Thanks, Blake. Carl Micarelli and others from my firm are on the line

here.

THE COURT: All right. Mr. Barlow, who will be speaking for your side?

ATTORNEY BARLOW: I will, Your Honor.

THE COURT: All right. Let's begin.

ATTORNEY BARLOW: Your Honor, we appreciate the opportunity to be heard this afternoon. I know once upon a time today was the date that we were scheduled to be in for the second day of trial in this matter. That moved and, nonetheless, here we are in front of you, Your Honor, on a Friday afternoon.

It's a curious set of facts that we would be back in front of Your Honor so quickly, but it is in part due and significantly caused by actions that Rigmora took immediately after this Court decided to continue trial until October; actions that we believe were inconsistent with positions it took before this Court in procuring that extension.

This Court was told by Rigmora that it needed an extension because it had significant due process concerns with going to the Court, going to trial, as to review of the privileged documents that were produced by ATP. That was its explanation for why it needed to get that extension.

We responded, and in our opposition to their motion for a continuance we explained to the Court that we actually believed that this was in furtherance of a strategy that we thought was behind this -- with the denial of the motion to stay in favor of the Cayman court -- but this was behind the strategy to try to advance the Cayman litigation and seek relief in the Cayman Islands Grand Court.

They responded in paragraph 10 of their reply that those concerns were "misplaced," and expressly cited the January 2026 trial date as a reason we needn't be concerned about the potential for potential proceedings in Cayman as a reason not to delay this matter.

Having told the Court that that was not an issue, we were shocked the very next day to be served with a letter from their Cayman counsel and a filing made in the Cayman court in which they seek the appointment of provisional liquidators to seize control of the Fund from our client, ATP, and essentially direct the control of the Fund, of its portfolio companies and its operations, essentially depriving this Court of the opportunity to fully adjudicate and remediate the breaches of contract that

we have been litigating in this court since late May.

For that reason, Your Honor, we filed this morning our emergency motion. We think the request for a continuance was sought expressly for this purpose. And I'd like to highlight just a few main elements of that.

One of them that I want to highlight is, first, that they told the Court that this proceeding wasn't going to happen in Cayman until actually January. It turns out they did not inform the Court that they were going to file a 61-page affirmation of their client in Cayman the next day.

The second thing I think I want to focus on is how it relates to funding of ATP and of the partnerships. One of the arguments that they made in seeking a continuance is that we needn't be worried about continued funding of the portfolio companies because we had -- or the Fund had been able to generate some internal cash to satisfy a few extra months of operations, that we needn't worry about that. Yet, the very next day they filed a provisional liquidator application that seeks to take control of those finances away from ATP.

And, thirdly, that they came to court

and said we have due process concerns with the fact that we might be forced to go to trial on Thursday and Friday of the subsequent week without having had the opportunity to review these documents, and then the very next day after the Court pushed trial, filed a 61-page affidavit that relies heavily on those documents produced.

Establishing, in our view, that they've actually been furiously reviewing them as quickly as they can and were prepared and had marshaled the evidence that they thought that those documents proved in support of their claims, and simply wanted to present those claims in the first instance to the Cayman court and not to Your Honor.

Your Honor, all we want to do in this action is get to trial and have our matters heard. The appointment of provisional liquidators in Cayman is expressly intended to prevent us from doing so. Because the relief that we might be able to seek as ATP if provisional liquidators are appointed could be, essentially, entirely undone.

We believe Rigmora has an obligation that it has breached to fund $215 million of approved budgeted capital contributions right now to the

portfolio companies. If the Fund is put in the hands of provisional liquidators, individuals appointed, selected by Rigmora, proposed by Rigmora, those individuals who are essentially restructuring professionals and not biotechnology or biopharmaceutical executives, that $215 million that we think we're going to prevail on in this Court, respectfully, Your Honor, those provisional liquidators could send it right back to Rigmora, instead of where it's supposed to go, which is in furtherance of the Fund's objectives to try to develop these 13 very promising Delaware-based portfolio companies.

So, Your Honor, we're here seeking the emergency relief because we think that the request that was made to continue trial was made essentially for this purpose. And because, more fundamentally, the appointment of provisional liquidators would essentially prevent this Court from hearing and adjudicating these claims.

I saw a letter that was filed by my friends just maybe an hour before this hearing, and I have a number of disagreements with it. But I think it's really quite remarkable in the approach it takes.

And it essentially tries to rewrite their own threat, their own threat to go seek *ex parte* relief in Cayman to get the appointment of a provisional liquidator.

What they did was send a letter saying unless we agree to these extreme undertakings that they sought to require, unless we did so by 10:00 a.m. today, they would be -- in paragraph 15 of Exhibit 5 to our motion, which is the letter sent to Walkers, "we will be forced to seek urgent relief without further notice to protect our clients' position until the PL Application is resolved."

That request "to seek urgent relief without further notice" was a direct threat that they were going to go in and seek an *ex parte* hearing on the 61-page Blöchlinger affidavit they had filed with the Cayman court.

So it's absolutely the case that what my friends on the other side were doing was threatening that, essentially, unless we forfeited control over the financing of the Fund through these onerous undertakings, that they would take 61 pages of documents from this -- a 61-page affidavit full of documents from this litigation, run in to the Cayman court and seek relief that would essentially allow

them to avoid having this Court fully adjudicate our rights.

Now, they say also in that letter that, well, we're not seeking to impact the litigation, Your Honor. In fact, we would propose to carve out the litigation.

Your Honor, that is an empty, empty, commitment. Because the actual provisional litigator appointment language that they seek would give control of all the funding, including of the litigation, over to the provisional liquidators, thereby preventing ATP from continuing to potentially fund this litigation and essentially cutting them off that way as well.

So what we're here for, Your Honor -- and there are a lot of cases cited in our motion that go to the idea that it is entirely appropriate to enjoin a party from seeking relief in a second and subsequent jurisdiction when the parties have joined issue here in Delaware and they have largely litigated this claim -- filed pretrial briefs at this point -- as a way of essentially trying to subvert the relief that can be awarded by this Court or the jurisdiction of this Court.

So then what we'd ask is that the

Court enter an order essentially enjoining Rigmora from taking further actions to pursue the appointment of provisional liquidators in Cayman until this Court has the opportunity to adjudicate the claims before it and come to a final resolution of those issues.

We appreciate Your Honor's attention to these issues, and I'm happy to answer any questions you may have.

THE COURT: Thank you, Mr. Barlow. So I have the letter that was filed right before the hearing in front of me. And it takes issue with your description of the nature of what they proposed -- sorry, of what was proposed in the September 17th letter, which is perhaps a minor thing.

But they say that they didn't threaten to go seek *ex parte* relief in the Caymans; rather, they insisted that you respond by 10:00 a.m. today so that they could seek relief six weeks from now.

What's your response?

ATTORNEY BARLOW: Your Honor, that's not what paragraph 15 of the letter to Walkers says. So that is our response to that.

THE COURT: Thank you.

ATTORNEY BARLOW: What they

proposed -- there's a hearing in the Caymans in October, at the very end of the month I believe, October 31st. And so what they propose is that unless we agree to the undertaking they will "seek urgent relief without further notice." And that urgent relief that they're requesting wasn't, oh, they'll go to the court and get a notice provision or something like that. That was they will, without further notice, act on the 61-page application that they had filed contemporaneously with sending that letter.

So I think it's fairly clear in context.

THE COURT: I read that the same way. I just wanted to give you a chance to respond.

ATTORNEY BARLOW: Thank you, Your Honor.

THE COURT: All right. Let's hear from the other side.

ATTORNEY SELDEN: Thank you, Your Honor. It's Shannon Selden at Debevoise & Plimpton for the defendants.

And I would like, Your Honor, to address what I think are some misconstructions or misrepresentations of what's happening in the Cayman

proceeding and how it relates to this Delaware proceeding. And I most assuredly want to disabuse the Court and my adversaries of any suggestion that we are trying to proceed in the Caymans and not in this Court, or that this was in any way an attempt to take advantage of Your Honor's adjournment, which we had sought for the reasons I had described at the pretrial conference.

I think the request for provisional liquidators -- which, look, I think the word "liquidation" has an ominous name and is subject to misinterpretation here that has been somewhat by my adversary.

But that request and the need for interim supervision of the Fund's assets and the portfolio companies and its ability to fund its expenses while two parallel proceedings are going forward is a part of winding-up proceedings in the Caymans, is something that would have proceeded regardless of our trial date. And certainly the timing and some of the urgency requested was informed by some of the information that has come out throughout the course of discovery, including the misuse of funds by the GP, just as a big picture

point.

I know, Your Honor, that we had submitted our letter immediately prior to this conference, and you may not have had much time with it. But I hope that it is a helpful guide to defendants' response to these allegations, which I understand the Court takes seriously and I want to make sure that we are addressing in full.

First, the LPs have not threatened and are not threatening to seek *ex parte* appointment of provisional liquidators in the Cayman court --

THE COURT: Sorry for interrupting you. Skip that point because it's a bad one. I read the letter the same way they did, as if you were all going to seek relief today if they failed to respond by 10:00 a.m. and not give them further notice. That sounds like *ex parte* relief to me. I understand why they took it that way. I'm glad to hear you're not doing that.

But the idea that it wasn't a fair construction of your letter is a bad argument. So why don't you go to the next one.

ATTORNEY SELDEN: Thank you, Your Honor. I would draw the Court's attention to the

undertakings that we had asked the general partner to agree to in hopes that further relief would not be required from the Cayman court before the October 31st hearing. And I think that is what that allusion to seeking relief without further discussion is. Because there was hopes that these undertakings are the kinds of undertakings that the GP could and should agree to. They are Exhibit 7 to plaintiff's submission here.

And they ask for the kinds of things that the GP, as a fiduciary of the Fund, ought to be able to agree to, which is just that it will not, without further order of the Court, dispose of or diminish the value of the assets without notice. So it is seeking notice to the LPs of dissipation of assets.

It does not -- and you'll see that in paragraph (b) of Exhibit 7, which is the request for undertakings. It doesn't limit any ability on the part of the GP to use the Fund's assets to discharge its costs and expenses. So you can see that the GP is to continue to use the Fund's assets in that way.

It asks, in paragraph (c) of Exhibit 7 of the requested undertakings that the GP -- if it becomes aware of an offer for the acquisition of the

assets or capital investments of the Fund or assets of the Fund, that it provide notice to the LPs.

These are some of the things that the LPs had requested of the GP in the undertakings, which, to be clear, it sought the GP's consent to and would only go to court if the GP did not consent. Because the LPs have serious concerns -- like those that I described to Your Honor at the pretrial conference -- that the GP is, in the interim, dissipating assets of the Fund or entertaining offers for the sale of assets of the Fund or encumbering the assets of the Fund in violation of its duty to the Fund and its investors.

So the undertakings requested here are undertakings designed to preserve the portfolio companies and their value and the value of the investments while this ongoing disagreement between the GP and the LPs continues to be litigated, both in this Court and in the Cayman court.

I might, Your Honor, address kind of what the goal of the provisional liquidators is and what they are to do because I fear that there is -- I fear the description of plaintiff here makes it sounds like it is something for the benefit of the LPs or

destructive of value to the Fund or related to liquidation or winding up of portfolio companies. And, Your Honor, that is not the case.

This is a request for temporary relief, which is designed to facilitate funding for the portfolio companies on notice to the LPs while the Cayman proceedings are pending. That is the kind of thing that LPs seek in fund-related proceedings like this in the Cayman court when there is a dispute between the GP and the LPs over the management of the Fund and some need in the interim to make sure that the Fund is able to preserve and maintain and increase the value of its investments.

That's the role of the provisional liquidators. They're not coming in to be destructive of value; they're coming in to be preserving of value and to manage certain aspects of the Fund while the proceedings in the Cayman court are pending, and before the Cayman court reaches a determination on these issues in January of this year.

So, among other things, the provisional liquidators can oversee the expenditure of capital, including providing capital to the portfolio companies. They can work to negotiate agreements to

secure additional capital for the Fund and its portfolio companies. They can appoint directors to the boards of portfolio companies to ensure capital is spent properly at the company level.

These are each value-preserving measures, and they are intended to facilitate funding to the portfolio companies where there is some real risk -- substantiated by documents that we had raised in our pretrial conference and that my client's Cayman counsel has raised in the Cayman proceedings -- that the GP is undertaking or considering sales of assets or encumbrances that would be damaging to the assets in the meantime.

So that's -- the role of the provisional liquidators is to be independent and to answer to the Court, not to the LPs. Their role, under Cayman law and under the Cayman proceedings, is to do what is best for the Fund and for the portfolio companies. They are not subject to my client's instructions or to the LPs' instructions. And their powers will not include any oversight of this proceeding here in Delaware.

They do not start taking steps to wind up the Fund. That is not their function. Their only

role here is to avoid damage to the Fund's assets pending the January trial of the winding-up petition, which is a Cayman statutory procedure.

I will say, Your Honor, there is an intersection of Cayman law with that winding up procedure and the appointment of provisional liquidators which I think is important. Where there is a dispute -- as there is here -- between the GPs and the LPs over the running of the Fund, if there are investments by the Fund in the portfolio companies during the pendency of the winding-up petition, there is some risk to those investments after the winding-up petition is adjudicated and some risk that those assets are not kept at the portfolio company level as a legal matter.

And so having court supervision by the provisional liquidators during the pendency of a winding-up petition is an ordinary course Cayman litigation proceeding to make sure that there is oversight and preservation of value of those assets. And as investments and funds are distributed to the portfolio companies during the pendency of that proceeding, they, by right, remain in the portfolio companies once it is fully adjudicated and are not

kind of at risk after the fact.

So that is a risk that, you know, absent appointment of a provisional liquidator, there are provisions of the Companies Act that might void the transfer of capital in that interim proceeding.

So that -- so I think that, Your Honor, is, generally speaking, what the provisional liquidators are intended to do. And I want to be absolutely clear that they are here, not to do -- their main role is for the benefit of the portfolio companies and preservation of value and assets during what is, admittedly, a dispute. We and the GP do not agree as to how these portfolio companies and the Fund are being managed.

But that is a request made by virtue of Cayman law in order to meet these Companies Act requirements to allow the transfer of capital to the portfolio companies and have them have independent oversight, not by my clients and not by the GP at ATP, during the pendency of that case.

And I believe, Your Honor, that that is a filing that was anticipated to be made and is needed to be made before a determination on the winding-up proceeding, regardless of what the timing

of our Delaware trial was.

And it may be the case that some of what came to light in the past couple weeks, which I had alluded to, which is the use of funds and transfer of funds by the GP to its counsel at Quinn, its attempts to sell assets of the portfolio company without notice to the LPs, there were reasons for that to move quickly in parallel. But those reasons have nothing to do with the adjournment or trial date in our case.

And here in Delaware, in our case, we were in Delaware and ready to go to trial and appreciated the adjournment from Your Honor and have, indeed, since then taken the steps that we had described needing to do, including noticing additional depositions to examine witnesses on documents that were not available to us during the course of discovery. We intend to do that.

And this case in Delaware will still be ahead of both the appointment of a provisional liquidator in the Cayman proceedings -- which the LPs have requested be heard on October 31st and requested the GP's consent that it be heard on October 31st. But that's just a hearing date that the Court already

had in place. And none of the final adjudication on the merits of any of these questions would be reached in the Caymans until on or after the January hearing begins.

So Your Honor may have questions. I know that's a lot. I will stop there. But I do very much want to clarify what is happening here for the Court.

THE COURT: All right. So I have to say, I was really alarmed by this morning's filing. I adjourned the trial that was set to go forward yesterday and today based, in part, on the representation that you-all were not pushing forward or attempting to place the Cayman proceedings at a faster pace than these.

ATP argued that that was the strategy here, that that was the sole reason for delay. They said that the goal was not to give you-all more time to review their late-produced documents, but rather give you an opportunity to push Cayman proceedings forward. So, yeah, I think that they were on to something. That's exactly what it seems like happened.

And I hear everything you're saying

about the nature of the petition, but the optics aren't great for you-all. So had I known this would have been the case, I probably wouldn't have adjourned the trial that was set to go forward yesterday and today.

So what I hear you now saying -- and I want to make sure I'm hearing clearly, because I'm relying on these representations. I hear you saying that you are not going forward and you are not going to present your motion to the Cayman court sooner than October 31st. Is that correct?

ATTORNEY SELDEN: That is correct, to the best of my understanding, Your Honor. We have requested -- and, look, would appreciate the GP's consent that this be heard on October 31st. And that was the intent, perhaps poorly conveyed, that we meet and confer with respect to these undertakings and reach agreement that the GP will not take these steps in the interim, and that we put that question to the court on October 31st.

That is my understanding, Your Honor. And I want to be absolutely clear with this Court that my understanding is and remains that we are not trying to put the Cayman case ahead of the Delaware case. We

appreciate Your Honor's adjournment.

We had sought the request for the provisional liquidator on the 31st to preserve assets and get money into the portfolio companies. And we will not take any further steps to move it forward without notice to Your Honor, without notice to the Cayman court, and without notice to the other side.

THE COURT: All right.

ATTORNEY SELDEN: I'm happy to make that representation.

THE COURT: So if that representation is accurate, you will not seek -- regardless of whether they agree to what you've asked them to agree or not -- present your motion to the Cayman court before October 31st. That's correct?

ATTORNEY SELDEN: That's correct, Your Honor. And, certainly, I would add only the caveat that we would not do it without notice. And I would add -- and I haven't had a chance to talk to my client, Your Honor, but I am happy to make a representation, I would not do that without notice to Your Honor, without notice to the Cayman court, and without notice to our adversaries.

If there is some reason to believe

there is a sale or dissipation of the assets between now and October 31st by the GP, I may be forced by circumstance to come back to them, to you, and to the Cayman court.

But I want to be absolutely clear with Your Honor that I do not wish to moot the Cayman proceedings ahead of this Court, and I will not seek to do that. My clients will not seek to do that without notice to you and to the GP.

THE COURT: All right. So I don't know that that's totally sufficient. So if you were to go to the Cayman court, how many days notice would you anticipate giving me and the other side if you were to go to the Court before October 31st?

ATTORNEY SELDEN: That is a fair question, Your Honor. And I can say I don't know the Cayman procedure. And I will say the only thing that I have in mind here is a genuine concern that has come to light and is described in my client's affidavits in the Cayman proceeding, that we understand the GP has been seeking to sell assets of the portfolio companies without the consent of the LPs.

If such a sale were to come to light, I think -- and I would appreciate the Court's

guidance -- but I think our step would be to raise it with them and with both courts and to seek guidance as to how we should proceed. But to do all that at the Court's direction and on a schedule so ordered by Your Honor or by the Cayman judge.

THE COURT: All right. Let's hear from Mr. Barlow.

Mr. Barlow, it seems like, at least based on counsel's representation, that the sticking point here is a concern that ATP will sell assets, in their view, in violation of the Fund agreements in the near term and perhaps before October 31st. Seems like an easy thing to agree to give notice of.

What are your views?

ATTORNEY BARLOW: Your Honor, I appreciate your questioning of Ms. Selden and driving down the specifics on the schedule. I'm not sure where this new set of allegations relating to sale allegations is coming from. But I don't think there's a basis for it in the context of this particular situation.

It's surprising to me that sort of we're hearing this now because, candidly, that's not the focus of the affirmation. The focus of the

affirmation that was submitted in the Cayman court is relitigating a whole bunch of issues of which I am much more familiar because they're coming from this litigation.

But to go directly to Your Honor's question, I don't think there would be any concerns with providing notice. I'm not sure we have an obligation to do that under the agreement, but it would seem that we could provide an exchange of something like seven days' notice to them. But that they could at least provide sort of seven days' notice to us instead of going forward in the Cayman proceeding.

The other issue, Your Honor, is they've said that they want to now present this on October 31st. I appreciate that concession by my adversary.

I do note that with the rescheduled trial now in mid-October, it creates -- let me put it this way. I'm always reticent to propose scheduling issues that will put even more burden on the Court to potentially resolve issues quickly. And I'm a little worried that the appointment of provisional liquidators being potentially litigated on

October 31st based on several of the issues here, that we'll be in the middle of post-trial briefing, creates essentially the exact same situation we're in today, delays it until we're in post-trial briefing instead of where we are today.

So we can address that with Ms. Selden and talk about it. But at this point, I'm not sure that we would be willing to consent to having the matter heard at the case scheduling conference on October 31st. We think the issues that are before this Court should be litigated in this Court.

As much as we might like it, a very, very quick resolution on this matter, I'm a bit too humble to demand that it necessarily happen by October 31st so that this matter can be fully adjudicated and resolved before a Cayman Court essentially hears a truncated version of it on a different petition.

THE COURT: So I understand your concern, Mr. Barlow.

Here's what I'm thinking. Based on the representation from defense counsel that they do not intend to present their motion to the Cayman court before October 31st -- and I recognize that

representation was heavily caveated. I am not going to resolve the *status quo* motion today.

I am going to let you-all attempt to negotiate whether agreement to provide notice concerning a sale of the assets and a decision to run in to the Cayman court can let us wait to hold argument on the motion for a *status quo* at trial if necessary. Perhaps the negotiations will lead a truce then exceeding those narrow topics.

But I think, based on what I'm hearing today, we can take a breath and get to the next phase of this litigation. Again, defense counsel' representation was heavily caveated. That concerns me. And I think defense counsel would be wise to cool down and meaningfully negotiate with the other side before rushing in to the Cayman court. Because I am, at this point, suspicious of the strategy and concerned.

So are there any --

ATTORNEY SELDEN: Your Honor, it's Shannon Selden at Debevoise. And I just wanted to, first, thank Your Honor, and also say that while Mr. Barlow was speaking, I would like to revisit some of the caveats to my representation. And I have

checked and want to be clear with the Court that we will not go *ex parte* to or seek relief in the Cayman court prior to the 31st.

So I do -- it is very important to me to give Your Honor that assurance, and I want to give you that assurance. I would say there was a September 12th notice of a sale of the company which had caused my clients concern after our post-trial conference and before this was filed.

But I hear you loud and clear. And I appreciate the time to talk to our opposing counsel and see if we can work out a schedule in the Caymans. And we will not, in the interim, go in to the Cayman court.

THE COURT: All right. So --

ATTORNEY BERDON: Your Honor?

THE COURT: Go ahead.

ATTORNEY BERDON: I apologize. This is Andrew Berdon. And I would not say anything at this point normally, but the allegation that there has been notice of a sale of a company is simply not true.

The only thing that has gone on with respect to the idea of an asset sale was an unsolicited approach over the summer for one of the

portfolio companies where a conversation or two were had and then the offer was rejected and nothing more came of it.

What happened was some grey press in Europe published a story saying that there were ongoing negotiations. The LPs reached out to us. We confirmed that there were no ongoing negotiations, that there had been an approach. And we sent them copies of the approach letter, which they then mischaracterized as our engaging in negotiations for the sale of assets without giving them notice.

So, Your Honor, there is no danger of our trying to slip one by this Court, the Cayman court, or the LPs. And the allegation that we did something untoward with respect to anything over the summer is just not true.

THE COURT: Excellent. So I am not resolving the motion for a *status quo* order today. I've reviewed Mr. Rohrbacher's letter asking for an opportunity to submit a full response to the motion. Go for it.

I'm not resolving it today based on the representations concerning the no-earlier-than-October-31st hearing in the Caymans.

I'm also comforted by Mr. Berdon's representation. And I think that's the most we can accomplish today.

Are there any questions?

ATTORNEY SELDEN: No, Your Honor.

ATTORNEY BARLOW: Not on behalf of plaintiff, Your Honor.

THE COURT: All right. Thank you. We are adjourned.

(Proceedings concluded at 2:07 p.m.)

- - -

CERTIFICATE

I, KAREN L. SIEDLECKI, Official Court Reporter for the Court of Chancery of the State of Delaware, Registered Diplomate Reporter, and Certified Realtime Reporter, do hereby certify that the foregoing pages numbered 3 through 32 contain a true and correct transcription of the proceedings as stenographically reported by me at the hearing in the above cause before the Chancellor of the State of Delaware, on the date therein indicated, except for the rulings at pages 28-29 and 31-32, which were revised by the Chancellor.

IN WITNESS WHEREOF I have hereunto set my hand at Wilmington this 20th day of September, 2025.

/s/Karen L. Siedlecki

Karen L. Siedlecki
Official Court Reporter
Registered Diplomate Reporter
Certified Realtime Reporter

Exhibit G

Chancery Court October 16, 2025 Transcript

Confidential - Filed Under Seal

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ATP III GP, LTD., in its capacity as General Partner of ATP Life Science Ventures, L.P.,

Plaintiff,

v

RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP,

Defendants.

: C. A. No. 2025-0607-KSJM

- - -

Chancery Courtroom 12B
Leonard L. Williams Justice Center
500 North King Street
Wilmington, Delaware
Thursday, October 16, 2025
9:15 a.m.

- - -

BEFORE: HON. KATHALEEN St.J. McCORMICK, Chancellor

- - -

UNREDACTED TRIAL TRANSCRIPT - VOLUME I

APPEARANCES:

MICHAEL A. BARLOW, ESQ.
SHANNON M. DOUGHTY, ESQ.
Quinn Emanuel Urquhart & Sullivan, LLP
-and-
ANDREW M. BERDON, ESQ.
RACHEL E. EPSTEIN, ESQ.
KATHRYN D. BONACORSI, ESQ.
JONATHAN M. ACEVEDO, ESQ.
JENNY BRAUN, ESQ.
TAYLOR L. JONES, ESQ.
of the New York Bar
Quinn Emanuel Urquhart & Sullivan, LLP
-and-
JESSICA T. REESE, ESQ.
JOHN F. FERRARO, ESQ.
HANNAH E. DAWSON, ESQ.
of the Massachusetts Bar
Quinn Emanuel Urquhart & Sullivan, LLP
-and-
GARRETT B. MORITZ, ESQ.
ROGER S. STRONACH, ESQ.
A. GAGE WHIRLEY, ESQ.
Ross Aronstam & Moritz LLP
for Plaintiff

Appearances Cont'd ...

APPEARANCES CONT'D:

BLAKE K. ROHRBACHER, ESQ.
DANIEL E. KAPROW, ESQ.
CHRISTINE J. CHEN, ESQ.
ZACHARY R. GREER, ESQ.
BENJAMIN O. ALLEN, ESQ.
Richards, Layton & Finger, PA
-and-
SHANNON ROSE SELDEN, ESQ.
WILLIAM H. TAFT V, ESQ.
NATASCHA BORN, ESQ.
CARL MICARELLI, ESQ.
SEBASTIAN DUTZ, ESQ.
ANDREW VAN DUYN, ESQ.
ZACHARY H. SALTZMAN, ESQ.
SARAH WOLF, ESQ.
LUCY SUNDELSON, ESQ.
NATHANIEL QUIGLEY, ESQ.
ADRIANNA FINGER, ESQ.
of the New York Bar
Debevoise & Plimpton LLP
for Defendants

ALSO PRESENT:

STEVE LAGUTIN, Russian Interpreter

- - -

THE COURT: Good morning.

ATTORNEY BARLOW: Your Honor, good morning. Mike Barlow on behalf of plaintiff, ATP III GP. I rise for a brief set of introductions. I'd like to introduce just a few people right now. We'll have a larger cast of characters throughout the day.

THE COURT: It seems like we have a large cast of characters today.

ATTORNEY BARLOW: To keep it all straight, we'll start with Mr. Andrew Berdon, Rachel Epstein. And of course the Court knows Garrett Moritz.

ATTORNEY MORITZ: Good morning, Your Honor.

ATTORNEY BARLOW: Point of order, would you like us to break at 10:45 today under the typical schedule?

THE COURT: Yes. So I owe you time over the course of the next couple of days. And I was going to propose that we go 15 minutes late today -- if our court reporters allow it -- and start 15 minutes early tomorrow. And that will give us some flexibility at the end of the day.

As you may be aware, I had a

preexisting commitment beginning at noon tomorrow, and I'll have to break at noon tomorrow. But I think we can make the time up easy enough.

ATTORNEY BARLOW: Thank you, Your Honor.

THE COURT: Thank you.

ATTORNEY ROHRBACHER: Good morning, Your Honor. Blake Rohrbacher, Richards Layton & Finger, for the Rigmora defendants. I'll start with introductions at the counsel table. Shannon Selden from Debevoise & Plimpton, Zach Saltzman, Lucy Sundelson. Back table as well, William Taft, Natascha Born, Sarah Wolf from Debevoise & Plimpton. And, Your Honor, Leslie Trzonkowski and Daniel White from my office. Our corporate designee Alexey Yakovlev is here.

And one housekeeping matter. The interpreter, Steve Lagutin, is here. We don't anticipate needing his services for the morning session, but we will need to figure out where he sits because we will need a microphone for him.

So that can be an after-lunch problem, but I wanted to raise it, and we can sort that out.

THE COURT: Thank you for raising it.

We'll figure it out between now and then.

ATTORNEY ROHRBACHER: Thank you.

THE COURT: Are there any housekeeping matters we should attend to?

ATTORNEY BERDON: Thank you, Your Honor. Andrew Berdon for ATP III GP, Limited, as general partner of ATP Life Science Ventures.

Your Honor, there's a pending motion to maintain the status quo. We served our opening brief September 19th, I believe. And the defendants served an opposition on October 3. In the interim, we've tried to reach an agreement, both as to the language of an interim order here, as well as to obviate the need for a motion for PLs in the Cayman Islands.

Yesterday afternoon, our proposal to appoint a special manager to oversee and work with ATP in the interim period was rejected. And so we would propose to put in our reply brief perhaps Sunday evening. So we'll have that fully briefed, and we can deal with any need for an argument for that next week.

THE COURT: Any objection?

ATTORNEY SELDEN: No, Your Honor. Sunday evening works for the reply for us.

THE COURT: All right. That's the plan. Thank you.

Shall we call our first witness?

ATTORNEY BERDON: Yes, Your Honor. The plaintiffs call Dr. Seth Harrison.

SETH HARRISON, having first beenduly affirmed, was examined and testified as follows:

ATTORNEY BERDON: May it please the Court.

THE COURT: Yes.

DIRECT EXAMINATION

BY ATTORNEY BERDON:

Q. Good morning. Would you please introduce yourself to the Court.

A. My name is Seth Harrison. I'm managing general partner of Apple Tree Partners.

Q. And what is Apple Tree Partners?

A. Apple Tree Partners is a life sciences venture capital firm.

Q. And where is ATP based?

A. In New York, Boston, and the Bay Area.

Q. Can you briefly describe your educational background for the Court.

A. Yes. I went to Princeton, then

Columbia medical school. I did a year of surgery at the Presbyterian Hospital in New York City. And then I have an MBA from the Columbia Graduate School of Business.

Q. What was your work experience after you left medicine?

A. Business school.

Q. Your work experience after business school.

A. Yes. I started work immediately in a venture fund. I did a brief internship at Merck, learned that I preferred startups and founding companies. And I went to a larger venture fund as a venture partner, founded companies, they were successful. I became a general partner at Oak Investment Partners.

Into the late '90s I decided to do nothing but internet. I spun out my life sciences portfolio in 1999 in the first synthetic secondary with institutional backers to form Apple Tree Partners I.

Q. Who were your first institutional backers for Apple Tree Partners I?

A. Landmark Partners, Goldman Sachs,

Liechtenstein Global Trust, VenCap, an insurance company. I forget all of them.

Q. And what is your role at ATP?

A. I'm a managing partner.

Q. Did there come a time in your time at ATP where you were introduced to Dr. Dmitry Rybolovlev?

A. Yes.

Q. What were the circumstances of that?

A. It was 2010, in the late summer, and a major biotech analyst on Wall Street, I think he worked for Merrill Lynch at the time. He sent an email saying one of the oligarchs would like to learn about biotech, would you be interested?

Q. Did you and Dr. Rybolovlev reach an agreement where you would manage money for him?

A. Yes. We met first in October of that year, and then we had multiple meetings afterwards, long meetings. And, yes, we did come to such an agreement.

Q. And what was the first amount that you were asked to manage for Dr. Rybolovlev?

A. 100 million, U.S.

Q. And did that amount of capital get

increased at some point?

A. Yes. Originally he was interested in my managing a billion and a half dollars for him. I preferred to walk before we ran, and suggested the 100 million. And after about eight or nine months, we met again, and I suggested -- we agreed that we roll the 100 million into a larger facility. The 100 million was in a fund called Apple Tree III, and the larger facility became Apple Tree Partners IV, L.P.

Q. And when you increased the amount of the investment to $1.5 billion, was there a change to the agreements between yourself and Dr. Rybolovlev?

A. Yes, there was a new LPA.

ATTORNEY BERDON: Marco, can you please pull up JX 0001.

Q. If you could turn in your binder, Doctor, or you can look at the screen.

Dr. Harrison, do you recognize what's been marked as JX 1?

A. Yes. That's the ATP IV LPA, the first page.

Q. And when this document was first executed, what was the form of Dr. Rybolovlev's

representation in the L.P.?

A. Form of his ...

Q. Withdrawn.

What were the names of the investors who contributed on behalf of Dr. Rybolovlev?

A. He had two BVI investors called Ezbon and Blue Horizon.

Q. And were they limited partners?

A. Yes.

Q. Were there other limited partners of the fund?

A. Yes.

Q. Who else was a limited partner of the fund at the time of its initiation?

A. Myself.

Q. And did you contribute capital to the fund?

A. Yes.

Q. How much?

A. 54 million.

Q. And are you still a limited partner of the fund?

A. Yes.

Q. And do you still own 100 percent of

that 54 million contribution?

A. No.

Q. Who does?

A. I gifted approximately 55 percent of that to a trust for my children called Les Pommes.

Q. Who negotiated the limited partnership agreement, the LPA, on behalf of ATP?

A. Myself and Dan Finkelman, who is now or general counsel, who was at the time in the fund's practice at Proskauer.

Q. And who negotiated on behalf of Dr. Rybolovlev?

A. Dmitry himself, and his CIO at the time, named Mikhail Sazonov.

Q. Generally speaking, how does the LPA work in terms of making investments?

A. We have a concept called budgets, which I suggested. The reason I suggested it is that I understood that if I were going to give someone a billion and a half dollars, I wouldn't want to give it as an entire lump sum. I'd want some control over it. And yet, my going-in fundamental concern was to be able to remain autonomous as an entrepreneur.

So I suggested to Dmitry that we

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create budgets for every project. And he could approve any budget he wanted, any project he wanted. But once a budget was approved to fund a project within that envelope of money, I would call like a GP.

Q. When you say "call like a GP," what does that mean?

A. Call capital discretionarily within a budget approved for a given project.

Q. And based on your understanding under the terms of the LPA, who controls the actual business of the fund and its investments?

A. The general partner.

ATTORNEY BERDON: Marco, can we pull up Section 2(b). Thank you.

Q. Dr. Harrison, do you recognize the portion of the LPA that's in front of you?

A. Yes.

Q. And is this the section of the LPA that you understand to vest control of the business of the fund with the GP?

A. Yes.

Q. So, Dr. Harrison, can you just explain the process by which budgets are presented and perhaps approved.

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A. Yes. Typically, I and my team would develop an interest or an idea for a new project that would generally take the form of a new company eventually. We would vet it internally. After a certain point, it would come to a level where we were interested enough so that I would bring it up in a Zoom call or an in-person meeting -- which, there were many with Dmitry -- and we would discuss it briefly and give him a heads-up that in some two to three months' time, at our next meeting, we would talk about it in depth seeking his approval.

Q. We'll come back to the actual execution of particular budgets later.

But who participated in the substantive discussions with Dr. Rybolovlev about the founding of the companies that we're here to speak about today?

A. It was myself, Dmitry, his then-CIO. The CIOs changed over the years. Initially it was Mikhail Sazonov, then it was Anna Batarina, then it was Anna Kolonchina. Typically that was it. On rare occasions we would have members from the ATP management team there. But I believe it was not typically to discuss budget proposals.

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Q. Does the LPA have a set of provisions that you understand control when capital can be called?

A. Yes.

Q. And do you have a general recollection of what part of the LPA governs the ability to call capital?

A. Section 5, is it?

Q. Do you know, was Section 5 amended during the course of the parties' dealings together?

A. I believe so.

Q. And would you understand -- do you recall which amendment has the changes that currently govern?

A. Is it 3?

Q. Let's take a look.

ATTORNEY BERDON: Can we pull up JX 4, please. And, Marco, can we take a look at the full first page, please.

Q. Dr. Harrison, taking a look at the first page of Amendment 3, does that refresh your recollection as to whether --

A. Yes.

Q. -- it amended Section 5?

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A. Yes, it does.

ATTORNEY BERDON: And let's turn to the next page, Marco. And can we blow up -- yes.

Q. Dr. Harrison, is, to the best of your understanding, paragraph 5(a)(ii), as set forth in Amendment 3, the most recent iteration of Section 5?

A. Yes, with the exception that certain entities have -- are no longer in existence that are referred to in the paragraph.

Q. Okay. So let's just briefly talk about that.

What's the name of that entity that is out?

A. ATC, which stands for -- or stood for Apple Tree Consolidated.

Q. At the time of Amendment 3, what was the function of ATC supposed to be?

A. The function of ATC had been to be the holding company through which the fund made all project investments. Because Dmitry's original goal, and a goal that remained intact until our most recent meetings, was to build a family-owned pharma company using a venture capital frame or apparatus.

Q. So were references to ATC subsequently

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removed from the contract by amendment?
A. Yes, I believe so.
Q. Was ATC ever formed?
A. No, it wasn't.
Q. Was there ever a board comprised of representatives of Rigmora and representatives of ATP that controlled the budgeting process?
A. There was a board called for, but it was never constituted and never met.
Q. And so can you explain to me how, in practice, capital got called by ATP.
A. Well, there would be an approved budget, and then we would send a capital call and the capital call would be paid. There was a certain formalization in how the capital calls were written and laid out. But that was generally how it worked.
Q. And, categorically, what types of subject matter could be the subject of a call that would require financing?
A. There would be calls for approved budgets, projects that were approved in budgets. There would be calls for management fees. And there were two management companies -- or are two management companies, Apple Tree Venture Management and Apple

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Tree Life Sciences, Inc. There were calls for fund costs, all laid out in the LPA. And there were calls for incubation expenses. And there may have been one or two other categories.
Q. But those are generally set forth in Section 5, as amended?
A. Yes, they are.
Q. Were provisions built in to the LPA to deal with the situation where a limited partner defaulted on a capital call?
A. Yes.
Q. And, generally speaking, do you know where those were dealt with in the agreement?
A. I don't recall the exact paragraph, no. I'm sorry.
Q. You think it was in Section 5, though?
A. Yes.
ATTORNEY BERDON: Marco, can we pull up section -- well, JX 1 at 23, please.
Q. Dr. Harrison, I'm showing you on the screen here Section 5(c) of the LPA.
Do you recognize it?
A. I do, yes.
Q. And is this at least a portion of the

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section of the LPA that deals with defaults on contributions?
A. Yes.
ATTORNEY BERDON: Marco, can we go down to (iv), please.
Q. Dr. Harrison, what are the GP's rights, to the best of your understanding, in the event of a default on a capital call by an LP?
A. Well, they are listed here. The GP might impose a default charge. The GP might help the defaulting partner in selling its interest to potentially a substitute limited partner. The GP might accept a late contribution at his discretion. And the GP has essentially the right to sue.
Q. And did you and Dr. Rybolovlev specifically discuss and negotiate the default provisions that we're talking about?
A. Yes.
Q. And, in particular, do you recall which parts of the default provisions you talked about with him?
A. The entirety of the default provision.
Q. Including the ability of the general partner to impose a default charge?

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A. Yes, absolutely. I would say that would have been -- that was his focus, and we discussed that explicitly.
Q. And did you have a position that you expressed to Dr. Rybolovlev about the importance of that provision to you?
A. Yes.
Q. And why was the ability of the general partner to have certain enumerated rights in the event of a default important to you?
A. I explained to Dmitry that we were about to embark upon a fund that would be funded essentially for the most part by a single LP, single-point financing. And this introduced a structural risk that I appreciated but that, more importantly, any counterparty that the fund would ever deal with would appreciate -- every founder, every CEO, every hire at the fund, any counterparty.
And that we just couldn't do business. It would be highly unlikely that we would be able to even start business unless we had such a remedy -- which, of course, we would hope we would never use, but needed to be structurally in place. And, in fact, was typical for every venture fund that I've ever been

associated with or that I know of.

Q. Was there a limitation imposed on the size of the default charge that could be imposed?

A. Well, it has to be discretionary and it has to be proportionate to the default. But I think the limit is 50 percent.

Q. In addition to Amendment 3, has the LPA been amended by the parties?

A. Yes.

Q. Including Amendment 3, how many times?

A. 22.

Q. During the course of the negotiation and execution of those 22 amendments, were the default provisions of the agreement ever changed?

A. No.

Q. In addition to the rights enumerated in Section 5, is there another effect if a default is -- if a partner is found to be a defaulting partner under the agreement?

ATTORNEY SELDEN: Objection, Your Honor. It calls for a legal conclusion.

THE COURT: You can testify to your understanding of this agreement that you negotiated, if you have one.

THE WITNESS: Thank you.

ATTORNEY BERDON: I'll make my questions to that effect.

BY ATTORNEY BERDON:

Q. To the best of your understanding, Dr. Harrison, is there another effect if a limited partner is declared to be a defaulting partner?

A. Yes. The defaulting partner loses its votes to direct anything in the partnership per the LPA. And this was critical because the entire point of the partnership, the fund, is to fund its portfolio. And if there were a default, particularly from a single source, funding source, it would be imperative and an emergency that we find substitute capital.

So having full control to do so was what the entirety of the default provisions allowed and what we negotiated for.

Q. And is there a specific section of the agreement, to the best of your understanding, that deals with voting rights?

A. Yes, but I'm afraid I don't know the number.

Q. Let's see if we can refresh your

recollection.

ATTORNEY BERDON: Can we go to, Marco, JX 1 at 74, please.

Q. Taking a look at what's before you, Dr. Harrison, does it refresh your recollection?

A. Yes.

Q. And is this the provision that you are talking about that discusses voting rights?

A. Yes, it is.

Q. Taking a look at the last sentence -- and it's got two parts -- can you explain to the Court your understanding of what that means.

A. My understanding of what that means is that if a partner is declared a defaulting partner, they have no control over the fund.

Q. Dr. Harrison, at the time of the execution of the LPA, was there a subscription agreement also signed at that point?

A. Yes.

Q. And to the best of your recollection, what was the sum total of the subscriptions that were executed by Rigmora?

A. By -- approximately 1.425 billion.

ATTORNEY BERDON: I'd like to pull up

JX 212, please.

Q. Dr. Harrison, do you recognize what's been marked as JX 212?

A. Yes.

Q. And what is that?

A. It's a subscription agreement.

Q. And taking a look at the execution page of that agreement, which I believe appears at 19, can you explain to the Court what we're looking at here.

A. I don't see the execution date, I'm sorry. But it's a signature page from one of the two investors that Dmitry used to fund the fund that was called Blue Horizon Enterprise, or Blue Horizon for short. And it's signed by Mikhail Sazonov, who was the CIO of Dmitry's Family Office, and witnessed by Andrey Milkov, another member of the Family Office.

Q. In the amount as indicated there, that's Blue Horizon's share of the initial investment in ATP?

A. Yes.

Q. Was there a counterpart for Ezbon?

A. Yes.

ATTORNEY BERDON: Let's just take a

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look at JX 213, please.
Q. This appears to be the same subscription agreement; correct?
A. Yes.
Q. Let's take a look at the signature page, the limited partner signature page.
Does that reflect the amount of the subscription by Ezbon International?
A. Yes, it does.
Q. And your understanding is Ezbon International is affiliated with Dr. Rybolovlev's Family Office?
A. Ezbon and Blue Horizon were investors incorporated in the BVI investor entities that were funded by Scorpios Trust, as I understand it, which is a trust in Cyprus for Dmitry's daughters, as I understand it.
Q. So as between Blue Horizon and Ezbon, back at the time of the execution of this subscription agreement, what was the sum total? Was it 1 point --
A. 1.425 between Ezbon and Blue Horizon, 1.425 billion.
Q. And what was to become of the other 75 million out of the 1.5 billion that you described?

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A. That was my limited partnership interest funded by a loan from Dmitry -- or Ezbon, I believe.
Q. And did your participation, limited partnership participation, ever increase to the $75 million level?
A. No. It reduced to 54 million.
Q. And that was by agreement between yourself and Dr. Rybolovlev?
A. Essentially, yes.
Q. The documents in this case, Dr. Harrison, talk about the establishment and the presence of things called "pools."
Can you explain to the Court what a "pool" is in the context of ATP.
A. A pool is a subdivision of the fund which -- of a fund, but a fund that became Apple Tree Life Sciences Ventures, Inc. -- a master fund, if you will -- that contained different groupings of investment based upon vintage, dwell time, the teams that have put them together, the high watermarks of the different aggregated companies in each pool. They were essentially accounting devices.
Q. And why were pools necessary from the

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point of view of the limited partners of ATP?
ATTORNEY SELDEN: Objection. Calls for hearsay, I believe.
ATTORNEY BERDON: Okay.
Q. Did you participate in the discussions with the Family Office about the establishment of pools?
A. Yes.
Q. What did the Family Office and you -- withdrawn.
What did you believe the utility of the pool would be?
A. It was multipart. I just described the utility sort of from a technical perspective because we had old teams and a new team coming in that would found new deals. So we needed to segregate their deals in a pool out of fairness.
There was the fact that the new money for a new fund, essentially -- or a new commitment was coming from Dmitry in the amount of $1 billion on top of the billion and a half. And there were concerns from the Family Office about KYC issues and that the establishment of a new fund would be difficult.
So we all agreed that pools would be

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the correct way to go, the most efficient way, the simplest way.
Q. And the first time the pools were established, was there an amendment to the LPA that was signed between the parties?
A. Yes.
Q. Do you remember which amendment that was?
A. I think it was Amendment 13.
ATTORNEY BERDON: Marco, can we pull up JX 15, please.
Q. Dr. Harrison, do you recognize what's been marked as JX 15?
A. Amendment 13 to the LPA.
Q. And taking a look at Section (a) there, "Separate Pools," is this what you were discussing in terms of the first embodiment of pools?
A. Yes.
Q. Were those embodiments subsequently changed by amendment executed between the parties?
A. Yes.
Q. And were the names of pools changed?
A. Yes, the names of those pools were changed, and new pools were established.

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Q. You made reference just a minute ago to a transition to a new $1 billion commitment and a new team, I believe. Can you tell the Court how it came about that the Family Office made a new billion-dollar commitment to the fund.

A. Yes. We had had quite some success in our investment programs. Not everything was a success, but it was a very successful run. And Dmitry was very excited to invest in more companies of a particular type. And there were also some issues with the prior team that, despite their successes, they were much more focused on investing than they were on operating.

So the idea became to hire a top team of pharmaceutical, R&D entrepreneurs who were ready to jump into venture capital, use their networks and their formidable skills and backgrounds to found deals and actually manage them themselves. So that's what we did.

Q. Very briefly, can you just tell the Court when you speak about these experienced executives, who are you talking about?

A. We hired Paul Eisenberg, who was a chief medical officer of Amgen, one of the top

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regulatory professionals in the world. We hired Mike Ehlers, who was the head of R&D of Biogen and before that ran neuroscience at Pfizer. We hired Spiros Liras, who was a top medicinal chemist for 25 years at Pfizer and had been at Biogen for one year, didn't like it. We hired Paul Jardine, who is a top brain in medicinal chemistry, also at Pfizer for 25 years, I believe. And others.

Q. Did you discuss these hires with Dr. Rybolovlev?

A. Absolutely.

Q. And was the addition of this talent part of the process of deciding how the new billion-dollar commitment would be invested?

A. Yes. He followed it very closely. When we hired Mike Ehlers, he needed to be told immediately by a Signal call. It was something he was very enthusiastic about.

Q. How did you and the team vet new investments?

A. As I told you, in my experience, typically to find a good deal, you need to find somebody who has come out of a system where they're seeing everything related to that deal. So you hire a

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graduate student in immunology to find a great immunology deal. And we did that, and we had a great immunology deal with an exit called Syntimmune.

In the case of hiring these pharma executives, typically they know exactly the deals they want to do, and they have great relationships in academia, but their companies squelched them. So that theory proved out. When we interviewed people, there were a ton of really interesting ideas, great network, and obviously they knew how to manage projects.

So we just followed through on that thesis. And that was the basis on hiring the team, and that was the basis on bringing in the new crop of deals.

Q. And what was the general process that you then had to get those deals to be approved and budgets for those deals to be approved with Dr. Rybolovlev?

A. Well, first, we would talk about them internally. We would have meetings where we would basically beat each other up. We would kick the deals apart, put them back together. We would decide what we liked. I would, in the end, adjudicate what was a worthwhile investment. And then I would begin to talk

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about it with Dmitry. And we would agree, as I said earlier, to discuss that deal in depth at an in-person meeting in the near future. There were many in-person meetings, so that was easy enough to do.

Q. And, generally, was Dr. Rybolovlev's approval of sort of a go on a deal arrived at at one of those meetings?

A. Oh, yes, absolutely. From the very beginning he would agree to something, and it would happen. So although there was a formalization that came afterwards, I came to trust in his word, and that was how it worked.

So we would eventually present the deal -- or I would present the deal. We would talk about it at whatever length he wanted. We would talk about the amount of the initial commitment in the budget. He would nod yes, and then we would go and formalize the deal.

Q. And tell me what the formalization involved.

A. The formalization involved finishing the business plan, finishing the term sheets with the source of the starting technology or IP or founders, and then putting together an investment memorandum, a

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budget, something called a CFIUS memorandum in a budget request, and then sending all to the Family Office in an email of transmittal. And that was the formal process of getting a budget approved.

Q. Now, was the amount of the initial investment agreed to before the Family Office received the investment memo?

A. Yes, in the meeting with Dmitry. It was usually on the boat or in his apartment or somewhere, and it was agreed.

Q. Were specific milestones ever the subject of negotiation between yourself and Dr. Rybolovlev?

A. Never.

Q. Did you and Dr. Rybolovlev ever talk about there being conditions to your ability to pull down tranches of funding once a budget had been approved?

A. Only in two budgets did that ever occur in the entire history of our relationship.

Q. And what were the two times that that occurred?

A. There was something called the Braeburn RPA, royalty purchase agreement, which had

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specific milestones, and we all agreed to them. And the most recent and last budget approval before all this trouble, and that was for a company called Replicate. And that had one milestone that Dmitry and Yuri wanted to put in.

Q. Once the budget was approved and formalized, of what use internally at ATP were any milestones that had been discussed in the original investment memo?

A. Very little.

Q. And why is that?

A. Because managing research is an iterative process. You are conducting experiments and evaluating their results, and you are then taking the next step. And it's completely a contingent and pragmatic enterprise. And that's what a good research scientist or a good manager of research or a good VC does.

Q. Well, you talked about formalizing arrangements with the people who had the technology and founders. What type of agreements did you execute with those folks at the initiation of a new project?

A. There would be multiple agreements. But I think the most important would tend to be the

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Series A, because it usually was a Series A round, a Series A stock purchase agreement.

Q. And in any cases did those Series A stock purchase agreements contain milestones related to release of tranches of funding?

A. In some cases, yes.

Q. And in those cases, what was the utility of having tranches describing the funding associated with milestones?

A. To give the funds control.

Q. What do you mean by that?

A. Well, typically a milestone is developed between a founder or investing company and a venture capitalist based upon the best foreseeable business plan or research plan at the time that that round closes. And a round will typically run for two years, let's say, or three years.

And things change. And they always change. There are so many contingencies that come up in biotech: research, clinical, toxicity, formulation, regulatory certainly, manufacturing. They always come up. And the whole point is how you deal with them.

And those tend to perturb your initial milestone set. They always do. And VCs and boards

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are used to dealing with that and constantly modifying and modulating them. And very few people really adhere to a milestone set because the idea is to continue to build the company working with the teams.

So for us, knowing that, being of that world, of that practice, whenever we put in hard milestones, it was just to have a bit more control in case we should ever want to stop funding.

Q. In your experience, was a missed milestone in and of itself a reason to terminate funding under a Series A agreement?

A. No, as I said.

Q. Have you ever decided to shut down a company that was in the ATP portfolio?

A. Yes.

Q. Can you give us any examples?

A. There was a company called Adendra, there was a company called Kynos, there was a company called Rox. There was a company called Vytronus. There were multiple. It doesn't always work.

Q. How did you adjudicate whether or not to terminate funding of those companies?

A. It depended on the case. There could be a catastrophic failure in the clinic. There could

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be a safety signal. There could be just a bald execution problem that you saw and you realized this project should not be continued.

I believe that was the case in Adendra, because there was supposed to be a certain kind of antibody produced and it just simply wasn't produced and we said this isn't worth it.

There could be other problems. But you reach the ability -- in a long career you reach the ability to judge when to shut something down. You're not always right, but you try to get there and you turn things off.

Q. Are there any companies in the current ATP portfolio that you believe should be shut down?

A. No.

Q. And have you participated in conversations about the current status of research going on at each of the companies in the ATP portfolio?

A. Yes.

Q. And from time to time were there disagreements among your management team about the relative benefits of going forward with one company versus another?

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A. Yes, absolutely. That's a healthy management team. We are always discussing quite vigorously the pros and cons of any given deal at any time.

Q. Given the availability of funding, would you continue to pursue research for each and every one of the companies that are currently in the ATP portfolio?

A. Yes. In some cases in a more focused way, but yes.

Q. I'd like to direct your attention back to the subject of pools and the new contribution.

Was there an amendment executed between the parties that implemented that new billion-dollar commitment?

A. Yes.

ATTORNEY SELDEN: Objection. Calls for a legal conclusion.

THE COURT: You can answer the question, if you have an understanding of whether there was an agreement you executed for that purpose.

A. Amendment 17 to the LPA.

Q. Thank you.

ATTORNEY BERDON: Marco, can you bring

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up JX 89, please. And, Marco, can you just show the first page. Thank you.

Q. Taking a look at what's up on your screen as JX 89, do you recognize it, sir?

A. Yes. That's Amendment 17.

Q. And it was executed in September 2020?

A. Yes.

Q. At the time of the execution of Amendment 17, what, to your understanding, was its purpose?

A. Its purpose was to establish the contribution of a new billion dollars or an additional billion dollars to ATP IV LP.

ATTORNEY BERDON: And can we do the call-out, please, Marco, on -- thank you.

Q. Dr. Harrison, do you have an understanding as to whether this Section "20. Pools A, B and C" was something that you negotiated to effectuate that change?

A. Yes.

Q. Dr. Harrison, can you explain to the Court the different categories of what was stratified in Pools C, B, and A, as they appear in interest, in sequence here?

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A. Yeah. Well, we started to bring on this new team in 2018. So they were already doing deals. And so we desired to segregate the deals that they were doing in a new pool.

And it's all called differently now, so I think that was Pool C. Is that right? Right. So that was essentially for new deals formed by the new team. And that was going to be the focus of the billion dollars.

And then Pool B contained some deals that had already been done. And there was a mix between old team and new team in Pool B.

And then Pool A was essentially all the old deals in -- that took up much of the initial billion-and-a-half-dollar commitment.

Q. And were the names of those pools subsequently changed?

A. Yes.

Q. What are the pools called that have the new deals, as you referred to them?

A. It's a little complicated. The new deals are now in Pools V-1 and V-2, Roman numeral V, referring to ATP V, and Pools 1 and 2, V-1 and V-2.

Q. Is there something called Pool V-3?

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A. Yes.
Q. What's in Pool V-3?
A. It's older deals that had not quite made it across the finish line that we founded with the prior team and which we felt had potential but needed work. And we thought who better to do that work but this fantastic team of pharma R&D professionals that we just brought in. So we segregated those deals in a separate pool called Pool V-3.
Q. At the time of the execution of Amendment 17, was there also an amended subscription agreement signed?
A. I believe so.
ATTORNEY BERDON: Marco, can we go to JX 99, please.
Q. Dr. Harrison, do you recognize this agreement?
A. Yes. That's the subscription agreement to which you were just referring to.
Q. Is that for both of the Rigmora LPs or just one?
A. Just one.
Q. Was there one -- so this one says

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"Blue Horizon." Was there one also executed for Ezbon?
A. Yes.
ATTORNEY BERDON: Can we scroll down to the Ezbon.
Q. Take a look at JX 101.
Do you recognize that?
A. Yes.
Q. Is that the amended subscription agreement from 2020 for Ezbon?
A. Yes.
Q. Cumulatively, what was the amount of that new subscription?
A. $1 billion.
Q. After the execution of Amendment 17 and this amended subscription agreement, was there another significant contribution of capital agreed to between the parties?
ATTORNEY SELDEN: Objection. Calls for a legal conclusion.
THE COURT: Tease that out for me. How does this factual question call for a legal conclusion?
ATTORNEY SELDEN: I believe Mr. Berdon

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is calling for a legal conclusion as to whether there is, in fact, another contractual agreement for capital. If it is a factual question as to Dr. Harrison's understanding, I have no objection. But to the extent Mr. Berdon is seeking a legal conclusion as to whether there is an another contract governing the commitment of capital, I object to that.
THE COURT: I'm interested in this witness as a fact witness. And it's a fair question to ask, whether he thinks he entered into an agreement.
So why don't you ask the question.
ATTORNEY SELDEN: Thank you.
BY ATTORNEY BERDON:
Q. Dr. Harrison, did you and the Rigmora entities talk about there being a substantial increase in their investment after the execution of the billion dollars?
A. Yes.
Q. And did you consider at least part of that investment to be an agreement to contribute new capital?
A. Yes, absolutely.
Q. And did you believe that you were

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entering into an agreement that would be binding and increase the level of their subscription commitment in that agreement?
A. Yes.
Q. And what was that agreement called?
A. Amendment 20.
ATTORNEY BERDON: Can we please pull up JX 1061.
Q. Do you recognize what's been marked as JX 1061?
A. Yes. Amendment 20 to the LPA.
Q. When was that executed?
A. June of 2021.
Q. It says here that in numbered paragraph 21 -- it's labeled "Braeburn Inc." Can you tell the Court what Braeburn is.
A. Braeburn is a pharmaceutical company that we founded in 2012 that now -- and we founded it as a Phase 1 company and it now markets a drug for opioid addiction and should have a $300 million sales revenue year this year.
Q. And what was the purpose of creating a separate pool, Braeburn, at the time that Amendment 20 was put into place?

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A. To segregate the investment in Braeburn.

Q. Did that have an effect on high-water mark?

A. Yes. Braeburn was a very capital-intensive deal and it was considered fair to move it out of the other pools and give it its own pool. We changed economics, carry economics in favor of Dmitry in exchange for the lower high-water mark, and there were certain other features of Pool Braeburn that were put into the amendment.

Q. Did Amendment 20 also discuss the contribution of new capital?

A. Yes.

ATTORNEY BERDON: Can we go to, please, Section 22, Marco.

Q. Was there an agreement in connection with the establishment of Pool Braeburn that involved the contribution of -- or the valuing of capital that had already been contributed into the fund?

A. Well, to form the pool from ATP IV, or whichever Pool Braeburn had been in at that time, that there was a contribution to the new pool, which at that time of the formation of Pool Braeburn

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constituted its capital. And that was 204 million, approximately, which was the valuation of Braeburn at that time.

Q. Taking a look at page 6, additional paragraph 22.

Can you tell the Court what your understanding is of the role of ATP Pool V-3 in Amendment 20.

A. Yes. I referred to it before, the setting up of a pool, in which companies that had been founded by a prior team but hadn't quite made it, that would be managed by the members of our new team, the pharma R&D executives. And that was Pool V-3. And in this paragraph, the companies that we wanted them to work on and that we put in that pool are called out.

ATTORNEY BERDON: Can you go to page 7, Marco.

Q. Is there a discussion there of capital -- new capital commitments?

A. Yes.

Q. What was the new cash, if any, that was to be provided under paragraph 22(b) relating to Pool V-3?

A. There were already existing budgets in

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the amount of 71 million, you can see it in the paragraph, for these companies. And there was an agreement for committed capital of an additional 235 million, which you can also see in the paragraph. And the companies themselves were valued at approximately 190 million. And those were contributed to the new pool from the old pool. And the total of those three numbers was 500 million, which was the capitalization of Pool V-3.

Q. After the execution of Amendment 20, did ATP start to call capital on the amounts it had agreed to in Amendments 17 and 20?

A. Yes.

ATTORNEY BERDON: Taking a look at JX 230, please.

Q. Dr. Harrison, take a look at what's been marked as JX 230. What is it?

A. It's an email transmitting a capital call.

Q. Can you just introduce the Court essentially to who Anna Batarina is.

A. Anna Batarina is a partner in the fund. She started out as a member of Dmitry's Family Office. She was the CIO, as I understand it, for one

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year and then was put at ATP by Dmitry as a kind of liaison, and eventually we made her a partner and a part of the team.

Q. Did Anna Batarina have to talk to you before she was allowed to talk to Dr. Rybolovlev in the chain of command?

A. Oh, no.

Q. And why do you say that?

A. Anna had a fluid dialogue with Dmitry. They talked quite often. I mean, I don't know how often. But whenever we were together, Dmitry would call her, she would call Dmitry. It was a full communication. I actually talked with her and said I think, from a GP perspective, we should really discuss what information gets communicated because some information is just not mature. And she felt that all information needed to be communicated. So that's how it was done.

Q. Did it become the practice at ATP to keep track of the drawdowns against agreed capital contributions whenever capital was called?

A. Yes.

Q. And how was that tracked internally?

A. Oh, internally we had a CFO.

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Unfortunately, he resigned due to the defaults. But Bill would track these things meticulously, his finance team would. Of course we have audited financials, we have quarterly reports. So these were, of course, tracked.

Q. And did you provide updates to Rigmora about the accounting that you had on hand?

A. Yes.

Q. And how often were those updates provided?

A. With every single capital call.

ATTORNEY BERDON: Can we please pull up page 4 of JX 230.

Q. Dr. Harrison, do you recognize this form?

A. Yes, I do.

Q. And what is it?

A. It is the exhibit that you just referred to, which gives the Family Office a then-current statement of their funded and unfunded commitments across all the pools in the fund.

Q. And it shows commitments for ATP IV; yes?

A. Yes.

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Q. And can you explain to the Court, what was left in ATP IV as of June of 2021?

A. After Amendment 20, we created a Pool ATP IV, and that contained the residuals of the prior exited deals. There were milestones that would pay out and that sort of thing from companies that had been sold.

Q. And at that point, what was the intention for Pools V-1 and V-2? Were those for the new deals?

A. Yes.

Q. And you talked about Pool V-3 previously. Cumulatively, what was the capital commitment that you communicated to Rigmora in June of 2021?

A. In this capital call -- the total unfunded commitment as of this capital call after the call was about 1.5 billion.

Q. Do you know if Anna Kolonchina, the recipient of JX 230, ever got in contact with Rigmora -- withdrawn.

Do you know if Anna Kolonchina on behalf of Rigmora ever got in touch with ATP to object to the accounting that was provided here?

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A. Not that I'm aware of.

Q. How many capital calls do you believe were made and paid in the three years between 2021 and 2024?

A. I think it's four years, but scores. I don't have a number.

Q. Somewhere close to a hundred?

A. I don't know. I'm sorry. I mean, we could check, certainly, but many, many, many.

Q. Any time during that period of time before October of 2024 that Rigmora indicated a disagreement with the running total that had been provided by ATP attached to one of its capital calls?

A. There was never a time.

Q. I'd like to direct your attention to the fall of 2022. Did you have conversations with Dr. Rybolovlev over the summer of 2022 about his views towards future investment and founding of new deals?

A. Yes.

Q. What were those conversations?

A. Well, they evolved. They started out with the same idea that we had had in forming the pools that would take the new capital commitment because we had this great team and they had many, many

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deals in their network. And no matter how we tried to beat them back, they kept coming up. And the team had some very many great deals to do. So there was a push/pull.

Dmitry was concerned about the Ukraine, concerned about liquidity on his behalf, but he really wanted the new team to be able to be capitalized to do deals. So we went from, I think, six new deals to three new deals to eventually late in the year -- and I know I get ahead of your question -- but just to complete the idea, only one new deal, and barely that.

And during that summer, he indicated that he had wished that he had not taken on the commitment to invest in new deals. And he told me that if he could default on a pool or on pools, it would be on V-1 and V-2. And there were several other features of the landscape at that time that were quite troubling.

Q. So let's go to the first time that you recall Dr. Rybolovlev saying that he regretted the investments in pools V-1 and V-2.

Was that in a face-to-face meeting?

A. Yes.

Q. Do you recall where that meeting took place?

A. I believe it was in Monaco.

Q. Can you place it in what month?

A. June or July.

Q. Did you end up writing a memo to Anna Kolonchina giving a chronology of events?

A. Yes. That was a memo at the end of November, because much had happened from the start of that summer through near the end of that year.

Q. Would reviewing that memo perhaps refresh your recollection as to the timing of meetings?

A. It might. I remember that there were -- there was a very long set of meetings with Dmitry in his apartment in New York in October, and we met multiple times. And much of this information came out in those meetings.

ATTORNEY BERDON: Marco, can we please pull up JX 969.

Q. Dr. Harrison, do you recognize what's been marked as 969?

A. Yes.

Q. And what is it?

A. It's an email from Anna Kolonchina to me dated December 12. And then it's responding to a long email that I sent her dated November 29.

ATTORNEY BERDON: Taking a look at the top bullets on page 3, please, Marco. I'm sorry, the bottom of page 2.

Q. Taking a look at those bullets -- and you don't have to read them out loud -- I'm just going to ask whether they help refresh your recollection as to the timing and location of meetings?

A. Yes.

Q. When do you believe the Monaco meeting took place?

A. I'm sorry. Yes, the -- so the meeting where Dmitry discussed with me the idea of reducing commitments both to new deals in V-1 and V-2 and calling less capital per unit time for approved budgets in V-1 and V-2, that took place in Monaco in late September .

Q. The word "austerity" is here in quotes. What do you recall about anyone's use of the word "austerity" in those meetings?

A. I recall that Anna Kolonchina used the word first, and it was the word she used to describe this idea of calling less capital per unit time.

Q. And at the follow-up set of meetings, do you recall Dr. Rybolovlev drawing a distinction between his view of funding pools V-1 and V-2 versus V-3?

A. Yes, those are the New York meetings in October. And he basically told me, as I interpreted it, that was contemplating a selective default on pools V-1 and V-2.

Q. And at that point were the companies in Pool V-3 companies that had products in active clinical development?

A. No.

Q. What was the basis -- did he explain to you why Pool V-3 was preferred to him over Pools V-1 and V-2?

ATTORNEY SELDEN: Objection. Calls for hearsay.

ATTORNEY BERDON: By a party opponent?

THE COURT: Overruled.

BY ATTORNEY BERDON:

Q. Did he tell you why he favored Pools V-1 and V-2 over V-3?

A. Though they were earlier deals, I believe he understood them better. We talked about them a lot. And they were ostensibly going to reach the clinic sooner than the deals in Pools V-1 and V-2. That's actually not what occurred. But that was the perception at the time.

Q. And at the time that Dr. Rybolovlev spoke to you about his desire to focus on Pool V-3 over deals in Pools V-1 and V-2, did he talk about the possibility of a default?

A. Yes.

Q. And did he express to you his view as to the consequences of a default if he defaulted not just on deals in Pools V-1 and V-2?

A. He told me that he believed there was a pool-by-pool default, not a global default. And then at one of the meetings when I -- I said that's -- I disagree. And then he asked me to agree in a subsequent meeting.

Q. Just to be clear, Dr. Rybolovlev asked you to reach an agreement that there were provisions -- that there would be provisions for pool-by-pool default; is that right?

A. Yes.

Q. Did you agree to make that change?

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A. On the spot I told him -- it was often on the spot. I told him I would consider it because I was very, very eager to cooperate and try to work with him. I respected him. He provided an enormous amount of capital and we were doing a lot of good together. But I went home and I thought about it and I realized I couldn't agree to it.

Q. Did you ever reach agreement to modify the LPA to approve a pool-by-pool default structure?

A. Absolutely not.

Q. Did you do anything in terms of the administration of the fund or the portfolio or capital calls in response to the information that you had been given about liquidity or cash flow issues with Rigmora?

A. Yes, absolutely. As I said, we were always trying to accommodate them and trying to work with them. I couldn't agree to a global default, but I could certainly agree to calling capital at a lower rate. And so we went back to the teams and the companies and said, look, can you make due with less? In this quarter, can we call this amount and not that amount? Can we reduce the scope of the projects that the companies are working on? Those sorts of things.

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And I would get pushback. And it would be, wow, yeah, but you know that means we're not going to reach the clinic.

And I would say it's okay if it takes another six months or even a year. It's better to have lower capital calls. It's what Dmitry needs.

And everyone would agree, and we would slow the companies down or drop some programs and call less capital.

Q. If you made those types of changes, would that have an impact on the company's ability to reach milestones that might have been described in the original investment memoranda?

A. Yes, in theory. But as I said, those milestones in an IM are rapidly obsoleted by the developments in the companies. But to the extent that there was one that was still being worked on, yes, absolutely. Any program that was being worked on when we slowed down the capital was going to get wherever it would go slower.

Q. And did you ever discuss with Dr. Rybolovlev the effect of reduction in the amount or pace of infusions of capital on the progress of these companies?

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A. Yes. We said we can do it, but it's going to slow things down. And we said okay.

Q. While you were administering this belt-tightening, were you concerned that Dr. Rybolovlev would actually default on his commitments?

A. No. I had faith in the pillar of the partnership, at least my opinion of it, which I told him at the very beginning, and I maintain, and that is that he would not default because of the global default, if necessary, as a deterrent. Also because I thought he was honorable and believed in the companies.

The problem was that I had -- once we started to slow down the flow of capital, I had many, many people coming to me, worried in the constant -- the refrain was, okay, I understand liquidity constraints and slowing things down, that's okay. But do you think that the Family Office will meet its obligations for the entire Series A? Should I worry about that?

And my answer was always no, absolutely not.

Q. Just to be clear, your answer to those

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folks was that ultimately you believed that the Series A funding would be there?

A. Yes, that the approved budgets would be met and the approved budgets matched the size of the Series A financings per company.

Q. In parallel with this, were you also doing some thinking about what would happen in the event of a default?

A. Yes.

Q. What did that look like generically, without disclosing the contents of any specific conversations?

A. When your largest LP tells you he's thinking about defaulting, honestly, you pick up the phone and call your lawyers and say, what does this mean? Can we look at the LPA? I need to understand this. I've never been in this situation before. And so we did.

Q. What would the consequences be of a funding default in Pools V-1 and V-2 to the folks associated with the portfolio companies, in your estimation at that time?

A. They would lose their jobs, they would lose the value of their equity. Projects wouldn't be

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funded that we committed to academic institutions. And extremely well-known scientific founders with many, many options as to where they could go, other venture funds -- and they had chosen us -- who had had long conversations with me about the existence of the global default, those commitments wouldn't be honored. Each company has employees, has contracts for various kinds of leases, funded research back to founder labs. All of it would cease, and indeed in the current default has.

Q. There's a bit of contention in this case that perhaps some of the portfolio companies were wasteful or inefficient with their spending of capital.

Are you aware of that?

A. Yes.

Q. And did you or your management team ever take a look at the relative efficiency of one of your portfolio companies versus a set of peers?

A. Yes.

Q. Do you remember which company you looked at in that case?

A. That happened to be Ascidian.

ATTORNEY BERDON: Can we take a look

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at JX 874, please, Marco. Let's start at page 1.

Q. So who is Dan Rosan?

A. He's the chief financial officer and chief business officer of Ascidian.

Q. And what was being sent to you and Ms. Batarina and Mr. Ehlers here?

A. It looks like a board pack from May of 2024.

Q. Turning to page 42 of that deck.

A. It also includes the Roche deal, definitive agreement.

Q. I'm sorry. Can you just tell the Court what you mean when you say "the Roche deal."

A. Ascidian did a big corporate partnership with Roche, and I believe it had just closed at that time.

Q. What type of financial relationship was put into place between Roche and Ascidian; do you recall?

A. It's a typical BV deal where Roche committed to develop three what are called targets, starting points, in the biology that Ascidian is exploring to create drugs. Those happened to be in the neurodegenerative disease space. For those three

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targets, they agreed to an upfront fee of nondilutive cash on signing of 15 million per target, so 45 million.

And then there typically are some R&D milestones, early milestones that the company covers the R&D that takes place at its labs for those targets. And then there are milestones that are paid in the course of the work on the project starting with as early as one year after the commencement of the work for research milestones all the way out to post sales, reaching a certain plateau in revenue. And there's a royalty.

Q. Taking a look at what is in front of you as page 42 of that board deck, is this the comparison of efficiency that you mentioned earlier?

A. Yes. I was actually surprised.

Q. And how do you interpret the information on this slide?

A. Well, this is a list of competitors in what's called the RNA editing space or DNA editing space. And I will not go into detail unless asked. But these are companies that were founded to do something close to what Ascidian does.

And you can see -- and it measures how

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much equity funding had been required until the company got its first project into the clinic.

And you can see that while some of them have greater pipelines and one has more than one clinical project, they have massively more equity financing than Ascidian. Ascidian took $78 million to get a very important product into the clinic for Stargardt's disease, which is the most common hereditary blindness, and it has a pipeline of seven programs. Not bad on 80 million.

You see what others have done for -- I don't know. The closest is three times more or something. No, that -- the closest that got into the clinic with one product was 361 million.

Q. Thank you, Dr. Harrison.

I'd like to just turn your attention back for a minute to Braeburn.

You mentioned that Braeburn is a pharmaceutical company that has a product on the market now. Has it been valued recently?

A. Yes.

Q. And what was the equity valuation at that time?

A. $2.2 billion.

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Q. And was there also a DCF valuation done at that time?
A. Yes. It was 2.9 billion.
Q. Why is there a difference between the equity value and the DCF value, to your understanding?
A. The delta is made up by a royalty that ATP owned entirely, which was valued at the time of distribution at about 700 million and has a total face value of around 900 million. And that was distributed into a pass-through entity that is owned by the two partners in Pool Braeburn, myself and Anna Batarina, and the Family Office.
Q. Putting the royalty agreement aside, was Braeburn on firm financial footing in 2021, 2022?
A. No.
Q. And did ATP enter into any financial arrangements to address that in addition to the royalty agreement?
A. No -- oh, I'm -- in 2021?
Q. No. 2022 or 2023.
A. Oh, yes, we did, yes.
Q. What arrangements did Braeburn enter into?
A. We worked with Braeburn to put in

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place a launch debt with Hercules Capital.
Q. Before putting the Hercules facility in place, who was going to be responsible for paying for the launch of Braeburn?
A. It would have been paid entirely out of the royalty purchase agreement, which was from capital provided by the Family Office.
Q. And did the Family Office have financial obligations to contribute capital for the purpose of funding the Braeburn launch?
A. Yes. The RPA required a budget commitment of $200 million, which they signed.
Q. Was there a rate of return that was agreed to in return for that $220 million commitment?
A. Yes. It was a 40 percent royalty but contingent on several things. It was capped at five times whatever amount would have been invested in the RPA, the royalty purchase agreement.
Q. Did Rigmora originally support the idea of the Hercules financing?
A. Yes, they asked us to do it.
Q. And did they stay constant in that support?
A. It was a bit schizophrenic. In -- so

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we set up this launch debt with two different debt providers, and there were KYC problems, and they withdrew their term sheets.
Fortunately, ATP had a relationship with Hercules through another portfolio company that was public. So we called Hercules and asked them if they would do a deal, and they did. They did a very good deal with us.
Right at that time, the Family Office called for the distribution of Braeburn under Amendment 20 of the LPA. It's a distribution provision that entitled the Family Office to call Braeburn out of Pool Braeburn but subject to several conditions. The conditions weren't met, but more importantly, Hercules put conditions on providing their launch debt, which was that Braeburn be controlled by ATP and also that the securities of Braeburn -- namely, the equity and the royalty purchase agreement, and there was also a convertible note -- be essentially subject to their lien to secure the note. So calling, distributing those securities would have resulted in obliterating that deal.
Q. So the Family Office and ATP reached agreement to move forward with the Hercules financing

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and put the distribution of Pool Braeburn aside at that point?
A. Yes, essentially.
Q. Did the issue of the distribution of Pool Braeburn come up again?
A. Yes.
Q. When was that?
A. July -- late July of 2024.
Q. And did that lead to a disagreement?
A. Yes.
Q. Did that disagreement become public?
A. Yes.
Q. How?
A. They sued us in Cayman.
Q. In connection with that lawsuit, did ATP assert any counterclaims?
A. No.
Q. Did ATP run into court here in Delaware to assert claims against Rigmora after being sued in Cayman?
A. No.
Q. What happened to that disagreement and lawsuit in Cayman?
A. I flew to Monaco and I suggested to

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Dmitry that the best thing would be to settle. We had a couple of days of meetings and we agreed to the basic outline of a settlement in order to continue to work together.

Q. And during the time between the commencement of that lawsuit and the ultimate agreement to settle it, what was going on in terms of funding Pools V-1 and V-2?

A. We were calling capital, and the Family Office was meeting the capital calls.

Q. Did the Family Office's position change with respect to any aspect of its obligations to meet capital calls?

A. Did their position change?

Q. Yes.

A. Yes.

Q. And what changed?

A. Bizarrely, in October of that year, we started to receive the capital calls with a disclaimer that the Family Office viewed them as voluntary.

Q. And did the Family Office at that time explain to you why they felt it was voluntary?

A. No.

Q. Not in any conversations between

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yourself and the folks at Rigmora did they explain it to you?

A. There weren't open, fulsome conversations at that time because, don't forget, we were in litigation and we were trying to settle it. So the conversations were constrained to initially the legal exchanges in the suit and then the settlement discussions.

ATTORNEY BERDON: Can we pull up JX 998, please.

Q. Dr. Harrison, looking at Exhibit 998, do you recognize it?

A. Yes.

Q. And what is it?

A. It's one of those disclaimer emails.

Q. And it's from Anna Kolonchina?

A. Yes.

Q. Now, she refers to an affidavit in that email.

Do you know what she is referring to there?

A. I believe it would be an affidavit that she would have made in their Cayman lawsuit.

Q. And did this language or language

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referring to it ever appear again in correspondence from Rigmora?

A. Yes. It became a feature of their correspondence related to incoming capital calls.

Q. And how did the Braeburn litigation resolve?

A. It resolved in a settlement, which took the form of Amendment 22 to the limited partnership that I believe was signed December 20, 2024.

Q. Thank you.

ATTORNEY BERDON: Your Honor, I think we're up close to the time you wanted to take a break.

THE COURT: We are. We can do that. Thank you.

Let's take 15 minutes.

(Court in recess at 10:45 a.m.)

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(Resumed at 11:00 a.m.)

THE COURT: Please be seated.

ATTORNEY BERDON: May it please the Court.

BY ATTORNEY BERDON:

Q. Dr. Harrison, just before the break we had talked about the execution of Amendment 22.

During the time that the Cayman litigation was pending, were there portfolio companies at ATP that were nearing the end of their Series A commitments?

A. Yes.

Q. Were there initial budgets?

A. Yes, their budgets at that time.

Q. And were there discussions between yourself and Dr. Rybolovlev about new budgets while the litigation was ongoing?

A. Yes, they were part of the settlement discussion.

Q. And were there -- can you explain to the Court the issues that you were facing in terms of certain companies coming to the end of their financing, initial financing commitments and initial budgets?

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A. Well, the issues were that the companies in question in most cases were projected to run out of cash by certain dates. In one case, there was a company, Ascidian in particular, that would get to the middle of that Stargardt disease trial and then run out of funding to conclude it in the proper way with what's called a pediatric cohort. And that required additional capitalization in the form of equity and a new budget commitment. This was not news. This was an ongoing discussion.

Q. And, as you said, those discussions became part of the settlement discussion; is that correct?

A. Yes.

Q. Did they become part of the settlement agreement?

A. Yes.

ATTORNEY BERDON: Can we please have JX 1068.

Q. Dr. Harrison, do you recognize what's been marked as Exhibit 1068?

A. Yes.

Q. What is it?

A. Amendment 22 to the LPA.

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Q. Do you recall there being a specific section that was called out to discuss about budgets?

A. Yes.

Q. Off the top of your head, do you recall what that was?

A. I happen to. It's paragraph 26.

ATTORNEY BERDON: Can we go to page 4, please, Marco.

Q. So I don't want to spend too much time on this, Dr. Harrison, but can you tell me an overview of what's discussed here in terms of the cash-out dates for these various companies.

A. They're four companies with projected cash-out dates: Aulos, which is developing a cancer drug in the middle of a clinical trial; Nereid and Nine Square, which are neurodegenerative disease companies that have very promising preclinical projects; and Replicate Bioscience, which is an RNA vaccine company with several promising projects and a clinical project.

Q. And is it fair to say that paragraph 26 here actually gives estimates of their cash-out dates as of the time it was executed?

A. Yes.

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Q. In your view, was it clear to the Family Office and Dr. Rybolovlev that these companies were running out of cash in the near term as of December 20 of 2024?

A. Yeah, it wasn't news. We had discussed the need for new budgets -- had been discussing the need for new budgets prior to the commencement of their suit, their lawsuit.

Q. And I note that there's a proviso here that talks about "twelve months" budgets, a period of 12 months after the remaining unfunded amounts.

What was the significance at that time of the "twelve months" language?

A. Well, when I went to Monaco and proposed to Dmitry that we settle, I told him that, look, we've come a long way, we've been working together since 2011, we've had some great successes. But we've yet to build the pharma company that you wanted to build. It turns out that in the portfolio right now, Dmitry, there are projects that, at least to my mind, represent the formative aspects of that company. And we could take those pieces and really figure out how best to organize them in such a company.

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And he said that's what he wanted to do. And that was the basis of the settlement.

But I said that it will take awhile to figure that out. That's a very complicated plan. We have the team, able to do it, but it will take some time. And I proposed that we put in place holding budgets so that the companies that were running out of money could continue for a 12-month period during which time we at ATP would work diligently on creating that plan and also work collaboratively with the Family Office and Dmitry.

Q. Turning your attention to the last sentence of paragraph 26. Can you tell the Court your understanding of the meaning of that last sentence.

A. That they would reasonably consider the new budgets and work diligently, and we would work with them, to create a loan facility that would be secured by the pass-through entity that had received the Braeburn royalty purchase agreement or the Braeburn royalty.

Q. And that was targeted to raise a certain amount of money?

A. About 300 million. He said he would use that 300 million to build pharma.

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Q. And what was your understanding at the time of the availability of that type of financing?
A. Very available.
Q. And why do you say that?
A. Because the original idea of doing a royalty financing based on the royalty came from us. About a year prior, understanding there were liquidity issues -- this is before the suit in Cayman -- I started to sort of approach my network, which includes financial groups that do nothing but finance royalties. You sell them a royalty that you own and they pay you back something less than the total cash flow that you project it will have.
And we had worked out a deal where this $900 million-phase royalty would generate approximately 700 million for the Family Office. And we brought it to them, and we sort of didn't hear about it for awhile. And then they came back and said, oh, we have a better deal, we're going to take it on ourselves.
And that disappeared. That was sometime in the early summer of '24. And then the lawsuit. So when we emerged from the lawsuit via the settlement agreement, I thought we were going to

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collaborate on the royalty financing, but they wanted to do it themselves. And after several months they failed.
Q. Do you believe that Rigmora was reasonable in trying to pursue that equity financing on their own?
A. I can't comment on that. I think it -- they certainly didn't use a resource that was right in front of them — us. We tried, but they wouldn't accept our help.
Q. Did Rigmora hire a financial advisor to try and help them?
A. Yes.
Q. And to the best of your understanding, does that financial advisor have a presence in the market for royalty finance?
A. I don't know that they particularly do or not. I think there's somewhat of a general shop based in the UK. I know that the group that we were working with does nothing but royalty deals.
Q. Have any of the companies listed in paragraph 26 been given additional financing by Rigmora?
A. Yes.

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Q. Which?
A. Replicate.
Q. At the time of the execution of Amendment 20, what was Replicate's target out-of-cash date?
A. At the time of the execution of Amendment 22?
Q. 22. Forgive me.
A. February of 2025.
Q. Do you recall the date on which Amendment 22 was executed?
A. December 20th of 2024.
Q. And did ATP submit new budget requests to the Family Office after the execution of amendment 22?
A. Yes.
Q. When?
A. December 24th.
ATTORNEY BERDON: I'd like to put up Exhibit 1079, please, Marco.
Can you scroll down do the bottom email, please.
Q. Dr. Harrison, except for the fact that this appears to have been taken from Rigmora's files,

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do you recognize the email that's highlighted in front of you?
A. Yes. It's my email of transmittal contained in the email to the -- the attachments were the budget requests.
Q. And in particular, did you have materials there for Replicate?
A. Yes.
ATTORNEY BERDON: Can we go to page 3, please, Marco.
Q. Do you recognize what's on the screen now?
A. Yes.
Q. What is it?
A. It's an investment memorandum we prepared for the $11 million funding extension for Replicate.
Q. Was it typical for ATP to prepare a whole new investment memo for an $11 million budget extension?
A. No.
Q. Why did you prepare it?
A. We were coming out of a lawsuit. We wanted to be really buttoned up. We wanted to make

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sure that we did absolutely everything we could to make certain that the budgets were going to be approved. And we actually thought it was unnecessary in a normal operating environment. But we weren't sure what that operating environment would be after the settlement agreement, so we had our teams prepare a lot of materials.

Q. And I'm not going to walk you through it today because it's pretty technical. But did you believe it was adequate for the purpose?

A. More than adequate.

Q. Did you hear back quickly from the Family Office in response to your request for the $11 million budget extension for Replicate?

A. Not really quickly.

Q. Well, do you recall any response?

A. Yes.

Q. And what do you recall?

A. Yuri Bogdanov, who had recently become the head of the Family Office, sent us a very curious diligence request email.

ATTORNEY BERDON: Can we pull up JX 1107, please.

Q. Dr. Harrison, do you recognize what's

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been marked as JX 1107?

A. Yes, I do.

Q. And taking a look at the email, what is it?

A. That's an email from me to Yuri saying that it's essential that we fund Replicate. We agreed to fund 12 budgets to the companies that we know are running out of cash, Replicate among them. Replicate is running out of cash on schedule, which would then be two weeks from the date of the email.

ATTORNEY BERDON: Can you scroll to the top. There you go.

Q. Do you recall receiving this response from Mr. Bogdanov?

A. Yes.

Q. And did Mr. Bogdanov have an attachment to this email that posed some questions?

A. Yes.

ATTORNEY BERDON: Can we get the next page, 3, please.

Q. Dr. Harrison, what's wrong with this set of questions?

A. It's bizarre. I mean, first of all, this is a company that we founded I think in 2021 and

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on which we'd reported extensively, were the sole owner, and we had many, many, many conversations about with Dmitry.

And typically when you know a deal and you're just funding specific programs that you know and you understand the technology and you understand management and everything, providing an additional relatively small amount of capital shouldn't require much diligence at all.

Questions are, of course, fair. And reasonable questions are more than fair. And we're not only prepared to answer any questions, but we had already talked about Replicate, and then in the investment memo addressed all of their issues involved in what the company was going to do at that time with that $11 million.

What we have here, if you look at the first bullet point, Yuri is asking for all the board minutes and board materials since inception. That's just not a reasonable diligence request. It has no meaning for what the company is going to do with $11 million aliquot going forward in a specific couple of projects. That's the kind of diligence request that might come in an M&A transaction at the very end

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of the transaction from a corporate buyer's legal department.

Then there's other features of this. The second one is also very strange. It's asking for a bring-down of all the company's spending, essentially, since inception, categorized by certain categories. I've actually never seen this before in any diligence effort in which I've ever been involved, either as the diligence doer or the diligence receiver, ever. So entirely make-work.

And then there were questions that were kind of unsettling because they referred back to the original Replicate investment memo. But not only were we clear that investment memo milestones don't travel with a development of the company, in Replicate's particular case we had pivoted away from the original investment memo milestones via an approved budget extension that the Family Office knew about and approved.

So Yuri here is asking about this pivot as if it's news. And that pivot was from cancer vaccines to infectious disease vaccines, which we did during COVID. And he's asking to justify the pivot and what does it mean about the company in a quite

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negative framing.

And it goes on in that way that made us realize that this was anything but reasonable consideration of a new budget. It was, in fact, a kind of blockade.

Q. And just so the Court understands, when you talk about a "pivot," can you briefly talk about the significance of a pivot from a technology point of view and from the perspective of a venture capital manager.

A. Well, these projects are like organisms. You're always measuring them and figuring out what they're doing and then adapting your plan to what they produce in experimental results. You're also factoring what's going on in the environment, in the world, and you're understanding what you can do with a capital that you have in your budget or your Series A round or committed capital from another source.

In the case of Replicate, the RNA technology that it has really does have the potential to create a certain kind of cancer vaccine that would be great. The problem with that is that it would take three years to read out in a clinical trial. And we

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already knew that it was problematic, from that perspective, when we founded the company.

And then when we were facing syndication issues, not related to companies, and COVID happened, we were intrigued by the idea of doing a different kind of a project in infectious disease that would read out, achieve its clinical proof of concept sooner. And that turned out to be a rabies vaccine. And so -- and that required moving from a $40 million Series A budget approval to a $53 million Series A budget approval, i.e., a $13 million extension.

And we talked about that with the Family Office and sent in that budget extension request with no IM, with no fanfare at all. They approved it, and we got on to doing the business of the pivot. The rabies vaccine, by the way, succeeded very well.

Q. Did the Family Office end up approving an extension of the budget for Replicate in early 2025?

A. Yes.

Q. How much did you ask for?

A. 11 million.

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Q. And how much did they end up approving?

A. 18 million in two $9 million pieces.

Q. Was there any other condition that the Family Office placed on its willingness to fund those amounts?

A. Inside the budget, no, there was -- we agreed there would be -- this was the only budget aside from the Braeburn royalty purchase agreement, $200 million commitment, where there was a milestone inserted at the request of the Family Office. And that milestone request language is actually in the LPA. They can request and we reasonably do allow, but it only happened once. It was in this budget.

And the milestone was that Replicate conclude a Latin American deal with a pharma company in Latin America for the rabies vaccine.

Q. Do you recall receiving an email from Patrik Blöchlinger regarding the Replicate budget approval?

A. Yes, it was also quite strange. We sent the -- yes.

ATTORNEY BERDON: Can we pull up JX 1192, please.

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Q. Dr. Harrison, do you recognize what's been marked as JX 1192?

A. Yes.

Q. Does this refresh your recollection as to any other conditions to the payment that the Family Office made with respect to the two $9 million tranches?

A. Well, we agreed when we were sitting down in Monaco in January -- and actually brought Replicate's CEO over to present to Dmitry and Yuri -- that we would put in this $9 million milestone inside the budget. Indeed, the budget that we sent, which is attached, in which they signed only has that milestone. And there it is.

But in the email of transmittal, outside the budget, Patrik Blöchlinger, the general counsel of Rigmora, adds this condition, which was news to us. And we didn't regard it as legal because it's what they want post facto, and they signed the budget.

Q. Did the Family Office ever approve new budgets that had been requested for Ascidian?

A. No.

Q. Aulos?

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A. No.
Q. Nereid?
A. No.
Q. Nine Square?
A. No.
Q. So you testified a little earlier that the capital commitment at inception for Pools V-1 and V-2 was a billion dollars.
Do you recall that?
A. A billion dollars, yes.
Q. Was there any formal delineation between Pools V-1 and V-2 financially?
A. No.
Q. Do you know whether Rigmora has made contributions to those pools?
A. Yes.
ATTORNEY BERDON: I'd like to pull up PDX 1, please.
Q. Dr. Harrison, have you reviewed the source material that was used to compile the amounts set forth here?
A. Yes.
Q. Were they voluminous?
A. Yes.

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Q. Were you able to commit them to memory?
A. No.
Q. So based on what we have here in front of you, can you tell the Court what the columns for "Approved Budget" and "Amount Contributed" mean?
A. Yeah. On the far left you see the list of the portfolio companies in Pools V-1 and V-2. You see Replicate in the bottom. And then you see in the fourth column over the approved budget for each company, the total budget, if there were multiple budget approvals.
And then in the next column over you see the amount that has been paid in on each of the budgets. And then you see in the final column the amount that remains of each budget that has not been called or contributed.
Q. So as of May 30th, 2025, was there about $178 million in budgeted but as-yet-uncalled capital for Pools V-1 and V-2?
A. Yes.
ATTORNEY BERDON: Taking the -- scroll down, please.
Q. Dr. Harrison, does the chart at the bottom of this table contain information regarding Pool V-3?

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A. Yes.
Q. And for Ascidian and Marengo, can you explain to the Court what that information is.
A. It's the same sort of information. You have the companies that have approved budgets remaining in Pool V-3, that's Ascidian and Marengo; the total amount of budgets approved in the fourth column over for each company; the amount that's been paid in on each budget in the next column; and then the remaining amount to be called on each budget.
Q. And if one were to sum the amount remaining on Pool V-3 with the amount remaining in Pools V-1 and V-2, did that sum to about $218 million?
A. Yes.
Q. And are you pretty confident in that math from the position of the general partner, not to the dollar, but you're confident in that math?
A. Yes.
Q. Do you also keep track of remaining budgets across pools to govern the capital calling process?
A. Yes.

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ATTORNEY BERDON: Can we go to PDX 1 at page 3, please.
Q. Dr. Harrison, can you explain to the Court what this indicates in terms of budget remaining for each of those companies.
A. This is the total of the companies in Pools V-1, V-2, and V-3 listed. And the "Budget Remaining" column contains the budgets for each company that have been approved but not yet called.
Q. So putting that all together, we have about $214 million in budget remaining?
A. Yes. You said 218 before, but I think it sums to 214.
Q. I stand corrected. Thank you.
So did you have meetings in Monaco in March of 2025 to discuss the budget approval request for Aulos, Ascidian, and Marengo?
A. Yes.
Q. And what was the nature of those meetings?
A. We had had meetings in Monaco in January discussing why the budgets weren't approved, why there was no reasonable consideration of the budgets, Yuri's odd diligence request. Basically a

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relationship reset meeting.

At that meeting, we also called in Nathaniel Wang, the CEO of Replicate, to scramble from the west coast of the US to Monaco to present, which he did. That was a successful process. And we all agreed that the management from each of Ascidian, Marengo, and Aulos would come at our next face-to-face meeting, and we scheduled that for March.

Q. Were their presentation materials prepared for those meetings?

A. Yes.

Q. And was there a data room opened that Rigmora could access in advance of those meetings?

A. Yes.

Q. And what was the nature of the data room?

A. Well, a data room is something you typically open for a pharmaceutical company to do due diligence, to complete a deal on a new target or something. And it contains all the IP, all the experimental data, every conceivable corporate document that you could imagine, every technical document.

And then you can regulate who enters a

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data room, and you see who enters it, and it's a standard feature of getting a deal done in our space.

ATTORNEY BERDON: And just for completion, can we pull up JX 122 -- I'm sorry, 1222.

Q. Dr. Harrison, do you recognize Joint Exhibit 1222?

A. Yes.

Q. And what was it?

A. It was sending Yuri and Dmitry's assistant -- which was our way of communicating via email to Dmitry or with Dmitry -- the materials for those March meetings in advance of the meetings themselves.

Q. And were those presentation materials, in your view, highly detailed?

A. Oh, yes.

Q. Detailed enough for a reasonable person to make some decisions?

A. Yes. I would say detailed enough for an external due diligence, certainly a company with a data room. But if it's a company you own already and you know extremely well, where you've had multiple management meetings, this wasn't the first, this was a lot.

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Q. And in addition to these written materials in the data room, you testified that management actually appeared?

A. Yes. We flew them to Monaco.

Q. And did that group include just employees?

A. Well, it included the senior management from each of the companies. And at the time we were also doing a review of oncology projects in the portfolio. And to do that we hired a consultant named Bill Grossman, who had been the head of oncology at Novartis and then became the head of oncology at Gilead. I knew him. He's very smart, highly qualified.

And so he was looking at our portfolio. And we offered to bring Bill to Monaco, be it just to make sure that if Yuri and Dmitry had any questions, they could ask them.

Q. And were questions asked of Mr. Grossman?

A. Yes.

Q. And did he express --

A. Dr. Grossman.

Q. Dr. Grossman. Did he express views

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that could be perceived as critical of one or more of the companies?

A. Yes.

Q. What was that?

A. He was critical of the way that Aulos management had conducted the clinical trial.

Q. And did he say that those problems were irremediable?

A. No. Dmitry fastened on it and decided we needed to fire the chief medical officer. We thought that was a bit extreme, and we wanted to focus on what the actual problem was, which we did when we got back.

Q. After focusing on that problem, did you and your senior management at ATP eventually come to a path that you thought was appropriate to move forward with the funding of Aulos?

A. Yes. It was very interesting. We actually talked with -- it's a melanoma trial for treatment of melanoma that's failed everything else. And the company is doing extremely well. And the question is making sure that the criteria for recruiting the patients is correct. It was very interesting to talk to these melanoma experts and

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really tighten the criteria and work with management to make sure that those became the inclusion and exclusion criteria in their clinical trial.

Q. Did you discuss that progress with Dr. Rybolovlev?

A. I tried to.

Q. And what did he say to you about his views of your ability to manage that problem on a going-forward basis?

A. In the meeting where I tried to discuss it, it was a Zoom meeting, he brushed it off. Then in a subsequent meeting, he brought up Aulos and he said, I trust your judgment, you've made me a lot of money; I understand that you want to do Aulos and we should do Aulos.

Q. Coming out of those March meetings, were budgets approved for Aulos, Ascidian, or Marengo?

A. No.

Q. After waiting a period or working on this for a period, did you actually make a proposal to the Family Office on how the existing budgets might be reallocated?

A. Yes.

Q. What prompted that?

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A. It became clear to me by April -- we had submitted these budgets in December. The Replicate budget process was the only one that had gone through, and it was not normal. And there was no budgets that were being -- there were no budgets being approved.

It was clear to me -- also that the royalty financing that they were trying to do was not going to work out. They were proposing a very different structure that would involve encumbering Braeburn, the company, in a way that would not likely be acceptable.

So I looked at that and I just said, you know, I think the only capital that we're going to have, Dmitry, is the capital in the approved budgets. Why don't we just work within that and figure out how to move some of the clinical projects along to where they need to go so we'd have the definition of whether or not these should be the starting materials for the pharma company.

Q. And under that proposal, what would you be taking away from in order to direct that capital towards the clinical companies?

A. It was a reallocation of some of the

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budgets from the preclinical companies to the clinical companies.

Q. Did you end up reaching agreement with the Family Office on a reallocation proposal?

A. Ultimately no. I thought we had but we did not.

Q. And from your perspective, why not?

A. Well, this -- what happened was that we had a Zoom call with Yuri and Dmitry and Anna Batarina and myself, I think it was on May 9th at this point, where I was to present the reallocation proposal. And I sort of led off with a 10-minute introduction of what it would accomplish, and then I was prepared to share screen with a spreadsheet, showing it.

And Dmitry and Yuri said no, that won't be necessary. This is moving in the right direction. Now we meet with the lawyers.

I said, that's strange. Why would we be meeting with lawyers?

Oh, we should just meet with lawyers.

I said, but usually when we do a deal like this -- and there were many -- we form some sort of a term sheet that will then become an amendment to

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the fund or a side letter or some such thing. And we didn't need outside lawyers to do that. People might have that reviewed by outside lawyers, but it wasn't a necessary process.

Oh, no, no, this is very important; we need a lawyer call.

And we scheduled it for that Tuesday the 12th. I had sent several emails to Yuri and Dmitry in the interim, saying what is this lawyer call? Shouldn't we just try to do this in a normal way?

And we actually had Dan Finkelman, our GC, create basically a term sheet that would serve as the basis for what would become that reallocation amendment, or whatever you want to call it. So we wound up having this lawyer call, and I think that was sort of the beginning of the end.

Q. What about the lawyer call, from your perspective, got in the way of completion of a reallocation deal?

A. It was an ambush, literally. We got on the Zoom in good faith. We had one of our outside counsel, just to balance the fact that they were going to have outside counsel. But we didn't think anything

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-- we were more curious than anything else.

Dmitry, Yuri, Patrik Blöchlinger and Anna Batarina, myself, and Mark Gordon from Wachtell and four lawyers from Latham & Watkins -- who I had never seen before, and I don't even think we made introductions -- where they just lit into me, the lawyers from Latham, saying it's obvious that you think the preclinical companies are worthless, otherwise why would you have proposed this reallocation. If they're worthless, why don't you shut them down? All of these crazy mischaracterizations.

I was shocked. Mark Gordon tried to throttle this very aggressive partner from Latham, but it was still the same thing.

And I just put up a wall. I did not say that. Those were not my words, et cetera. And it didn't go very well.

Q. So from your perspective, what was the value of the preclinical companies at that point and why were you willing to allocate budget money away from them to the clinical companies?

A. We've had a very successful translational track record, meaning we start early and

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build through to clinical proof of concept. And looking at these projects that are the very projects that are created by this top-quality pharma team in the preclinical companies, they're just very strong projects, first stage. So what should happen is full budgets for the preclinical companies and full budgets for the clinical companies.

But pragmatically it was obvious that wasn't going to happen. So I did the next best thing, which is to say, look, at this stage, it would be better to advance the clinical projects, focus in on only selected preclinical projects, and bring them with a relatively small amount of money to the -- to the go/no-go decision to bring them into the clinic, which is where the real spend starts.

Q. Okay. After that lawyers call, did you end up getting some correspondence from Mr. Bogdanov?

A. Yes.

Q. And do you recall the date you received it?

A. May 15th.

ATTORNEY BERDON: Can we pull up JX 1336, please.

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Q. Do you recognize --

ATTORNEY BERDON: Sorry. Can you go to the bottom email of the chain, please.

Q. Do you recognize what's been highlighted in the bottom email on the chain?

A. I recognize the email. It's an email that Yuri sent instructing us to kill the early-stage companies. And if we killed the early-stage companies, then they might consider providing budgets for the clinical companies.

Q. Well, let's just briefly take a look at the first sentence of the full text paragraph there. "The SLPs see no way for a path to commercial success for these Early-Stage Companies ...."

What was your reaction when you read that?

A. It was certainly a problematic statement, and I disagreed with it.

Q. Why did you disagree with it?

A. First of all, it was problematic because we started these companies as preclinical entities and the idea that if by "commercial success" you meant sales, it's impossible and known that they're nowhere near sales.

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But commercial success for a company at this stage is a thing. It exists. You can do a corporate deal, which we have many in the portfolio. Ironically, one on this list and one that's not on this list, which have actually occurred subsequent to this email -- you can do an M&A of a company like this, and these happen. And there are many examples of early-stage companies getting bought for a fair amount of money. You can do an equity financing from the outside, which could eventually lead to a mezzanine round and an IPO for an early-stage company. And we've done those.

And in our case, if the idea is to build a pharma company with a pipeline, you could choose to fund some of these things yourself because there's value in each of these companies.

So I totally disagree.

Q. He also says that one of the reasons -- he says, "because: they have failed to meet [] milestones set out in the investment memoranda on which SLP's initial funding was premised ...."

SLP, what do you understand that to be?

A. Subject limited partner. It was a

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term that Rigmora, for some reason, liked to use in legal correspondence.

Q. Did you agree that the preclinical companies' path to commercial success was hampered by their failure to meet milestones set out in an initial investment memoranda?

A. No. On the contrary. The whole point of having a team like we have is to develop the companies from the start that's represented in the investment memoranda to wherever they need to go based upon what the research programs tell them.

Q. It also says here, "there is no third party interest to invest in these Early-Stage Companies ...."

Do you agree with that?

A. No. It's not true.

Q. What type of third-party interest were you aware of at that time with respect to these companies generally?

A. There were negotiations going on with big pharma companies to do corporate deals along the lines that I've discussed, one of which has closed -- two of which have closed actually. And there has been a lot of interest from the VC market in these deals

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but which has never eventuated in a financing due to the KY issues that we have faced, particularly post Ukraine.

Q. Two issues. Number one, which of the companies on this list has done a corporate deal that you're aware of?

A. Deep Apple did a corporate deal recently.

Q. And who was that with?

A. Novo.

Q. And when it was announced, was there a potential total value of that deal announced?

A. I think it was over $800 million.

Q. And going, then, to the point that you just made about KY issues. Can you be specific.

First of all, is that KYC?

A. Yes, know your client.

Q. Can you be specific about the nature of those KYC issues that have come up in discussions with potential equity investors?

A. Yes. It's plagued us and we've really tried to neutralize it in the market for years. After the Ukraine was attacked and the sanctions of Russian individuals became prevalent, we did a lot of work and

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worrying with Dmitry about whether or not he would be sanctioned. He wasn't. He was correct about that. He was sanctioned by the Ukraine, but no one took that seriously. He wasn't sanctioned in the U.S. and the EU.

This didn't stop the market, namely the equity markets in the U.S., from not investing with a fund that was controlled by Dmitry's entities. And every time that we -- and we had done a lot of analysis on Dmitry. I won't go into it, but we understood that he was not going to be sanctioned.

And we would try to explain this, and the compliance departments would just shut it down. And we had term sheets that were yanked. We had financings that looked like they were about to close that were -- blew up. We had many, many discussions across the market. And it was pretty clear that we were locked in due to this problem.

Q. Another question for you -- down further in the text here it says, "The SLP's position is therefore that further funding of those Early-Stage Companies will waste the ATP Fund's assets. We understand that you hold a similar view ...."

Was that true?

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A. Neither statement is true. And that was the problem in that lawyer call. They were putting words into my mouth. I didn't hold that view. I never held that view. I didn't express that view. It was their idea for me to swallow, which I wasn't having.

Q. After receiving what's been marked as -- forgive me -- JX 1336, what did you do?

A. Well, I wrote Yuri a reply saying I disagreed with everything, and here it is. And at that point, obviously, we were having serious conversations about what to do, given what was apparently a quite hostile position of the Family Office to the fund.

Q. Just for clarity's sake, you're referring to your email on JX 1336 at the top dated May 19th?

A. Well, what would you like -- I'm sorry?

Q. You talked about responding.

A. Yes, this is that email.

Q. You talked about the email that's on the top of Exhibit 1336?

A. Yes.

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Q. Did you issue capital calls for funding of certain clinical and preclinical companies on May 30th, 2025?
A. Yes.
Q. Why did you issue the May 30th capital calls?
A. Fund the companies.
Q. What companies in particular?
A. I don't have the full list in my mind. But it was time to fund the portfolio.
ATTORNEY BERDON: Taking a look at JX 1622.
Forgive me for just one second.
Can we go up to JX 1622, please, and let's go to page 10.
Q. Dr. Harrison, do you recall -- taking a look at this list that starts at 5/30 with Deep Apple. Can you describe for the Court the companies that you sought capital for by calling capital on May 30th?
A. The ones that are dated May 30th. So Deep Apple, Aethon, Evercrisp, Red Queen, Apertor, Initial, and Marlinspike.
Q. And Replicate, there's one indicated

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for June 1st. Was that related to the May 30th capital calls?
A. Yes. We had overcalled in error on May 30th, so we retracted that May 30th call and replaced it with a June 1st correct call.
ATTORNEY BERDON: And let's go to page 13, please.
Q. So, Dr. Harrison, does this chart represent how those capital calls compared to the remaining approved budgets as of the time?
A. Yes.
Q. How did you set the amount of capital to call for each of these companies?
A. We based it on the companies having six-month budgets from the presumptive date of the receipt of those calls.
Q. And what were you projecting could be accomplished within those six months at each of these companies? What was the goal?
A. In each case, following forward on their research plans.
Q. And on May 30th, did you also call capital for partnership expenses?
A. Yes.

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Q. And did you call capital for a fee that was chargeable on a semi-yearly basis for ATLS?
A. Yes.
Q. Interesting, did you call your own management fee on May 30th?
A. No.
Q. So for any of the money that you called on May 30th, was any of that to be directed into your pocket?
A. No.
Q. At the same time as you called capital on May 30th, did you also file this lawsuit?
A. Yes.
Q. And why did you file the lawsuit?
A. After the May 15th letter from Yuri, Anna Batarina contacted me and said she had spoken with Dmitry and Yuri and she wanted to tell me something.
I said, what's that?
And she said, if you call capital, it's treason, and they will sue you.
And I said, oh. And I knew that at that point, there was no possibility of a reproachment. No possibility of any kind of

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agreement.
Q. Did you believe that you had the right under the LPA to bring a lawsuit against an LP who had breached the LPA?
A. Yes, absolutely. It's in the LPA.
ATTORNEY BERDON: Can we please pull up JX 1 at 74, 75, Marco.
Q. Taking a look at what's next to (iv), here. Do you recognize this language, Dr. Harrison?
A. Yes.
Q. And what do you understand it to mean?
A. It gives me right to sue a partner who defaults.
Q. And taking a look at (iv) at the bottom, "To the fullest extent permitted by law ...." Can you just read that to the Court.
A. "To the fullest extent permitted by law, each Limited Partner hereby specifically agrees that, in the event such Limited Partner violates the terms of this Agreement, such Limited Partner shall not be entitled to claim that the Partnership or any of the other Partners are precluded, on the basis of any fiduciary or other duty arising in respect of such Limited Partner's status as such, from seeking any of

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the remedies permitted under this Agreement or applicable law."

Q. Did the LPs pay the capital calls that were served on May 30th?

A. No.

Q. And did ATP, to your understanding, issue notices saying that the LPs were in breach of their agreement to contribute capital in response to those calls?

A. Yes.

Q. And are you seeking a finding that the LPs are in breach of that agreement?

A. Yes.

Q. What's the current status of the preclinical companies, Dr. Harrison?

A. They are in desperate condition. We've had to do massive layoffs. We've had to move companies to -- out of facilities, heavy negotiations with landlords, sales of capital equipment, consolidations, reduction of research programs.

In one case we kept a program that bloomed from a platform technology, but we had to cede that technology back to the source institution. Very difficult relationships with founders. You know, a

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mess.

Q. If funding were to be made available to you, for example, by the end of the year, would you be able to reconstruct those companies?

A. Yes. We've managed to keep alive the critical projects that we thought were valuable, even at the beginning of the reallocation proposal, in the form of key employees in most of the companies that retained the knowledge. In some cases, there's tiny amounts of research that are ongoing. And so, yes, absolutely, they can be readily reconstituted. I don't know for how long, but yes.

ATTORNEY BERDON: I pass the witness.

ATTORNEY SELDEN: Good morning, Your Honor. Shannon Selden of Debevoise & Plimpton. We have some binders for the Court and the witness. May we approach the bench and hand out those binders?

THE WITNESS: May I ask a question? Are they also going to be on the screen, or do I use the binder?

ATTORNEY SELDEN: We will show them both on the screen. But you can use the binder, if that's more convenient for you.

THE WITNESS: Thank you.

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ATTORNEY SELDEN: Your Honor, am I correct in thinking that we'll take a break for lunch at 12:30?

THE COURT: Correct.

CROSS-EXAMINATION

BY ATTORNEY SELDEN:

Q. I was going to say good morning, Dr. Harrison, but I see it's afternoon.

Good afternoon, Dr. Harrison.

A. Good afternoon.

Q. Do you recall Mr. Berdon showed you a demonstrative with budgets and commitments broken down by pool?

A. Yes.

Q. Setting aside the math for a moment, that demonstrative was based on your understanding of the LPA and its references to pools, wasn't it?

A. It was based upon my understanding of the budget commitments that have been signed in, which we keep records of in that ATP.

Q. The demonstrative that you looked at with Mr. Berdon is based on your understanding of the LPA, its amendments, and the budget requests and commitments; is that correct?

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A. Yes.

Q. Dr. Harrison, you understood that there was a limit to the amount of capital that had been committed to the fund; correct?

A. Yes.

Q. You understood that the fund could not invest more capital than it had committed to it; correct?

A. Correct.

Q. As of May of 2023, you knew that Dr. Rybolovlev and the Family Office intended to cap their investment in the fund at $2.5 billion; correct?

A. Dmitry had informed me that that was his wish, but that is not reflected in the agreements that had been signed.

ATTORNEY SELDEN: Could you please play clip 96 from Day 3 of Dr. Harrison's deposition at page 243, lines 11 to 15.

(A video clip was played as follows:)

Question: Does that refresh your recollection that in May of 2023 Dr. Rybolovlev and the Family Office informed you that they intended to cap the investment at $2.5 billion?

Answer: Yes.

(End of video clip.)
BY ATTORNEY SELDEN:
Q. At that point in May of 2023, you didn't do anything to assess the amount by which the fund's commitments to invest in its portfolio companies exceeded $2.5 billion; correct?
A. I think when Dmitry informed me that he wished that it be capped at 2.5 billion as opposed to the 2.9 or so that it actually summed to, we were very interested in, as usual, creating accommodations. So we did go back and try to figure out, is there any way to shoehorn everything we're doing into something like 2 1/2 billion dollars? I think I remember that I couldn't possibly get it down to less than 2.7. We kept trying and trying. And we talked about that.
ATTORNEY SELDEN: Could you please play clip 70 from Day 3, page 244, line 22, to page 245, line 1.
(A video clip was played as follows:)
Question: Did you do anything to assess the amount by which the fund's commitments to invest in its portfolio companies exceeded $2.5 billion?
Answer: No. Not specifically, no.

(End of video clip.)
BY ATTORNEY SELDEN:
Q. Dr. Harrison, you don't recall calculating the difference in dollars between 2.5 billion and the amount of dollars that the fund had committed to invest in its portfolio companies as of May 2023; correct?
A. The specific answer to your question is no, because I was calculating something else.
Q. And you didn't do that calculation at any other point in time; correct?
A. Could you clarify the calculation that you mean?
Q. Dr. Harrison, you do not recall calculating the difference in dollars between the $2.5 billion cap that Dr. Rybolovlev informed you of and the amount of dollars that the fund had committed to invest in its portfolio companies; correct?
A. We calculated the aggregate of commitments and approved budgets and tried to bring them within range of what Dmitry said he wanted, but we were unable to do so.
ATTORNEY SELDEN: Could you please play clip 71, which is from Day 3, page 247, line 25, to 248, line 4.

(A video clip was played as follows:)
Question: Did you calculate the difference in dollars between $2.5 billion and the amount of dollars that the fund had committed to invest in its portfolio companies as of May of 2023?
Answer: I don't recall.
(End of video clip.)
BY ATTORNEY SELDEN:
Q. And you didn't do that calculation at any other point in time, did you, Dr. Harrison?
A. I honestly don't recall what -- doing exactly what you're asking. But I repeat that we struggled with Dmitry's request over months, over multiple discussions, to attempt to fit everything into 2 1/2 billion, and it was impossible.
Q. Dr. Harrison, I'm afraid we have limited time today, and I'm asking you yes/no questions. So I'd ask you to listen to my question and answer that question. And if you have other testimony to give, I'm sure Mr. Burden will have an opportunity to redirect. But I am sensitive to the clock.
Dr. Harrison, as of last week you

didn't know the total amount of money that the fund had contractually committed to invest in its portfolio companies; correct?
A. I don't keep that as a running sum in my head.
Q. In October 2023, ATP's general counsel, Dan Finkelman, wrote you an email discussing the fund's unfunded commitments to its portfolio companies; correct?
A. I'm sorry. When was that?
Q. October of 2023.
A. I don't know. I don't remember.
ATTORNEY BERDON: Your Honor, as Your Honor knows, there's been a roll-off production of otherwise documents that were claimed as privileged. And we would ask that they be treated as highly confidential in this proceeding because, even if used in this proceeding among the parties, they will still retain privilege in Cayman under Cayman law as long as they are not disclosed to the public.
So we would ask that the courtroom be sealed during any questioning relating to otherwise privileged information that was in the roll-off production.

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ATTORNEY SELDEN: Your Honor, paragraph 25 of the pretrial order governs the use of confidential or highly confidential information in this proceeding. It requires the parties to meet and confer in advance of trial, which defendants attempted to do. We asked plaintiffs to de-designate this material by letter dated September 29, by letter dated October 8, and by chaser email dated October 12.

Plaintiffs have declined to engage with us with respect to the reduction in designation of that material, and did not raise this concern about closing the courtroom in advance.

Paragraph 25 of the pretrial order further provides that if the parties are unable to reach agreement -- which we had very much hoped to do -- the parties seeking to maintain highly confidential information throughout trial should seek an order from the Court, which plaintiffs have not done in advance of trial.

So we would ask, including for the interest of time, to be able to use this information, which we understand is subject to a privilege waiver publicly and with the witness.

ATTORNEY BERDON: Your Honor, just for

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completeness of the record, we did ask for a meet-and-confer on Monday in a letter that was sent, and I don't believe that one was made available to us.

THE COURT: So I understand Mr. Berdon's request made just now to be in the motion that was contemplated in the pretrial order. Is that wrong?

ATTORNEY SELDEN: We had expected, Your Honor, that if plaintiffs were going to raise the objection and seek to close the courtroom, that they would have raised that in response to one of the three letters that we had sent them prior to October 12th, or at the very latest going into this hearing.

I think there has been a privilege waiver with respect to these documents. They have been used in depositions. They have been produced. They are among the rest of the joint exhibits on the list. And we think it's appropriate to use them in this proceeding.

I also think, given the limited time again, Your Honor, and the number of issues and, frankly, the amounts and nature of the claims at stake, it would be appropriate if we could use them with the witness and move quickly through them.

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THE COURT: I don't think he's objecting to your use. I think he's objecting to using them publicly in a way that would undermine the privilege objections or privilege assertions in other proceedings.

What is your response to that?

ATTORNEY SELDEN: My response to that, Your Honor, is perhaps we could stipulate that we will use the documents in open court in this trial proceeding. And the effect of that use in this proceeding, to the extent that it has an implication on the Cayman privilege waivers or evidentiary rules in the Cayman court, I think the Cayman court can adjudicate that if and when those issues arise, and Your Honor should leave that to the Cayman judge and let the documents come in here. I think we can --

THE COURT: So I hear you saying that you want to stipulate that the Cayman court will resolve privilege issues there.

ATTORNEY SELDEN: Yes, that the Cayman court decide Cayman privilege issues.

THE COURT: You don't need to stipulate to that. The Cayman court will resolve Cayman privilege issues.

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The question is whether the use of those documents here will affect their arguments as to privilege in Cayman. I hear Mr. Berdon saying it will. And his solution is that we close the courtroom when you want to use them.

What is your response to that?

ATTORNEY SELDEN: My response to that is that there has been a privilege waiver with respect to these documents and they should be used in open court like any other nonprivileged document. That they were -- many of them -- improperly designated as highly confidential in the first instance, improperly designated as privileged in the second instance. And those improper designations should not now be a bar to their use in this public proceeding.

THE COURT: Correct me, it's been awhile. I thought that the argument you made as to these documents was that your client was within the scope of privilege?

ATTORNEY SELDEN: Yes, I think there are a number of arguments that we made with respect to these documents, Your Honor. One of which is that our client is within the scope of the privilege and so they shouldn't have been designated privileged in the

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first instance.
Secondly, that there were over-designations of material that was not privileged at all as to anyone.
And third, that there are documents designated "Highly Confidential" which ought not to be highly confidential.
So I think there are layers of objection to many of these documents, none of which, frankly, Your Honor, I think require sealing the courtroom. The documents that we propose to use relate to a dispute between these parties that is many years in the making. The document I am about to show Dr. Harrison, for example, is from October of 2023. I don't think that is relevant to or prejudices any ongoing business concern or the companies or the other kinds of sensitive, live, trade secret, business decision, public information.
THE COURT: That doesn't speak to whether they're privileged. So if a document -- if the reason why -- if there is an argument that the reason why your client received the document in discovery here is because your client's within the scope of privilege, that doesn't eliminate the

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protections of that document to the rest of the world. Right? It means that your client can see it. But there is a risk that disclosing it in open court could undermine arguments that the privileged information your client's entitled to see is no longer confidential and, thus, no longer privileged.
So I see the concern here. I don't know whether the document you're discussing now or about to show the witness falls into that category. But if it does, I think the solution is to seal the courtroom and for you all to identify who in the courtroom is within the scope of privilege so that showing it doesn't blow privilege. So I'm not sure how we do that now. Maybe you want to talk a break and do it, or maybe you want to talk about it over the lunch break. Either way, I'm open to.
ATTORNEY SELDEN: Thank you, Your Honor.
I would suggest that, in the interest of time, we skip ahead and I'll proceed with questions that don't implicate those documents, and then we can discuss during the lunch break whether and how to seal the courtroom and who's within the scope of privilege.
Would that be acceptable, Your Honor?

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THE COURT: That works, yes.
ATTORNEY SELDEN: Thank you, Your Honor.
BY ATTORNEY SELDEN:
Q. Dr. Harrison, on your direct with Mr. Berdon, you discussed Rigmora's obligation to discuss budgets in good faith following the entry of Amendment 22; correct?
A. Correct.
Q. And following Amendment 22, on Christmas Eve or December 24, 2024, you sent Dr. Rybolovlev a budget request for four companies; is that right?
A. Correct.
Q. And it's fair to say that since those companies had been founded, the fund had contributed tens of millions of dollars to them; is that right?
A. Yes.
Q. And when sending the budget request, you informed Rigmora that you had set up data rooms for them to access; is that right?
A. Yes.
Q. You expected Rigmora to review the information provided in the data rooms and ask

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questions; right?
A. No.
Q. You set up data rooms containing supportive materials with the new budgets that you did not expect Rigmora to access?
A. I doubted very highly whether they would review them. We did it to make sure they understood that after the settlement agreement we were being radically transparent.
ATTORNEY SELDEN: Let's put up JX 1107, if you will.
Q. This was the response that Mr. Bogdanov sent to your December 24, 2024, budget request; correct?
A. Yes, for Replicate.
Q. Mr. Bogdanov replied on January 5th after the holidays; is that right?
A. Yes.
Q. Dr. Harrison, do you recall that you testified that Replicate had pivoted from oncology to a rabies vaccine over the course of the fund's investment in that company?
A. Yes.
Q. It's not bizarre for an investor to

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have questions about that change in strategy from oncology to rabies, is it?

A. It's bizarre if the investor already knew about it and approved the budget that enabled it, in my opinion.

ATTORNEY SELDEN: If we could turn to page 3 of Exhibit 1107.

Q. That's the list of questions regarding Replicate; correct?

A. Correct.

Q. It's your position that these questions didn't constitute a bona fide diligence request; correct?

A. Correct.

Q. And it's your position that Mr. Bogdanov's questions did not have any diligence logic in assessing the merits of the companies; correct?

A. Essentially, yes.

Q. Let's look at that list of questions.

At paragraph 5 in the third sentence, Mr. Bogdanov asks, "After four years, could you please outline the main reasons for shifting RBI-4000 and RBI-5000 from oncology to infectious disease

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indications?"

Do you see that?

A. Yes.

Q. In question number 6, Mr. Bogdanov asked, "In the 2021 Replicate memo, the team stated: 'The profile of Replicate's first product is highly differentiated ....'"

Then later he goes to to ask, "Currently, the company has a substantial share of indications related to infectious diseases: [] Does this suggest that the company has lost its differentiation and is now operating in a more competitive environment, as was suggested in 2021?"

In 6.3 he asks, "How has the company's technology evolved over the past four years compared to its main peers?"

Do you see those questions?

A. Yes.

ATTORNEY BERDON: Object to the form to the extent that the next question is going to be lumping, compound.

THE COURT: We'll see what the next question is. Please continue.

BY ATTORNEY SELDEN:

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Q. The next question is, Dr. Harrison, in your view, these questions from Mr. Bogdanov constituted an obstructionist tactic; is that correct?

A. The totality of these diligence questions did, yes.

Q. In your view, the diligence questions were sent to prevent and avoid funding a company that the Rigmora LPs, in good faith, were obligated to consider a budget for; is that right?

A. Yes.

Q. But Rigmora, in fact, agreed to provide bridge funding for Replicate before receiving answers to any of Mr. Bogdanov's diligence questions; correct?

A. Yes, that was an emergency effort. We suggested that Replicate would go out of business while we were resolving the issue of these diligence questions. And we suggested a million-and-a-half bridge, to which the Rigmora LPs agreed.

Q. And then a month later, Rigmora approved an $18 million budget increase for Replicate; correct?

A. Correct.

Q. And the $18 million budget increase

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that Rigmora approved was more than the $11 million you had initially requested on December 24th, wasn't it?

A. Technically correct.

Q. Let's talk for a moment about what information ATP provided to the Rigmora LPs in connection with their request to make an investment.

Prior to approval of a portfolio company deal by the fund, a primary deal sponsor from ATP was responsible for preparing a thorough investment memorandum; is that right?

A. Yes.

Q. Your view was that the investment memorandum should include an operating plan for the portfolio company; correct?

A. Yes.

Q. Another thing the GP provided to the Family Office was the background and precedent for their approach to any particular company; correct?

A. Yes.

Q. The investment memoranda provided for a tranche investment scheme gated by milestones; correct?

A. The investment memoranda provided for

a tranched investment scheme, and the then-current thinking on what the company would achieve over time.

Q. One of the purposes of that tranched investment scheme was to derisk ATP's investment; correct?

A. All tranched investment schemes do that, or intend to.

Q. Including the tranched investment schemes included in the investment memorandas for the portfolio companies that ATP sought funding for; correct?

A. May I answer the question in my way, or do you just want a yes or no?

Q. I'd like a yes or no.

A. Yes, correct.

Q. After the fund's initial investment, you frequently pivoted away from the plans for the portfolio companies that had been presented in their investment memoranda; correct?

A. Technically correct. It's not that we tried to pivot. It's that the companies had research programs that suggested to us that the best way to manage them was to make changes.

Q. When that happened and the company

departed from the plans presented in its investment memoranda, you didn't update the investment memoranda provided to the Family Office; correct?

A. No, we did not.

Q. In fact, you've repeatedly said that how the evolution of a project relates to its business plan or its investment memorandum is irrelevant; right?

A. I wouldn't call it irrelevant; I would call it a starting point. But where it is in the middle of its investment cycle, it can't be predicted at the time of the investment memo. It's the look at that time, the view at that time.

ATTORNEY SELDEN: Could you please play clip 106, Day 3, page 282, line 17, to 283, line 23.

(A video clip was played as follows:)

Question: You were uncomfortable going to founders and companies and reminding them that in their SPAs there were milestones that had to be achieved before funding would be released?

Answer: As I have said over many hours with you, Shannon, that is simply not how it works in this market where you're developing drugs

from new technologies working with teams of scientists of various stripes. It is simply not how it's done.

You work in a way that is enabling and that understands that research brings forward different results, and you work with them and attempt to push things forward.

And as I've said repeatedly, based upon experience, often a project can look like it's not going well, and you look at it differently and you change things and it's going well. And as I've said repeatedly, how that evolution relates to a business plan or an investment memo that occurred at the outset of that company's life is irrelevant.

(End of video clip.)

ATTORNEY SELDEN: We have stopped that testimony in the middle of Dr. Harrison's answer, but -- to avoid raising any issues with respect to confidentiality or privilege.

Your Honor, I would suggest that we break a minute or two early for lunch and take up the sealing issues after that. I think that likely the most efficient thing will be to simply seal the courtroom for the balance of Dr. Harrison's testimony after lunch. But let me consult with my team, if

that's acceptable to Your Honor.

THE COURT: Sure. We'll resume at 1:30. Thank you.

(Lunch recess taken at 12:25 p.m.)

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(Resumed at 1:30 p.m.)
THE COURT: Please be seated. Thank you.
So what did you work out?
ATTORNEY SELDEN: Good afternoon, Your Honor. We have consulted with plaintiff's counsel. We are happy to seal the courtroom. I apologize for any confusion. I didn't know plaintiff's counsel had wanted to do that before this morning, but we are happy to seal the courtroom.
We have asked from our team anyone outside the privilege to leave. So they shouldn't be here, but we'll pause for a moment.
THE COURT: Yeah, so there's a lot of people in the courtroom. Is everyone in the courtroom within the scope of privilege?
ATTORNEY SELDEN: For defendants, Your Honor, I can say that we are. There are indeed a number of lawyers here, I'm afraid. But everyone here has been checked and is within the scope of privilege. And I've consulted with Mr. Berdon as to that question.
Your Honor, while plaintiff's counsel caucuses, I would just note the interpreter is here.

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I believe the interpreter is authorized.
THE COURT: Yes.
THE INTERPRETER: Your Honor, I'm a certified court interpreter with the State of Delaware and I'm considered to be a court officer.
THE COURT: Yes. He's allowed.
ATTORNEY SELDEN: Great. Thank you.
THE COURT: Shall we proceed?
(This portion of the record was deemed confidential and the courtroom was cleared.)
ATTORNEY SELDEN: May it please the Court, we'll pick back up.
BY ATTORNEY SELDEN:
Q. Dr. Harrison, do you recall that earlier today I had started to ask you a question about some email that you had received in October of 2023?
A. Yes.
Q. And in October of 2023, ATP's general counsel, Dan Finkelman, wrote you an email discussing the fund's unfunded commitments to its portfolio companies; do you recall that?
A. No, I don't.
ATTORNEY SELDEN: Could we please put

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up JX 2201.
BY ATTORNEY SELDEN:
Q. Dr. Harrison, do you see that Mr. Finkelman writes to you on October 18, 2023, "Please see the attached chart I prepared detailing the Family Office's unfunded budget commitments to ATP as well as ATP's unfunded investment commitments to its portfolio companies, broken out separately for the group of companies to be distributed in kind and the group of companies to be held in ATP"?
A. Yes, I see.
Q. You understood Mr. Finkelman's reference to "ATP's unfunded investment commitments to its portfolio companies" for the most part to be describing commitments under the Series A funding agreements that the fund had entered into; correct?
A. Yes.
Q. Mr. Finkelman advised you in October 2023 that "for Ascidian, Galvanize and Marengo, there are no remaining outstanding commitments for ATP to invest in those companies." Correct?
A. Correct.
Q. Mr. Finkelman advised that "milestones

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are only specified in the stock purchase agreements for Marlinspike, Aethon, Aulos, Braeburn and Replicate." Correct?
A. Correct.
Q. You understood that Mr. Finkelman was advising you that for the five companies with specified commitments by milestones in their SPAs, if the milestones were not achieved, then ATP was not obligated to fund; correct?
A. Correct.
Q. Mr. Finkelman advised that you review the milestones to determine whether they had been or were likely to be achieved in order to determine whether the fund had an obligation to fund those companies; correct?
A. I see that, yes. I see where he writes that.
Q. And Mr. Finkelman advised that "For the eight companies with no specified milestones, I think a good exercise would be to compare the progress of each company to its respective investment memorandum to try to come up with what milestones might be reasonable within specified timeframes based on the investment memorandum." Right?

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A. Yes, I see where Dan writes that.
Q. Mr. Finkelman advised that "If a company is substantially behind its plan per the investment memorandum, then I believe a reasonable argument can be made that ATP has no remaining commitment, or a substantially reduced commitment, because any reasonable milestones that would have been established per the investment memorandum would not have been met." Correct?
A. I see that Dan wrote that, yes.
Q. You responded to Mr. Finkelman the next morning; right?
A. I don't know.
ATTORNEY SELDEN: Could we please put up JX 2167.
Q. This is your response to Mr. Finkelman; is that right?
A. It appears so, yeah.
Q. After you received Mr. Finkelman's email in October of 2023, you didn't review the investment memorandum for the eight companies with no specified milestones in their SPAs to see if they were substantially behind their plan or had achieved those milestones, did you?

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A. I don't recall.
ATTORNEY SELDEN: Could you please play clip 84 from day 3, page 267, lines 17 to 23.
(A video clip was played as follows:)
Question: After you received Mr. Finkelman's email in October 2023, did you review the investment memorandum for the eight companies with no specified milestones in their SPAs to see if they were substantially behind their plan or had achieved those milestones?
Answer: No.
(End of video clip.)
BY ATTORNEY SELDEN:
Q. In 2023, Dr. Harrison, you didn't give any thought to the need to do contingency planning around the fund's financial commitments in case the Family Office was right that its capital commitments were limited to $2.5 billion, did you?
A. I can't answer that question with a yes or a no because I'm not sure I agree with the question, as it's not how I thought of things at that time.
ATTORNEY SELDEN: Could you please play clip 89, which is from Day 3, page 269, lines 2 through 8.

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(A video clip was played as follows:)
Question: Dr. Harrison, did you give any thought to the need to do some contingency planning around the fund's financial commitments in case the Family Office was right that its capital commitments were limited to $2.5 billion?
Answer: No.
(End of video clip.)
BY ATTORNEY SELDEN:
Q. Dr. Harrison, you recall this morning discussing with Mr. Berdon the reallocation of funds budgeted for preclinical companies to clinical companies; right?
A. Right.
ATTORNEY SELDEN: Could we please put up JX 1244. And could you please turn to page 2.
Q. Dr. Harrison, these are texts between you and Anna Batarina; correct?
A. It appears so, yes.
Q. At the bottom of the page, you texted Anna Batarina that, "1. Agreement that the reallocation from preclinical to clinic, the 'inversion' of existing Budgets, which the GP

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presented to LP on March 31, is the right business decision for the portfolio in ANY financing context."
You wrote that on April 4, 2025; correct?
A. Yes, I did.
ATTORNEY SELDEN: Could we please put up JX 1282.
Q. This is an email from you to Rigmora on April 29, 2025, attaching the reallocation proposal; correct?
A. Correct. Preliminary, but yes.
ATTORNEY SELDEN: Could we please put up JX 2153. And please turn to page 2.
Q. At the bottom email on May 13, Dr. Harrison, you wrote, "I believe I said that I withdraw the proposal for reallocation." Right?
A. Right.
Q. At the top of the page, Mr. Berdon asked, "When did you withdraw the reallocation request?"
Do you see that?
A. I do.
ATTORNEY SELDEN: Turn to page 1, please.

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Q. At the bottom of the page Mr. Finkelman responds to Mr. Berdon, "During the ten-party Zoom this morning. That was negotiation on Seth's part. We'd certainly reinstate it."

That ten-party Zoom was the call on May 12, wasn't it?

A. Yes, the one with the four Latham lawyers that I described.

ATTORNEY SELDEN: You can take that exhibit down. Thank you.

Q. Dr. Harrison, let's go back to 2023 for a minute to talk about how we got here.

ATTORNEY SELDEN: Could you please put up JX 2169 and turn to page 9, the first email in the chain.

Q. Dr. Harrison, this is an email you wrote to inside and outside counsel in December 2023; correct?

A. Correct.

Q. The second sentence says, "Among our legal options is I believe a suit soon for anticipatory breach." Right?

A. That's what it says, yes.

Q. And that was December 18, 2023?

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A. Yes.

ATTORNEY SELDEN: Could you please put up JX 2161, and please turn to page 2.

Q. This is the cover page of the draft complaint to be filed on or before September 2024; correct?

A. Correct.

ATTORNEY SELDEN: Could you please turn to page 50.

Q. Paragraph 112 states that "The Family Office LPs breached their implied contractual obligations to exercise their discretion in a rational and nonarbitrary manner by refusing to approve reasonable budgets for certain portfolio companies ...." Correct?

A. Correct.

Q. That was attached to an email dated October 15, 2024; correct?

ATTORNEY SELDEN: If you could turn back to page 1 of the exhibit.

A. Yes, I believe this related to the lawsuit that the LP brought against us in Cayman.

ATTORNEY SELDEN: Could you please put up JX 2178.

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Q. Dr. Harrison, these are your notes from a meeting you had with outside counsel at Quinn and Wachtell; correct?

A. Correct.

Q. You write, "tactics are: if neither Replicate and 9S are funded, and possibly also Nereid; and if there is no real movement on LP's insistence that budgeted capital calls are voluntary, then: call all budgets, call legal fees, sue in DL for anticipatory breach on multiple levels and the Breganza claim and move for declaratory judgment that capital calls are valid; he will file in Cayman but GP will be able to use ALTS; claims will not be thrown out and we are light horse."

Do you see that?

A. I do.

THE COURT: If you could pause just a minute.

(Pause in the proceedings.)

Q. Dr. Harrison, those notes were from a meet on January 28th, 2025; is that right?

A. Yes.

ATTORNEY SELDEN: Could we please put up JX 1193 and turn to page 2.

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Q. Dr. Harrison, on February 11, 2025, the Rigmora LPs executed a budget increase for Replicate for $18 million; correct?

A. Correct.

Q. And in March 2025, you met with Dr. Rybolovlev, Mr. Bogdanov, and others in Monaco to discuss new budgets for several portfolio companies; right?

A. Not technically. Those budgets had been submitted in December. But, yes, we did meet in March to have further discussions over those budgets.

ATTORNEY SELDEN: Could you please put up JX 2158. And turn to page 2.

Q. At the bottom of this page is an email from you; correct?

A. Apparently it is.

Q. You write, "Please send me the draft of the complaint asap. I suggest we finalize on tactics ie whether or not to call capital before or after filing."

That was on May 1 of this year; right, Dr. Harrison?

A. That's correct.

ATTORNEY SELDEN: Could we please put

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up JX 2138 and look at the bottom email on JX 2138.
Q. Do you see Mr. Berdon advised "Once the Complaint is in shape for filing: [ATP should] Make capital calls ..."? Correct?
A. I see where he writes that. I was just reading Dan's email that seems to be a part of this exhibit that says that we are out of time for funding the portfolio companies. And at that point I think the budgets had been outstanding for more than five months.
Q. Dr. Harrison, before Dan replies to Mr. Berdon, Mr. Berdon writes to you -- writes on May 1 that you should "Make the capital calls for approved budgets..." and "negate the risk of getting sued in Cayman ...."
Do you see that?
A. Yes, I do.
ATTORNEY SELDEN: Then let's look at Mr. Finkelman's email at the top of that chain.
Q. Mr. Finkelman states, "My concern is that we are out of time for funding portfolio companies. I don't see how we can wait on making capital calls unless Bill currently has enough in reserves at ATP."

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Did you know that was Mr. Finkelman's view at the time?
A. This is the view that he wrote, and I read the email. So, yes, I registered that it was his view when I read the email. There were also multiple conversations going on among almost every responsible executive at ATP to try to understand what on earth to do with the absence of funding and the apparent lack of budget approvals.
Q. And Mr. Finkelman continues in his May 2 email, "In my opinion, we should have issued capital calls a couple of weeks ago."
Do you see that?
A. Yes, I see that's Dan's opinion.
Q. And that was Dan's opinion on May 2, 2025; right?
A. Apparently.
ATTORNEY SELDEN: Could you please put up JX 2151.
Q. This email from Mr. Berdon to you attaches another draft of a complaint against the Rigmora LPs; correct?
A. Yes.
ATTORNEY SELDEN: Please turn to page

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53, and let's look at paragraph 117.
Q. That includes a placeholder for a date on which the general partner made a capital call; correct?
A. Correct.
Q. At that point, the GP had not issued a capital call, had it?
A. No, I don't believe so.
ATTORNEY SELDEN: Could you please put up JX 2155 and turn to page 4.
Q. Dr. Harrison, you write here, "Why don't we send budget requests for companies that need them, NOT mention reallocation, and call capital only for early stage? Let them bring up reallocation. Or not."
Do you see that?
A. Yes, I do.
ATTORNEY SELDEN: If we could turn up to page 2, and to the bottom of the page on page 2.
Q. Dr. Harrison, Mark Gordon replies to your email saying, "just emerged from meetings and catching up on email. (1) I agree with the course of sending the capital calls for the early stage but not mentioning reallocation (I.e., letting them bring it

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up). The point of making the calls is to put pressure on them, so let's put pressure on them."
That was on May 14; correct?
A. Correct.
ATTORNEY SELDEN: Could you please put up JX 2267.
Q. Dr. Harrison, you write here, "The calls that we should make, dated tomorrow, are in the orange shaded column."
Do you see that?
A. Yes.
Q. That was also on May 14; correct?
A. Yes. That would have represented one view that I had as of May 14. There were multiple views about the timing of the capital calls that we made and the amounts that I had, that many people had, and we iterated on this problem many, many, many times as we dealt with the difficult circumstances that we were in.
Q. Well, let's look at the calls that you proposed to make, dated tomorrow, in the orange shaded column.
ATTORNEY SELDEN: Could we please pull up the attachment to JX 2267 and scroll to the right

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to the orange shaded column.
Q. Dr. Harrison, the total capital proposed to call in the orange shaded column here is 22.8 million; correct?
A. That's correct. This is May 14; correct?
Q. And you did not make that call on May 15; right?
A. Absolutely not.
Q. And you did not call $22.8 million; right?
A. No, I did not. That would have been insufficient to fund the companies for six months, which was the goal of the calls on May 30th.
Q. Instead, ATP filed suit on May 30th; right?
A. That's correct.
Q. Your verified complaint alleged that this is an emergency; correct?
A. Correct.
Q. And on May 30th, ATP issued capital calls for over $100 million; right?
A. Right.
ATTORNEY SELDEN: You can take that

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exhibit down.
Q. And eight minutes later you filed the complaint, didn't you?
A. I don't know the exact timing. It was done on the same night.
Q. Dr. Harrison, your total capital contribution to the fund is approximately $54 million; is that right?
A. That's right.
Q. And if you succeed in your claims in this litigation, you believe you are entitled to at least half the value of the fund; is that right?
A. No, that's not correct.
Q. You don't think that if you succeed in your default claim, that you are entitled to 50 percent of the fund?
A. No, I don't. Those are your words and your ideas, not mine.
Q. Do you think that you have an interest in the outcome of this litigation?
A. Absolutely.
Q. And do you think you have a financial interest in the outcome of this litigation?
A. I do.

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Q. And do you think the financial interest that you have in the outcome of this litigation exceeds the $54 million that you've invested in the fund?
A. My interest in the fund presumably, as it stands now, exceeds $54 million because the carry and LP interest that I have in the fund with success should exceed that. That's the goal. My goal is to preserve the companies and to have the companies succeed with proper financing and then to have upside, as I do now.
Q. And that upside is significant, isn't it, Dr. Harrison?
A. The upside in each pool is a different level of carry.
Q. And that carry has the potential to be significant; correct?
A. The value of the carry, if the company is properly financed, yes. That's one of the points of doing this. The other is to make life-saving medicines.
Q. And, Dr. Harrison, if you succeed in your claims against the Rigmora LPs in this case, you believe you are entitled to significant additional

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value in the fund, don't you?
A. Incorrect. These have been claims that you have been making since the start of your retaliatory actions in Cayman. Those are not my thoughts, those are not my words, and it is not what I think, nor is it ever what I thought.
ATTORNEY SELDEN: Move to strike as nonresponsive. But I have no further questions. Thank you, Your Honor.
THE COURT: Thank you.
ATTORNEY BERDON: No redirect, Your Honor.
THE COURT: Thank you. You may be excused.
(Witness excused.)
THE COURT: Do you want to let everyone know that they can come back in.
(The courtroom was reopened to the public.)
ATTORNEY BARLOW: Your Honor, the plaintiffs call Joe Yanchik.
ATTORNEY EPSTEIN: Good afternoon, Your Honor. Rachel Epstein from Quinn Emanuel. While we wait for Mr. Yanchik, I thought maybe one issue of

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housekeeping, which is we have the Cayman experts from both sides, Mr. Phillips and Mr. Bloch. We brought them here in case Your Honor has questions. But I think absent that, we'll submit them on the papers.

THE COURT: Any objection?

ATTORNEY TAFT: No objection, Your Honor.

JOSEPH YANCHIK, having first beenduly affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY ATTORNEY EPSTEIN:

Q. Good afternoon, Mr. Yanchik. Can you introduce yourself to the Court?

A. Joseph Yanchik, currently a venture partner at Apple Tree Partners.

THE COURT: If you could bring the microphone a little closer.

Q. Mr. Yanchik, how long have you been a venture partner at ATP?

A. I've been at ATP for 20 years now in different capacities. I started as a venture partner back in 2005. Did that for two years, and then started two companies in that role. I joined those companies full time. I was CEO of both. Eventually,

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as they both grew, I opted to be full-time CEO in one of the companies, Aileron Therapeutics, and remained on the board of the first one.

Q. And what happened to Aileron?

A. Aileron we took public. We actually ended up taking both of them public. We raised close to a half a billion dollars into those two companies. Aileron went into the clinic, and then it eventually merged with another company.

Q. When did you leave Aileron?

A. I was there for 12 years, so I would have left around 2018. I reengaged with Apple Tree around 2019, end of 2019 as a consultant. And then at that point I took a full-time role back as a venture partner at the beginning of 2020, and I've been doing that since.

Q. Prior to joining ATP the first time, what was your background?

A. I started in '93 as a lawyer in Cahill Gordon in New York. I was a corporate lawyer, working primarily on typical transactions, mergers and acquisitions, high-yield debt, public offerings. I did that for four years, and then I was recruited to an outfit on Sand Hill Road in Silicon Valley, where I

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worked exclusively on startup biotech companies. I spent half of my time representing the companies; half my time representing VCs.

After that, I started a dot-com. Shortly after that, I started a gene therapy company out of Stanford. That was eventually acquired by an incubator in the Bay Area.

One of the partners at that point asked me to join his company, which was an ag bio company. He asked me to help them restructure the company. They had a longstanding relationship with Monsanto that he wanted to see if we could renegotiate. So I did that. We did that successfully.

And around that time I met Seth Harrison and he made me an offer to join Apple Tree in Boston around, as I said, 2005.

Q. So overall how long have you been in the biopharmaceutical industry?

A. As a lawyer and as an operator, about 30 years.

Q. And are you the only venture partner at ATP?

A. No, I'm not. There are multiple

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venture partners in the fund.

Q. Do all of the venture partners at ATP have similar backgrounds to yours?

A. No, they don't. We have a variety of backgrounds. Most of the venture partners have scientific drug development research backgrounds. I'm a little bit unique in my background with law and finance, as well as an operator. I'm one of the few who have raised capital into companies and run a public biotech company.

Q. So as a venture partner, generally what were your responsibilities at ATP?

A. Initially they were fairly typical to the venture partners. We had three to five companies at any given point in time where we might sit on the board that we were primarily responsible for. We would help them recruiting, developing their plans, as well as financing plans. And that's what I did for most of the time. Most of my time was spent on Braeburn, Marengo, Replicate. I also helped to set up Aulos, where I was on the board for a bit. I helped to set up Ascidian, where I maintained regular contacts with the management team.

So I had my three or four, but I would

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also help on an as-needed and as-requested basis across the portfolio.

Q. So do you still have responsibility for those three or four?

A. I do.

Q. Do you have responsibility for any additional companies at this point?

A. I do. My job evolved fairly significantly after the first of the year. Initially I was asked to assist Rigmora, give some opinions on a royalty financing deal that they were working on, which I was happy to do.

After that, we started to work on various modeling exercises and whatnot, cross-portfolio, which is a little bit new for me. It was my understanding at the time we were creating these to present Rigmora with various investment options. We were looking at consolidations. We were looking at reprioritizing.

By the time we got to around, I would say, late April, end of May, it started to become clear that the companies were running out of money and we were approaching an insolvency period. Given my background, I started to take a more formal role in

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terms of helping these companies start to navigate a process where we might be pre-bankruptcy. So I started to have a cross-portfolio role in particular with the preclinical companies.

Q. And can you describe for the Court a bit the process that you undertook in late April or early May.

A. Yes. Well, we were -- as a natural outgrowth of the modeling exercises we were doing -- as I said, once we started to become concerned that the companies were running low on cash, we started to dig in very deeply and build very precise models of what the cash was, what their liabilities were, what the management contracts were, leases, just a very detailed view, because we knew we were approaching a point in time where these companies might start to run out of money.

By the time we got to early May, some of the boards were independently starting to act because they were concerned with personal liability. So I started to, once again, be the primary go-between with creditors, the boards.

At that point we were forced to terminate approximately 70 percent of the employees

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across all the companies. So I was responsible for that, including senior management that I was responsible for. And then just talking to -- as the primary vocal mouthpiece for the companies when we're dealing with creditors, landlords, prospective partners, et cetera.

Q. Since the filing of this suit at the end of May, have you continued in this process?

A. Yes. We're still in the middle of it. Most of the liabilities that the companies had at the time, back in April, are still on the books. We've asked the various creditors and landlords to hold tight if they could, explaining as transparently as we could what was going on with this process.

So, yes, we've still got quite a bit of work ahead of us to work that out.

Q. Currently, at a high level, what is the status, in your view, of these various companies?

A. They are in a form of, as I would call it, stasis.

So what we tried to do was reduce the burn rate of the companies as drastically as we could without completely destroying them.

And so the first part of the process

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was who are the three or four people, in particular scientists, that we needed to try and retain.

The second was who are the creditors who are likely to give us the biggest problems.

And third, how could we secure the various IP, biologic materials and whatnot, with the goal of being able to restart them later.

So right now they are in stasis and dealing on an ad hoc basis with various creditor issues as they arise.

Q. And are you aware that in May of this year, the general partner called capital from the Rigmora entities?

A. Yes, I am.

Q. Do you have a general understanding of the quantum of those capital calls?

A. Yes, I do.

Q. In your view, if the portfolio companies were to receive that cash, how would it affect them?

A. Well, today I believe we could reconstitute them. That was how we set it up. The employees so far are hanging on. I believe that's a finite period of time that that opportunity will exist

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for us. If we get the cash right now, we can pay off the debts, we could retain the employees, possibly even rehire some, and continue the research, which we've been planning in terms of how to ramp that up.

Q. And you said it's a finite period of time, in your view. Why is that?

A. Well, whenever you stop a research organization, it starts to deteriorate. So if we take more time, we will start to lose employees. They've been gracious to stay as long as they have, and we have not put any retention packages in for them, which has been amazing that they have stuck it out. But they believe in the science, I think.

Also, we are in a very competitive market. People will pass us. We work in valuable areas. We're aware of competitors. They are passing.

And then the creditors. So far they've held off. I don't believe they will hold off for much longer, and then they can force us into bankruptcy. And then we are likely to lose the assets.

Q. Switching topics a little bit, are you aware of some actions in the Cayman Islands brought by the Rigmora LPs against the GP?

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A. Yes, I am.

Q. And are you aware that one of the requests that has been made is for provisional liquidators?

A. Yes, I am.

Q. Do you have a view on whether or not that will affect the companies?

A. It will affect the companies. I believe it will end the companies. You know, as the primary person who has been talking to the creditors and the employees, it's my understanding that these would be provisional liquidators. I think once you take anyone with the role that says "liquidation" on there and put them into the current situation, it will be a signal that we are done. I believe the employees will leave. I believe the creditors will move to protect their positions.

Secondly, the reason we've been able to hold it together is because Apple Tree has had success with some of these creditors, many of these employees. We've been able to build companies. So far they've been willing to take us on our word. Once we're out, they are going to assume that we lost and the build is gone. And once again, that will be a signal, I believe. So I just -- I don't see how we survive that.

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Q. So putting aside the factors that you've just mentioned, do you think that if, for example, the provisional liquidators had a scientific background, that would help mitigate some of the concerns?

ATTORNEY TAFT: Objection. Leading.

THE COURT: You can ask leading questions, but it's hard for me to assess the credibility of the witness when you do that. So try not to.

ATTORNEY EPSTEIN: Fair enough. I can withdraw it.

BY ATTORNEY EPSTEIN:

Q. Other than the concerns you've just raised, do you have any other concerns?

A. Well, it's the role that we play. We have spent, in most cases, three, four, five years growing up with these companies, watching the science, recruiting the executives, building out the financing plans. And you have to -- to do this successfully, you have to develop an independent view from the management team. And you need to partner with them in that regard with that independent view.

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I don't see how that would be replaced. I don't see how anyone would be able to come in, even with a scientific background, and replace the understanding we've developed around the teams and the technologies and the markets.

Q. Are there any other concerns regarding provisional liquidators that you believe the Court should know about?

A. No. That would state it.

ATTORNEY EPSTEIN: Pass the witness.

CROSS-EXAMINATION

BY ATTORNEY TAFT:

Q. Good afternoon, Mr. Yanchik. Will Taft, Debevoise & Plimpton, for the defendants.

Mr. Yanchik, you are a lawyer, but you are not a Cayman law lawyer; correct?

A. That's correct.

Q. And you mentioned your work on the reallocation process in the spring of this year. The goal of that reallocation plan was to optimize the number of milestones that could be achieved across the fund; correct?

A. That's not how I would state it, no.

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ATTORNEY TAFT: Can we play clip 39, Yanchik 1, 258, 18 to 22.
(A video clip was played as follows:)
Question: So you're looking for a way to optimize the number of milestones achieved across the fund; correct?
Answer: That was the goal of the reallocation plan.
(End of video clip.)
BY ATTORNEY TAFT:
Q. Do you agree that optimizing the number of milestones achieved across the fund would be a reasonable objective?
A. It was -- to be clear, it was one goal, but it was also trying to deal within certain parameters of diminishing capital.
ATTORNEY TAFT: Can we play Yanchik clip 57. That's Volume I, 258:23 to 259, line 1.
(A video clip was played as follows:)
Question: And was that a reasonable objective in your assessment?
Answer: To try to optimize the -- I think that's always a reasonable objective.
(End of video clip.)

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BY ATTORNEY TAFT:
Q. Mr. Yanchik, you began thinking about a restructuring plan for certain companies in late April, early May of this year; correct?
A. I would not call it a restructuring plan. Once again, we were trying to develop multiple options that we believed Rigmora wanted to see to engage with the portfolio in a variety of ways.
So restructuring was one component. Restructuring was certainly one of the things that we were considering at the company level, at the fund level. But you continue to say "the goal," and there were multiple goals at this point in time.
Q. You mentioned that there were reductions in force --
A. That's correct.
Q. -- in May of this year; correct?
A. May, June. That's correct.
Q. And some of those happened before May 30; correct?
A. I don't recall the precise dates, but it was right around that time. It was handled on a company-by-company basis. So they did it when they thought that they were prepared.

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Q. But capital wasn't called for most of these companies until May 30; correct?
A. At that point in time, that's my recollection, yes.
Q. Do you recall in connection with proposed restructuring that you were advising counsel that ATP intended to close down up to five of the portfolio companies?
A. I don't recall that. Advising that we would just shut them down outright and get rid of the assets, I do not recall that.
ATTORNEY TAFT: Can we bring up JX 2143. And if you can go to the second email on this chain on the first page.
Q. It is an email dated May 2.
Do you recognize this email?
A. I do.
Q. And here you are advising counsel that "As you can see, we are cash out in a couple weeks at some of the companies, so decisions are being finalized this weekend .... This has not been communicated to the companies or employees as of yet."
ATTORNEY TAFT: And we can go to the next paragraph, fourth paragraph.

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Q. Do you see it says, "We intend to close down 4 or 5 of the remaining companies depending on final budget and other considerations"?
Do you see that?
A. I do.
Q. And do you recall that of those four or five companies, there was only one of them that ATP really wanted to salvage the IP from?
A. No, I disagree with that.
ATTORNEY TAFT: Can you look further down to the next -- the fifth paragraph. Thank you.
Q. Do you see where it says, "Of the shuttered companies, Nine Square is the one we really want to keep the assets but needs to be shuttered quickly"?
A. That one is referring to needing to move quickly on Nine Square. But I do not believe the intention ever was to get rid of all the assets. As a matter of fact, every one of my activities from February until very recently is trying to find ways to maintain all of the assets, whether or not we felt the liabilities of various companies made the corporate entity potentially problematic.
Remember, at this point we're

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speculating as to how fast the creditors were going to come in and how things were going to deteriorate. But it was never our intention to get rid of all the assets.

But what I said earlier -- it would be helpful to be able to see the whole email here. What I said earlier was depending on the final budgets and what happened. So we were dealing with quite a few contingencies at that time.

ATTORNEY EPSTEIN: I'm sorry, Your Honor. Do we have paper copies for the witness?

ATTORNEY TAFT: Do we have a binder? May I approach?

A. Can you tell me what tab, Counsel?

Q. It was JX 2143.

ATTORNEY TAFT: You can take down the slide.

A. I think what's important here is that the first sentence, it discusses how -- at this point in time there was an attachment to this email that indicated the various companies and the liabilities. At this point in time, at the beginning of May, we were speculating as to what was retrievable and what wasn't with regard to the companies. But the goal

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always was to try to maintain as many assets as we could, whether or not we could develop them, depending on how much capital came in.

Q. Mr. Yanchik, changing topics, do you recall a communication with Dr. Ehlers in which you suggested that the Russia factor may be an excuse for other challenges that ATP presents?

A. I do recall that.

ATTORNEY EPSTEIN: I'm just going to object as being outside the scope.

THE COURT: You can continue. Overruled.

ATTORNEY TAFT: I have no further questions.

THE COURT: Thank you. Anything further?

ATTORNEY EPSTEIN: Nothing further, Your Honor.

THE COURT: Thank you. You can be excused.

(Witness excused.)

ATTORNEY BARLOW: Your Honor, plaintiffs call Mark Robbins. And my colleague, Ms. Jessica Reese will be handling the questioning.

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THE COURT: Thank you.

MARK ROBBINS, having first been duly affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY ATTORNEY REESE:

Q. Good afternoon, Dr. Robbins.

A. Good afternoon.

Q. Would you please introduce yourself to the Court.

A. I am Mark Robbins. I'm the president and chief executive officer of Kodiak Strategic Consultants.

Q. Did you prepare a slide deck to accompany your testimony this afternoon?

A. Yes, I did.

Q. Is this the presentation that you prepared?

A. Yes.

Q. Dr. Robbins, what is the business of Kodiak Strategic Solutions?

A. Kodiak Strategic Consultants.

Q. Consultants.

A. It provides clinical, regulatory, business development, consultation strategies for

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pharmaceutical and biotech companies.

Q. And prior to becoming a consultant, what was your experience in the life sciences industry?

A. I have over 30 years of experience working at pharmaceutical biotech companies doing preclinical, clinical, regulatory affairs, and business development activities.

Q. What degrees do you hold?

A. I have a doctorate degree from the University of Minnesota Medical School and a law degree from St. Louis University.

Q. Dr. Robbins, do you have any experience with preclinical or early-stage life science companies in investing?

A. Yes, I do.

Q. Could you tell us about some of that experience.

A. I work with a lot of early-stage companies helping them to develop plans, strategic plans, investment portfolios, raising money, talking to different potential investors, making presentations. And I also personally evaluate startup companies and I personally invest in some early-stage

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companies.
Q. In your consulting work, have you assisted companies in trying to obtain funding for preclinical research and development activities?
A. I have.
Q. Approximately how many companies have you assisted with?
A. Over a dozen.
ATTORNEY REESE: I ask the Court to qualify Dr. Robbins as an expert in biotechnology funding, research and development, and investment.
THE COURT: Any objection?
ATTORNEY TAFT: No objection.
THE COURT: Thank you.
BY ATTORNEY REESE:
Q. Dr. Robbins, what was your initial assignment in this matter?
A. My initial assignment was to assess whether Rigmora's 2025 decision to defund these preclinical studies was reasonable from an investment standpoint.
Q. Did you prepare a report on these topics?
A. Yes, I did.

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Q. Is this the slide that you prepared summarizing the opinions in your opening report?
A. It is.
Q. Briefly, what did you conclude?
A. I concluded that Rigmora's decision to halt all funding of these preclinical studies was not how a reasonable investor would act trying to get a return on investment. By defunding the companies, they were essentially diminishing value.
In coming to that assessment, I used a multifactor framework to evaluate each of the companies within the portfolio, and I wrapped those up into an overall portfolio to make an assessment to make a continued investment.
Q. Did you also prepare a rebuttal report in this matter?
A. I did.
Q. And what were you asked to evaluate in your rebuttal report?
A. I was asked to look at Dr. Rimm's opinion that it was -- defunding of these seven companies because they missed the milestones from the investment memorandum was reasonable from an investment standpoint.

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Q. I'm looking to Slide 7. What opinions did you form in preparing your rebuttal report?
A. I found that Dr. Rimm's focus was too narrow when she just looked at the milestones in the investment. And as Dr. Harrison testified, once you start doing research, those milestones readily change.
Investors in R&D in biotech companies understand that as you get data, milestones will shift. And they have to shift. And so I looked also at these companies to see were they really developing assets that were worthwhile and had a potential for getting returns. So those were key factors.
Q. Dr. Robbins, turning back to your opening report, how did you go about assessing the reasonableness of Rigmora's across-the-board decision to defund the portfolio companies in May 2025?
A. I looked at each of the companies individually, and then I rolled them up into the portfolio. And the way I looked at each of the companies was through a multifactor analysis that typically is used when you are looking at investing in companies and assessing companies.
Q. If we could turn to Slide 8. Is this a slide you prepared summarizing that multifactor

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framework?
A. It is.
Q. What types of factors are included in this framework?
A. You evaluate the experience of the management team, the scientific research, what development progress has been made, what development progress can you expect to have, what the intellectual property protections are.
You also look to see is it breakthrough therapy that's meeting an unmet need. That's absolutely critical, that there has to be a need for product.
You look at third-party interest to see is this an area of interest to people outside of the company to understand what the landscape is.
Q. Did you design this multifactor framework yourself?
A. No. This framework is informed by my work in the industry from doing business development over 30 years, putting together presentations. Also, as an investor, these are the things I look at when I do that. This is also, from an industry standpoint, pretty much a standard when you are making

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presentations to VCs. It also fits into the same realm -- an investment memorandum that ATP was putting together. And it's supported by academic and industry publications that this general framework is used.

Q. I want to talk a little bit more about some of these factors. Why is third-party interest important to assess?

A. Third-party interest helps validate the area for which you are going for. You want to see if there's an unmet need, is it realistic, and also if there is, from a third-party interest, potential business development opportunities. A lot of these early-stage companies, their goal is not to commercialize it themself, but to license them out and do core development or development with large biotech and pharmaceutical companies. So that's also important.

Q. You mentioned business development deals. For an early-stage company that's nearing or at the conclusion of its Series A funding, would an investor be looking for finalized deals exclusively?

A. The finalized deals are great, if you have them. But it takes a long time to get a business development deal. You are doing development all

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along. It's prudent to have conversations early on with companies so they are aware of what you are doing, follow up as data gets generated. But actually, signed deals can take several years in process. So it's not unusual. You just want to see what's being tracked.

Q. Stepping back, does any one of the factors outlined here determine whether a company is worth investing in?

A. All these factors are critical in making that assessment. You want to make sure that there's a good management team, there is scientific validity, that it's a very strong portfolio. So you want to make all those assessments. All these factors count.

Q. And would you expect the factors to be weighted similarly for companies with assets in the same stage of development?

A. No. Each early-stage company is unique. And so sometimes certain factors will weight more than other factors.

For instance, if you have a person who is a Nobel Prize Laureate who has a great idea, that's going to be highly weighted. If you have something

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that has a huge unmet need, that can be highly weighted. IP -- so you look at each individual company, early-stage company uniquely.

Q. And for this assignment, did you evaluate each individual portfolio company individually?

A. I did.

Q. Turning to Slide 9. Is this a slide that you prepared summarizing your findings?

A. Yes.

Q. Could you briefly walk through what you found.

A. So I looked at the seven companies on the slide and I found for each of the companies, that they had had significant preclinical or clinical development progress. They were all working towards getting an IND in place. They had leadership teams that were composed of world-renowned experts in the area they were working in. They all had breakthrough technologies, very novel. And they were in discussions -- some of them had partnerships with large biotech companies or they were in discussions with large pharmaceutical biotech companies.

Q. And so based on all of the materials

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that you reviewed, do you believe a reasonable investor would have across the board refused further funding for the preclinical companies in May of 2025?

A. In my opinion, a reasonable investor wouldn't do that because the portfolio had a lot of potential value to it. And by halting funding and asking the companies to be wound down and liquidated, it's destroying value; whereas a reasonable investor wants to increase value and get a return on their investment. There's no basis to want to destroy value.

Q. Dr. Robbins, are you aware that Rigmora's expert, Dr. Rimm, reached a different opinion regarding the reasonableness of Rigmora's decision in May of 2025?

A. I am.

Q. And what do you understand her opinion to be?

A. I prepared a slide. I can say it. Dr. Rimm's opinion was that to -- it was reasonable to defund these companies because the milestones that were laid out in the initial memorandum four to five years before, those milestones had been missed. And therefore, because those milestones had been missed,

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it was reasonable to defund all the companies.

Q. And what do you mean when you say "those milestones had been missed"?

A. The time that was in the initial investment memorandum for the milestones maybe were not achieved in that time frame. That's common in pharmaceutical development, though, because you have to follow the research and development and adjust your time limits based upon the data that's coming out.

Q. And did you consider development progress when you were evaluating the preclinical companies?

A. I absolutely did.

Q. How did your consideration of development progress differ from Dr. Rimm's consideration?

A. I took a more holistic approach. I didn't rely upon the initial investment memorandum for the timelines. I looked to see what was actually being done at the companies, what work had been completed, where they were in development at that time when they were cut off from funding. I looked at that. I looked at was unmet need still there. I looked at was the technology still promising. I also

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looked at the management teams.

Q. Is this Slide 11 a slide that you prepared summarizing some of the progress you observed amongst the preclinical companies?

A. It is.

Q. Just briefly focusing, first, on development progress, could you describe what you observed about the preclinical companies.

A. All the preclinical companies had made significant development progress. Two of the companies were already in IND-enabling studies. They were getting a place to file IND in the next year or so. IND is necessary to be able to initiate clinical trial. They had gone through candidate selection of some of these companies. So they were all going through the normal development process, and they were hitting milestones.

Q. What about third-party partnerships or collaborations, what did you observe amongst the preclinical companies?

A. They all were in good negotiations for partnerships. As was testified before, Aethon had started a partnership with Revolution Medicine. That had a potential value of up to 940 million that had

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already been executed.

At the time of the defunding decision, Deep Apple was in discussions with Novo Nordisk. And, actually, they executed a license agreement shortly after the defunding decision was made in June 2025. They had a value up to $812 million.

In addition to that, all the other companies were in discussions with large pharmaceutical biotech companies.

Q. Did you also evaluate the preclinical companies' leadership and management teams?

A. I did.

Q. Turning to Slide 12, does this slide summarize some of what you observed regarding the companies' leadership and management teams?

A. It is.

Q. Could you briefly describe what you observed.

A. Well, with Evercrisp, the co-founder was Dr. Jennifer Doudna. She is a Nobel Prize winner who is the preeminent scientist in gene modification. She came up with the CRISPR/Cas technology. She's won a Nobel Prize for that. So she was involved, and they have top science in that company.

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I looked at Apertor. You have Dr. Jay Keasling in charge of that. He's done 12 startup companies, raised over $2 billion.

You have excellent oversight of these companies by ATP with Dr. Paul Da Silva Jardine, Dr. Spiros Liras, where they have many years of experience working at Pfizer, Biogen, large pharmaceutical companies. They know the drug development process very well, and they are overseeing these companies. So you have great management team and excellent science.

Q. Did you undertake any review of the commercial potential of the preclinical companies as part of your assignment?

A. I did not.

Q. Why not?

A. I didn't find it particularly relevant. The commercial aspects are many years out.

In R&D, in development, there's lots of pivots. And typically as an investor, you are not looking for necessarily the full valuation from a financial standpoint. You are looking at the opportunity for advancing the technology far enough to either get license deals in place, to exit by company

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merger, acquisition, additional investment coming on where you can partially exit, or going public.

So there are lots of ways to have value well before you take on the commercial risk. So I didn't find the commercial assessment critical.

Q. Now, turning back to development progress, in your opinion, can a company that has missed a milestone date set early on in an investment memorandum still represent a promising scientific and clinical opportunity?

A. Absolutely. Many very successful therapeutics have missed development milestones. I can't think of anybody developing a drug, even in large companies, that meet all the timelines that -- from initiation of the project until the product is commercialized. There's research and development that starts out, and it's really hard to tie it to the time frame you have to follow the data.

Q. And what might prompt a preclinical company to pivot?

A. You want to be able to pivot -- and pivot is where you're changing the direction slightly. You want to be able to pivot because you might find the mechanism of action of the drug is better suited

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for a different indication or your lead molecule isn't the best lead molecule and you have something else that would be much more substantial. So you want to pivot to that. Or you have a platform technology that is developing different drug molecules and you'll find a pivot is going to be better in order to go into a different therapeutic area.

There was discussion of that today. I believe it was Replicate, where they pivoted from an oncology vaccine and they went to a rabies vaccine and actually are on the market for that product. Those are successful pivots.

Q. And in your experience, are companies that pivot -- strike that.

How do these pivots impact the scientific and clinical potential of an asset?

A. They typically improve it. They can partially delay the timeline of that. But usually when you pivot, it increases the likelihood of success. It's no one's interest to go down a path that's not going to be successful. So to pivot to something that looks more promising increases the valuation. You want a flexible management that knows when to pivot.

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Q. In your experience, how common is it for a preclinical biotech or pharmaceutical company to pivot?

A. Very common.

Q. Turning to Slide 14, and stepping back, based on your experience, do you believe it is appropriate for Dr. Rimm to assess the preclinical companies based solely on their progress as compared to timelines that were set several years ago in investment memoranda?

A. No. Those timelines and investment memoranda are optimistic of the time the investment is going to be made, realizing that once you start research and development work, those timelines are going to be modified.

Q. And are you aware of any academic literature supporting this milestone-centric approach that Dr. Rimm employs?

A. No.

Q. In your opinion, would it be reasonable for an investor in Rigmora's position to base its funding decisions in May of 2025 solely on progress as compared to investment memoranda from several years prior?

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A. Absolutely not, because as a sophisticated investor in the pharmaceutical biotech arena, you know those timelines are subject to change.

ATTORNEY REESE: Thank you very much.

ATTORNEY TAFT: Your Honor, may we approach with some binders for you.

Will Taft for the defendants.

CROSS-EXAMINATION

BY ATTORNEY TAFT:

Q. Dr. Robbins, your report assesses 13 portfolio companies owned by the fund; correct?

A. That's correct.

Q. And, in your opinion, continued investment in at least part of that portfolio would have been warranted in May of 2025; correct?

A. That's correct.

Q. But a reasonable investor might decide to invest in fewer than all of those portfolio companies; correct?

A. I believe that's a correct statement. I looked at it from a portfolio view, looked at each company individually, and then wrapped up the portfolio. I didn't make a determination on individual companies.

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ATTORNEY TAFT: Can we play clip 30 that is Robbins transcript 70, lines 4 to 11.

(A video clip was played as follows:)

Question: So a reasonable investor might invest in fewer than all of them; correct?

Answer: Potentially. Like I said, it's hard to pick which ones are going to be the winners and losers there. But to defund all of them I don't think is reasonable.

(End of video clip.)

BY ATTORNEY TAFT:

Q. So, Dr. Robbins, you did not conclude that all 13 portfolio companies merited continued funding; correct?

A. I didn't make that assessment.

Q. Now, you agree, and I think you just stated on direct, that a reasonable investor seeks a return on investment; correct?

A. Yes.

Q. And in performing your analysis, you mentioned under questioning that you didn't consider the portfolio's commercial potential; correct?

A. I did not do a financial analysis of it. I looked at their unmet therapeutic need they

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were looking to treat. And from that perspective, I recognized there was a need for the product. But I did not do a financial assessment, that's correct.

Q. So your analysis does not consider the financial potential of any portfolio company; correct?

A. That's correct.

Q. So you didn't review the balance sheets for any portfolio company; correct?

A. No. But the balance sheets weren't particularly relevant because the balance sheets were being controlled by the fund. So balance sheets were what they were.

Q. And you didn't assess the value of any of the portfolio companies; correct?

A. That is correct.

Q. And you didn't provide any opinion as to the likelihood that any of these portfolio companies would actually develop -- succeed in developing an approved therapeutic product; correct?

A. That's correct. But for being successful, they don't have to develop an approved therapeutic. They can license out. There's always risk in pharmaceutical development.

Q. And you didn't assess the amount of

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money that would be required by any portfolio company to achieve a potential exit for the investor; correct?

A. That's correct.

Q. And you expressed no opinions in your report about how much funding any of the preclinical companies merited; correct?

A. That's correct.

Q. You discussed Dr. Rimm's opinions right now and in your rebuttal report; correct?

A. Correct.

Q. You don't dispute Dr. Rimm's conclusion that by mid -- by first quarter 2025, all of the early-stage companies had missed investment memorandum milestones; correct?

A. I don't dispute that. I don't think that's a -- I think that's a flawed analysis, but I don't dispute that.

ATTORNEY TAFT: No further questions. Thank you.

THE COURT: Thank you. You can be excused.

(Witness excused.)

ATTORNEY TAFT: Your Honor, by agreement of the parties, we've agreed to take

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defendants' expert, Dr. Strebulaev, out of order. I would therefore call Professor Strebulaev to the stand.

We will be distributing some binders. May I approach?

THE COURT: Yes.

ILYA STREBULAEV, having first been duly affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY ATTORNEY TAFT:

Q. Good afternoon, Dr. Strebulaev.

A. Good afternoon.

Q. Could you please introduce yourself to the Court.

A. My name is Ilya Strebulaev. I'm a professor at the Stanford University Graduate School of Business.

ATTORNEY TAFT: Could we please pull up Slide 1.

Q. Dr. Strebulaev, would you take a few moments to describe your background and qualifications with respect to venture capital investing.

A. Of course. First of all, my educational background, I did my BA in economics at

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Moscow State University, then my MA in economics at the New Economic School, and then my M.Phil and Ph.D. in finance at the London Business School.

And upon completion of my Ph.D., I joined Stanford Graduate School of Business in 2004. And I am now there, the David S. Lobel, professor of private equity and professor of finance.

My expertise is venture capital and private equity. In terms of teaching, I teach a range of capital classes that students at Stanford take to become either venture capitalists or founders of venture capital-backed companies.

In terms of research, I founded and had our venture capital initiative that produces a lot of research.

Just an example, one of our -- my research pieces with my colleagues where we surveyed venture capitalists in the United States that represent the majority of assets under management. And I'm proud to say that academic paper has been the most cited paper in the field of venture capital research in the past five years.

ATTORNEY TAFT: Your Honor, defendants offer Dr. Strebulaev as an expert on venture capital

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investing.

THE COURT: Any objection?

ATTORNEY JONES: No objection.

ATTORNEY TAFT: If we could pull up the next slide.

BY ATTORNEY TAFT:

Q. Dr. Strebulaev, could you please describe this analysis for the Court.

A. Of course. As a part of my assignment in this case, I was asked to review the capital contributions by Rigmora to the ATP fund on the cumulative basis through the end of May of 2025. And as I understand, there may be a dispute whether certain deemed capital contributions should be considered against the capital contribution -- capital commitments of Rigmora against subscription agreements.

And so what I show here is -- the black line shows the total cumulative capital contributions by Rigmora, taking into account those deemed capital contributions under dispute. And the orange one, excluding those capital contributions.

Q. And I see a vertical green line going down on the right-hand side. What does that

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represent?

A. That represents the start of the Russian-Ukrainian war in February of 2022. As I understand, there are allegations in the complaint that after the start of the war, Rigmora, sorry to say, lost enthusiasm for honoring its capital commitments and tried to stop providing funds to ATP.

What I think this chart clearly shows is that the capital contributions by Rigmora continued more or less at the same pace both before and after the start of the war.

ATTORNEY TAFT: We can take that slide down.

Q. Dr. Strebulaev, as part of your work on this case, did you consider whether it was consistent with reasonable investor behavior for Rigmora to condition the discussion of additional budgets for certain companies in the portfolio on the general partner agreeing to wind down the early-stage companies?

A. Yes, I did consider this, and I concluded that it was reasonable.

To start with, let me point out that any investor doesn't have an unlimited budget, an

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unlimited capital. And therefore, what a reasonable investor does is tries to -- it tries to allocate its limited capital towards the best investment opportunities that are available to that investor.

For example, one of the factors in this case is that I understand Dr. Rimm concluded that each of the early-stage companies in the matter missed milestones that were in the original investment memoranda, the Series A funding. And in my experience in the venture capital space, the milestones constitute one of the very important factors for venture capital investors because effectively they allow investors to evaluate the progress the company is making relative to the original expectations.

Q. Other than performance against milestones, what other factors does your research indicate a reasonable investor would have contemplated in considering further investment in the early-stage companies?

A. Well, of course there are many factors. But among those many factors, some of the factors would be the recent performance of the venture fund, interest or lack of interest by third-party investors. And also I think an important factor is

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the potential conflict of interest that the general partner or whoever manages the venture fund may have.

Q. And as part of your opinions in this matter, did you analyze the fund's recent performance?

A. I did.

ATTORNEY TAFT: Could we pull up the third slide, please.

Q. Dr. Strebulaev, how does this slide relate to the opinions in your case?

A. Well, this is the result of my investigation that I did on the recent performance of ATP fund relative to the comparable sample of early-stage biotech funds.

So let me try to explain. First of all, I concentrate on two financial metrics that are very commonly used in the venture capital industry. The first metric up top is "Net IRR," where IRR stands for the internal rate of return. And the bottom panel shows "TVPI," which stands for the total value to paid-in investments. The fact to think about TVPI is how many dollars you get for one dollar of investment in the venture fund.

Q. Where did you get the data for ATP's net IRR and TVPI?

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A. Well, first of all, the ATP data is for ATP Pools V-1, V-2, and V-3. And this is the data that ATP reports itself in its statements to the limited partner. And also what the red bar shows is this performance -- the most recent performance available to me as of December, end of December 2024. And maybe I should mention that Pools V-1, V-2, and V-3 are recent investments. Those pools started between 2019 and 2021 and really the only actively managed investments by ATP.

Now, what you see in blue is the performance of the comparable -- a comparable sample. And I show three metrics here both for net IRR and TVPI: the median performance, the average performance, and the top quartile. And let me also mention, importantly, that in the venture capital industry, investors care a lot about the top quartile because this is risky investments. And investors try to invest in the top-performing managers. That is commonly understood as to be in the top quartile of performance.

So to -- I think this chart clearly shows that ATP Pools V-1, V-2, and V-3 performed poorly. Their performance was below the median, below

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the average, and I would say dramatically below the top quartile.

Q. And how would that affect a reasonable investor's assessment of the decision whether to invest additional funds in these pools?

A. Well, as I already mentioned, reasonable investors try to allocate their limited capital to the best possible opportunities. So this analysis would cause a reasonable investor to have a lot of concerns about the poor performance of the fund, and as a result of -- the reasonable investor's result of this would consider whether to continue funding any of the companies within those pools.

Q. Now, as part of your work on this case, did you also assess the third-party interest in the fund's portfolio companies, in the early-stage companies?

A. Yes, I did, specifically the equity interest by third-party investors, which, in my experience and my research, is one of the critical considerations by -- in the venture capital industry.

ATTORNEY TAFT: Can we please pull up the next slide.

Q. How does this slide relate to your

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opinions?

A. This was the result of my investigation. Let me try to explain briefly. What I did is I compared seven early-stage companies and ATP Pools V-1 and V-2 -- and they are shown in the red -- with a sample of the comparable early-stage biotech companies, retraced their initial funding rounds to approximately the same size as the early-stage companies in the matter.

And what I looked at is the timing, which is how quickly that comparable companies raised subsequent funding, went public, or did what I would describe as successful M&A, which is with at least twice the amount invested. So I would describe those kind of companies in blue here as successful or potentially successful.

What the chart shows is that the median company raised its subsequent round of follow-on foreign investment within approximately 1.5 years.

If you look at the 75th percentile, it means that 75 percent of the comparable companies raised their follow-on investment at 2.18 years.

If we compare this to the early-stage

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companies, none of the early-stage companies in the matter had any follow-on investment for at least 2.18 years, so well beyond the timing of typical comparable biotech companies. And the timing is, as of May 15, 2025, between 2.35 and 4.83 years plus since their initial funding without any subsequent follow-on investment.

Q. And did you also hear Dr. Robbins testify regarding third-party interest in the early-stage portfolio companies?

A. I did hear he testified about it right now.

Q. And did any of that testimony change your opinions in this case?

A. No, it did not, for a number of reasons. One reason is that he had a slide where in the last column he showed what he called third-party interest. And none of those examples that he showed were from investors.

Second is that the examples that he showed, many of those were stale. For example, the very first example he had, I believe, was a company called Evercrisp. And he said the discussion with potential pharmaceutical companies, which is not

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equity interest -- in progress or in discussions he said. Well, that is information from, I believe, 2023.

In my review of the most recent reports from ATP, those discussions are not mentioned. And if we go down, there will be more examples like that.

Q. What conclusions do you draw regarding whether -- how a reasonable investor would assess the level of third-party interest in these companies?

A. Maybe I should also mention that as a part of my investigation, I also looked into whether it is common for a single -- for companies to have only single investor in a follow-on financing. And I found out that if you look at the comparable companies, it is very uncommon. It happens only in 4 percent of cases, meaning that for the overwhelming majority of successful or potentially successful comparable early-stage biotech companies who had more than one investor.

So taking this together, the conclusion I draw is that a reasonable investor would be concerned about the lack of third-party interest, investor interest, and will be concerned about the

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timing of the -- so the timing by which this -- none of these companies has been able to raise any follow-on financing.

Q. Dr. Strebulaev, among the factors that you said a reasonable investor would consider -- at the beginning, you also mentioned potential conflicts of interest. Did you analyze that as part of your opinion in this case?

A. I did.

ATTORNEY TAFT: Could we pull up the next slide, please.

Q. How does this slide relate to your opinions?

A. Well, so first of all, as I understand, Dr. Harrison really controls ATP. So he's both a limited partner in ATP, in various pools of ATP fund, and he also would get carry if those pools are successful.

And, first of all, let me explain that carry is very commonly used, universally used, I would say, in the venture capital industry. And the idea behind carry is straightforward. You would like to incentivize the fund manager to find and manage companies to achieve profitable exits because what

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carry is is the participation in the upside profit of the fund. So after all the initial contributed capital returned to the limited partners, carry means that if there is any profit remains, you would get a fraction of that.

Now, while carry is universal in the venture capital industry, in this specific case, there are at least two factors that would lead to the very specific conflict of interest. Let me try to explain.

So, first of all -- and I show this on the slide. And I concentrate on Pools V-1 and V-2 simply because those are the pools that contain all the early-stage companies in this proceedings.

So for those pools, first of all, Dr. Harrison's capital contribution is zero, meaning that Dr. Harrison has no financial risk with respect to those pools. So that if all of those capital is lost, Dr. Harrison will not lose anything.

Second, as you see, Dr. Harrison at the same time has 7.5 percent carry. And again, what it means is that for every hundred dollars of profit, if there's any profit, Dr. Harrison will get $7.5.

Now, the second reason why it leads in this specific case to a higher than usual, very

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specific conflict of interest is because carry can lead to conflict of interest if the companies in question are not performing well.

So if the companies, let's say, have a negative net present value, which means that we should not really proceed funding them any further, but the fund manager has no financial risk and, at the same time -- just on the outlier possibility that one of these companies can be successful, the fund manager will generate potentially substantial profit.

So this asymmetry leads to potentially very large conflict of interest that would make Dr. Harrison's --

THE COURT: We're going to take our 15-minute break.

(Court in recess at 3:04 p.m.)

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(Resumed at 3:18 p.m.)

THE COURT: Please be seated. We'll go until 5:00. Please begin.

ATTORNEY TAFT: Thank you, Your Honor. Again, Will Taft for defendants.

BY ATTORNEY TAFT:

Q. Dr. Strebulaev, have you reviewed the reports submitted by Dr. Rao, the plaintiff's expert in this case?

A. I did.

Q. And did you review his opinion that it would generally not be economically rational for an investor who was already in one of the early-stage biotech companies to stop providing additional funding barring circumstances like a scientific roadblock or failure of a drug candidate?

A. I did.

Q. Do you agree with that opinion?

A. I do not agree. In fact, Dr. Rao makes a basic mistake. He violates basic principles of economics. And it is such an important principle that the economists even have a name for it. It is called the "sunk-cost fallacy."

Economists generally agree that the

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investment's already made in the past, and this what we call sunk costs, should not be considered when we decide on making future investment decisions.

What matters for the future investment decisions is the potential future additional cash flows that the project can generate in expectation on top of the cash flows that that project should have generated anyway if we provide additional capital.

Q. So a reasonable investor in May of 2025 would have been focused on the potential return on investment of incremental dollars that they're putting in; correct?

A. That is absolutely correct. And doing anything else would be an example of sunk-cost fallacy.

Q. Thank you.

Dr. Strebulaev, do you have an opinion as to whether Rigmora's decision to condition the discussion of additional budgets for certain portfolio companies on ATP winding down the early-stage companies was consistent with reasonable investor behavior in a venture capital context?

A. The answer is yes. And I would look at the factors that are reviewed: missed milestones,

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poor performance of the fund recently, lack of third-party investor interest, substantial potential for a conflict of interest. I think take -- combine all of this together, a reasonable investor would be justified in raising very serious concerns.

And I think as a result of this, Rigmora was justified in considering whether to reallocate funds away or to stop providing additional funding to these early-stage companies.

ATTORNEY TAFT: Thank you. I turn over the witness.

ATTORNEY JONES: We have some binders. Can we approach with those?

THE COURT: Sure.

CROSS-EXAMINATION

BY ATTORNEY JONES:

Q. Good afternoon, Doctor. Taylor Jones from Quinn Emanuel for plaintiff.

How are you?

A. Good afternoon.

Q. Doctor, you don't have a medical degree; right?

A. I don't.

Q. You don't have a biomedical

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engineering degree?
A. That is correct, I don't.
Q. You've not earned any degrees in the life sciences; right?
A. That is correct.
Q. And none of the courses that you've taught in venture capital investing are specific to the biopharmaceutical industry; correct?
A. If you say specifically, then yes. Of course, the venture capital class I teach cover all the venture capital investments. That would also include healthcare, life sciences, biotech, but not specifically.
Q. Understood.
Biotechnology has never been a specific research area of yours either; right?
A. That is correct. Again, if we understand the specific in the way I already described.
Q. So you're not an expert in biotechnology specifically; correct?
A. No.
ATTORNEY JONES: Let's pull up JX 1318, please. And this is in your binder behind

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the tab that says JX 1318, if you'd like to turn there in the paper version, Doctor.
Q. You reviewed this email in preparing your report; correct?
A. That is correct.
Q. This is Mr. Bogdanov's May 15th, 2025, email to Dr. Harrison and others at ATP.
A. That is correct.
Q. And this email is the focus of Section V of your opening report, I believe; is that correct?
A. I don't remember the section number right now, but I believe so.
Q. You, in fact, quote from it in paragraph 57 of your report; correct?
A. Presumably so.
Q. Why don't we turn to your report. That's JX 1576. That's also behind a tab in the binder if you'd like to turn there with me. I'm specifically looking at page 24, that's where you can find paragraph 57.
You quote here from this May 15th, 2025, email, here in your report; correct?
A. That is correct.

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Q. And you conclude in your report that a reasonable investor would share some of the concerns that are expressed in this email; right?
A. At least some. I'm not really sure about some or all, but yes, would share concerns, yes, that is correct.
Q. I'd like to look at the first sentence of paragraph 58. You write, "As explained in its May 15, 2025 email to ATP, Rigmora believed that the Early Stage Companies had failed to meet milestones as set forth in their investment memoranda and there was no third-party interest to invest in them."
Did I read that correctly?
A. Correct.
Q. You didn't interview anyone at Rigmora before submitting your reports; right?
A. I did not.
Q. And so the support you cite for this statement regarding what Rigmora believed is in footnote 84 of your report; right?
A. That is correct.
Q. And that cites to paragraph 134 of the complaint, and complaint Exhibit 10; right?
A. That is correct.

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Q. Do you remember what paragraph 134 of the complaint is?
A. Not sitting here right now.
Q. Let's turn to tab 1400, JX 1400 in your notebook, please. Paragraph 134 starts on 62 of the complaint. Let me know when you're there.
A. Yes, I do see paragraph 134.
Q. Paragraph 134 is a long quote of the May 15th, 2025, email; right?
A. That is correct.
Q. Let's also turn to Exhibit 10 to the complaint. You'll find that at the back of this same tab. Are you there with me?
A. Yes.
Q. And that is the May 15, 2025, email itself; right?
A. That is correct.
Q. So you don't cite anything else in your report to support an assertion regarding what Rigmora believed; right?
A. That is correct.
Q. You also don't offer an opinion in this case regarding whether Rigmora or Mr. Bogdanov or anyone else at Rigmora were, in fact, reasonable in

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their actions; right?
A. I do not. I was not asked to reach such an opinion, one way or the other.
Q. Let's turn back to JX 1318, the May 15th email itself, please. And are you there, Doctor?
A. Yes.
Q. I am looking at the first paragraph after the bullets, the first sentence. "The SLP see no way for a path to commercial success for these Early-Stage Companies, *inter alia*, because: they have failed to meet the milestones set out in the investment memoranda on which SLP's initial funding was premised, the remaining budgets are not sufficient to achieve them, there is no third party interest to invest in these Early-Stage Companies, and any further capital calls would not be in accordance with the milestones and business plans set out in the agreed budgets for the Early-Stage Companies (and the SLP have not consented to these budgets being changed)."
Did I read that correctly?
A. Yes, you did.
Q. And you opine in Part V of your opening report that the early-stage companies raised

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issues "That Would Make a Reasonable Investor Concerned About Continuing to Fund Them." Correct?
A. That is correct. I'm not really sure what you mean by Part V. I think maybe Section V.
Q. I should have said Section V, that's right. Thank you.
Now, missed milestones, that's an issue that's mentioned in Mr. Bogdanov's May 15 email that we just read; right?
A. That is correct.
Q. You also discuss it in your opening report?
A. That is correct.
Q. And the May 15th email also states that the remaining budgets are insufficient to achieve the milestones; right?
A. That is correct.
Q. But you don't consider in your reports whether the remaining budgets were sufficient to achieve the milestones; right?
A. That is correct. I was not asked to do it.
Q. Struggling to raise funding from third parties, that issue is also mentioned in the May 15th

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email?
A. That is correct.
Q. You do discuss that in your opening report; right?
A. That is correct. I also discuss it in my rebuttal report as well.
Q. Section V(A) of your opening report, that's the section that focuses on whether the preclinical companies missed milestones; correct?
A. I do discuss in my opening report. I don't remember the section number right now. Apologies.
Q. That's not a problem at all. We can turn there if you like. It's -- 1576, again, is the tab. And that section of your report starts on page 25.
So this is the section of your report where you discuss your finding that "The Early Stage Companies Missed Milestones." Right?
A. That is correct.
Q. Now, you opine here that it's "common to require that portfolio companies [hit] milestones to progress to the next round of funding." Right?
A. That is correct.

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Q. But you can't give an opinion here on whether the portfolio companies at issue here were required to meet milestones in order to progress to the next round of funding; right?
A. I don't believe so. It seems a legal question to me.
Q. And you're not a lawyer; right?
A. I'm definitely not a lawyer. I'm not qualified to render any legal opinion, only an opinion as an economist.
Q. Thank you.
Paragraph 61 of your report on the next page here, you opine that "a reasonable investor would be concerned about the failure of portfolio companies to meet their predetermined milestones." Right?
A. That is correct.
Q. You didn't determine whether ATP had, in fact, missed milestones; correct?
A. Do you mean ATP or the portfolio companies of ATP, Counsel?
Q. I'll accept that correction. The portfolio companies. You didn't determine whether they had, in fact, missed milestones; right?

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A. I did not. I was not asked to do it.
Q. You relied on the lawyers from Debevoise to tell you that the portfolio companies had missed milestones; isn't that right?
A. Well, what I understood is that, from counsel, is that there's another expert, Dr. Ilonna Rimm, who was asked to -- by a technology expert to opine or to investigate whether milestones were missed or were not missed. And that she reached an opinion.
Q. You also don't opine on which milestones were missed; right?
A. That is correct.
Q. And you don't opine on the reasons that preclinical companies may have missed certain milestones; is that right?
A. You mean specific companies at the issue in this matter?
Q. Correct?
A. That is correct, I do not.
Q. You would agree, wouldn't you, Doctor, that a reasonable investor would want to know why the portfolio companies missed milestones?
A. I would say that it depends. Typically, yes. But, of course, as I mentioned, there

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are many factors that a reasonable investor would consider, in addition to -- sorry, in addition to missed milestones. A missed milestone definitely would raise, I think, a substantial red flag for any reasonable investor. But then there are other factors at play.
Q. Do you recall providing deposition testimony in this case on August 26, 2025?
A. I do.
Q. I'd like for you to turn to your deposition transcript, which you should have in front of you. I'm going to turn to page 101.
A. I can also look at the --
Q. That works for me. Whatever you would like to do.
A. Thank you. I will look at the screen, if that's okay.
Q. Starting on line 20.
"Question: Okay. Dr. Strebulaev, are you intending to testify that a portfolio company's meeting of milestones that were presented in an investment memo were a prerequisite to the release of funding within the Series A round?"
Mr. Taft objects to form to the extent it calls for a legal conclusion.
"Answer: I think, Counsel, some words that you use such as 'prerequisite' seems legal to me. But I do intend to testify of course only if asked and called upon that a reasonable investor would review at all times, including in connection with a continuous funding in a Series A round, about how the -- annually the portfolio company is progressing. And that would include whether the company is able to reach its milestones, whether it missed milestones; and if it missed, why it missed milestones."
Did I read that correctly, Doctor?
A. You did.
ATTORNEY TAFT: Your Honor, the full answer was not read.
THE COURT: You can read it during redirect.
BY ATTORNEY JONES:
Q. Now, the second issue you identify in Section V of your report is that there was "no third party interest to invest" in the preclinical companies; right?
A. That is correct.
Q. In paragraph 62 of your report, you

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give an opinion as to the reason the preclinical companies were unable to obtain third-party funding; isn't that right?
A. Again, Counsel, I need to see paragraph 62, but I believe that's correct.
Q. Of course. Let's go there. That is on page [sic] 62 of JX 1576. I'm going to try and join you in reading the screen here.
Are you with me there?
A. I am.
Q. In paragraph 62, you write, "If potential new investors had thought that the Early Stage Companies were viable investments, these companies would likely have been able to obtain funding from third parties. Based on my review of the evidence, this was not the case."
Did I read that correctly?
A. You did.
Q. So you're opining here that the reason third parties did not invest is because they didn't think the early-stage companies were viable investments; correct?
A. I was not asked to evaluate whether the investments were viable. But I was asked to opine

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how -- in the venture capital industry, what are the indicators that the companies are potentially viable. And one important indicator is the third-party equity interest, which means that if the market, the venture capital market, considered those companies to be of interest, there would be interest from third-party equity investors that would materialize.

And upon the review of the evidence, I have not seen such materialized interest.

Q. And when you say "review of the evidence," you mean emails and deposition testimony in this case; correct?

A. Well, the entirety of the evidence I think that was given me. But that would include depositions and emails I believe, yes.

Q. Let's look at pages 26 to 27 of your opening report. I'm at paragraph 63.

So here, you write, "I have reviewed documents suggesting that ATP tried to find third-party investors and partners in the Early Stage Companies and was unable to do so. ATP's document production includes emails regarding its business development attempts with regard to the Portfolio Companies that show outreach to many pharmaceutical

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companies, where the update to those attempts was mostly 'awaiting feedback.' Review of these emails indicates an unwillingness to fund the Early Stage Companies from third-parties. For example, they mention that potential investors and partners were interested in Aethon, Apertor, and Evercrisp but ultimately concluded that it was 'too early' to engage."

Did I read that correctly?

A. You did.

Q. You quote from one of these emails, right, in paragraph 63 to your report?

A. That is correct as well.

Q. And that's this block quote here that I'll read from now.

"I am a fan of the technology and appreciate its potential. The challenge we have had is finding a target that the company sees as commercially viable. As I explained in my email last September, with Sanofi signing a strategic deal for exclusive US over-the-counter rights to Tamiflu® in Flu Care, they are currently unwilling to consider another antiviral for flu. They also aren't sure about the commercial potential of an antiviral for

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coronavirus, PIV3 or RSV."

Did I read that right?

A. Yes, but you said it's a quotation from the email. And I think, Counsel, you also read the last sentence, which is not a quotation, if I'm not mistaken. But it's part of my report.

Q. Well, let's go to the email and see. So this is behind JX 0811 in your binder. And I believe the email that you're quoting from is on the page ending in Bates stamp 533, about halfway down the page.

Let me know when you're there.

A. I am with you, Counsel.

Q. And that's the email that you quote in paragraph 63 of your report; is that correct?

A. Is it a question? I'm sorry, Counsel.

Q. This is the email that you quote from in paragraph 63 of your report; correct?

A. I do, with the proviso that if you look at the footnote, footnote 92 of my opening report, this is just one of the emails I quote. I also quote an internal email, and I also quote the deposition of Mr. Jardine as well.

Q. Thank you.

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The first sentence of this email, on the page ending in Bates 533, says, "It is great to hear from you. I would certainly appreciate a preview of the data and you are correct our CDA is good until 2028."

You omitted that from paragraph 63 of your report; correct?

A. No. I cited the entirety of the email in -- well, I cited this as footnote 92. I said, "Emails between ATP and Red Queen, March 2024," and then I gave the Bates stamp number. I did not omit the first sentence. I just did not quote from the email --

Q. Got it.

A. -- directly.

Q. So that's exactly what I meant. You didn't quote the two sentences that I just read; right?

A. That is correct.

Q. And you indicate that omission with ellipses; right?

A. I'm sorry, Counsel. I'm not really following you.

Q. Go back to paragraph 63 of your

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report.
A. I am there.
Q. You have ellipses at the beginning of this block quote; right?
A. Yes.
Q. And that indicates this omission, doesn't it?
A. Yes. I think really it is -- and apologies if I did not do it correctly, but I think this is the document. And then I say this email that I am quoting in footnote 92 starts at page 553.
Q. Understood.
A. So from this point of view, I think I -- I did not quote the sentence for the space constraints, but I did mean, I think, I believe that email, the entirety of that email.
Q. Got it. Okay. Let's go back to the email again behind Tab 811.
The last sentence here, once you get there, the last sentence here says, "I do think clinical data showing that is having a positive impact in people infected with those pathogens might be able to change opinions."
You left that out too; right?

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A. Again, Counsel, I'm not really sure if I left out. Yes, I did not cite anything -- sorry. I did not cite the specific text of the email in my report. I reference to it in my footnote 92. That would include the yellow sentence that you indicated.
That also -- I also did not include the middle sentences as well that, for example, say, and I'm going to quote, "The challenge we have had is finding a target that the company sees as commercially viable." And I think what was important for me is in this email and in the previous --
Q. Let me stop you for a second. I believe you did include that in your paragraph 63; right?
A. I'm sorry?
Q. You did quote that in your paragraph 63.
We can move on, Doctor. It's not important.
You did not use ellipses to indicate that last omission; correct?
A. Sorry. Again, Counsel? I'm not really sure I follow.
Q. That's okay. We can move on.

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A. I believe the way I used ellipses is to indicate where you can find that email.
Q. That's fine. Let's move on, Doctor.
Let's turn to JX 786. Here, I'm looking at the page ending in 003. And this is a document that you reviewed during your deposition; right?
A. That is correct.
Q. And I'm looking at the email in the middle of the page. It says, "Dear Seth and Anna, Given the latest news re syndications where various funds expressed sanctions concerns toward[] assets ownership structure, we have requested memorandum from Debe clarifying this matter as per US sanction laws. We have explicitly asked for a Memo that can be shared with the Fund and its advisors so that we can share it with you. Kind regards, Anna Kolonchina."
Ms. Kolonchina was an employer of Rigmora; right?
A. That is correct, I believe.
Q. Now, in reaching your conclusion in Part V(B) that third parties would have invested if they thought the preclinical companies were viable investments, you didn't consider that third parties

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might be concerned about investing because of U.S. sanctions against Dmitry Rybolovlev; correct?
A. I did not, and I have not seen any evidence in the record from third-party investors that indicated that concern.
Q. You conclude in your report that the performance of the pools containing the preclinical companies was "below its peers, and substantially below top performing comparable funds." Right?
A. That is correct.
Q. The May 15 email doesn't discuss the performance of the pools containing the preclinical companies as compared to its peers; right?
A. I believe that's the case.
Q. You prepared that analysis of comparable companies solely for this litigation; correct?
A. Well, yes, I was retained as an expert witness for this litigation. That is correct.
Q. In roughly June 2025?
A. Well, while my work was done roughly in June, August -- June, July 2025, the information that I used was as of December 2024. The exact details are explained in my methodology that I used to

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prepare the comparison in my report.
Q. You don't claim anywhere in your reports that Rigmora conducted this analysis before sending the May 15 email; right?
A. I do not.
Q. You also read the LPA as part of your work for this case; isn't that right?
A. I did, of course, as an economist.
Q. And there's nothing in the LPA that says capital commitments depend on whether the portfolio companies are performing in the top quartile; right?
A. I think that might call for a legal conclusion.
THE WITNESS: Your Honor, if I may, I will answer.
A. I don't remember seeing this.
Q. Two out of three of your principal conclusions involve a concept that you call a "reasonable investor." Right?
A. Two out of three? I'm not really sure what you mean by three, Counsel.
Q. You discussed the concept of a reasonable investor in your report; correct?

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A. That is correct.
Q. A reasonable investor, would you agree, has access to information an investor would want to make a decision?
A. That depends.
Q. Turn back to your deposition, please. I'm on page 32, starting with line 19.
ATTORNEY JONES: Marco, do we have that?
Q. "Question: What is your definition of 'reasonable investor' as you have used it in your report that's been marked as Exhibit 1?
"Answer: A reasonable investor is an investor who is a rational economic agent and will be making decisions in light of all [] the information that an investor possesses, so information an investor would like to possess to make a decision."
So the investor has access to all the information the investor would want to make a decision; right?
A. No, that is not correct, Counsel. So what I said is that "all of the information that an investor possesses." Sometimes the investor would find it -- a reasonable investor would find it in that

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investor's interest to delegate decision-making to some others.
So, therefore, to make a decision you don't need to try to get more information. But yes, if you already have this information, then you typically would utilize it.
Q. You're not aware of Rigmora retaining any biotech consultants before it sent the May 15 email; right?
A. I don't know one way or the other.
Q. Now, you have this opinion that I believe you testified about a moment ago, in Section III(D) of your report, that a GP's interest can diverge from an LP's interest in relation "to providing additional rounds of funding." Right?
A. That is correct.
Q. And that can create a conflict of interest that can also be a concern to a reasonable investor; correct?
A. That is correct.
Q. But you would agree that this risk can be mitigated; correct?
A. To some extent, yes, that risk can be mitigated. And one way to mitigate it is by the

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general partner, by the fund manager, to provide a substantial capital contribution --
Q. Another way that it can --
A. -- as a limited partner.
Q. Another way that it can be mitigated is to give the LP the right to approve budgets for the portfolio companies; right?
A. So that typically is not what's done. I think this is more or less --
Q. Typically. But that's one way they can be mitigated; right?
ATTORNEY TAFT: Your Honor, if the witness can finish the question without being cut off.
THE COURT: I think the court reporter would appreciate that as well.
But I encourage you to listen to the questions as well.
THE WITNESS: Thank you.
ATTORNEY JONES: Apologies. I'll slow down.
THE WITNESS: Would you repeat the question, Counsel. I apologize.
BY ATTORNEY JONES:
Q. One of the ways that that conflict can

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be mitigated is by giving the LP the right to approve budgets for portfolio companies; right?

A. So in the cases where there is one major LP, that could be one of the ways. But I would not say it's mitigated. I would say this is one of the factors that should be taken into account. This does not eliminate the potential conflict of interest, especially if some or all of the companies are underperforming.

Q. In this case, Rigmora did have the right to approve budgets for portfolio companies; right?

A. I believe that is the case.

ATTORNEY JONES: Can we just pull up Slide 5 to your demonstrative again.

I'm sorry. The very last slide is what I'm looking at. That's it. Thank you.

Q. This slide doesn't account for the fact that Rigmora has to recover the full amount of its capital contributions before Dr. Harrison receives any carry; right?

A. That is correct, which is the, as I mentioned, the idea of the carry, is that limited partners first recover the capital contributed to the

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fund, and then the carry is shared, or the profits are shared, rather, between the limited partner and the fund manager; in this case, Dr. Harrison.

Q. And this slide also doesn't account for the fact that Rigmora receives over 90 percent of the profits in Pools V-1 and V-2; right?

A. I'm not really sure what you mean by that. Of course it does account because, as I understand, there's really only two beneficiaries here, which is Rigmora and Dr. Harrison. So Dr. Harrison receives 7.5 percent of carry. Rigmora does not receive carry because Rigmora is a limited partner.

So carry is received only and only by Dr. Harrison and his trusts.

Q. And you understand that Dr. Harrison does contribute capital to Pool V-3; right?

A. That is correct. I believe that he contributes around .3 percent. I may be mistaken on the number. But his carry in Pool V-3 is also larger. It's about 11.2 or 11.3 percent.

Q. Pool V-3 is not on this slide; right?

A. I did not include it on this slide because it does not include -- because none of the --

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as I understand, none of the early-stage companies in the matter are included in Pool V-3.

Having said that, if you include Pool V-3 on the slide, my opinion would not change.

ATTORNEY JONES: No further questions. Thank you.

ATTORNEY TAFT: No further questions, Your Honor.

THE COURT: Thank you.

THE WITNESS: Thanks so much.

(Witness excused.)

ATTORNEY BARLOW: Your Honor, plaintiffs are going to call Spiros Liras.

SPIROS LIRAS, having first beenduly affirmed, was examined andtestified as follows:

ATTORNEY BONACORSI: Good afternoon, Your Honor.

DIRECT EXAMINATION

BY ATTORNEY BONACORSI:

Q. Good afternoon, Dr. Liras. Can you please introduce yourself.

A. Yes. I'm Spiros Liras. I'm a drug discovery and development professional. I've been working in the business for about 30 years. I have a

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Ph.D. in organic chemistry.

I started my career at Pfizer, where I was at for 24 years. I was vice president of research at Pfizer, leading programs in multiple disease areas spanning from neuroscience to cardiovascular-metabolic diseases and rare diseases. I was fortunate to have led teams that deliver nearly 50 compounds into clinical development.

Q. How long have you been at ATP?

A. I left Pfizer in 2018. I joined Biogen for a very brief period of time, about 15 months, where I established the external portfolio innovation unit. Reason of this was to basically promote entrepreneurship.

And while I was at Biogen, I was recruited by ATP. It was a compelling opportunity for many reasons, in part because ATP had a fantastic reputation in terms of actually going and building companies from scratch, from very nascent research, which is where I lived in for all my life, really, professionally, to a great success in terms of turnovers by exits and other measurements.

At the time that I was hired, our managing director, Seth Harrison, was building an

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exceptional team of expertise with other partners. Some of them I had tremendous respect for and I always looked forward to working with.

And I think the last and most important thing is that Seth had a tremendous respect, hopefully still has, for chemists. I'm a chemist, and I really appreciated that as an added advantage.

Q. Are you a venture partner with ATP?

A. I am.

Q. And what do your responsibilities include as venture parter of ATP?

A. Predominantly to select projects, to liase with the external environment, identify compelling opportunities.

Subsequent to this, sort of like invest my time in terms of building a coherent and convincing investment thesis, which is then approved by the ATP investment team, which encompasses all venture partners. Ultimately, the decision to fund is Dr. Harrison's.

Once a company is funded, we compile a pretty thorough investment memo which kind of serves as a roadmap from the implementation of a project all the way to the delivery of value as measured by exits.

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That's a pretty complicated and comprehensive document, which includes an investment thesis, the rationale, which is the foundation, the quality of our founders, several sections that relate to what we call milestones, which are forecasts and projections that measure progress against stated goals. We also have risk mitigation strategies that appear in the investment memo. We do comparables to assist how novel the science is and how potentially valuable it will be to patients and investors.

Q. And in addition to your role as a venture partner with ATP, do you have any roles within the portfolio companies?

A. Yes. I am a CEO of a company called Deep Apple Therapeutics. I was a funding CEO for a number of companies, which I thought it was an extraordinarily attractive aspect of my job at ATP because in addition to selecting and funding a project, we spent a great deal of our time building teams. And that's quite fantastic because we work with some of the smartest people on earth. Quite frankly, all of our founders at ATP have been members of national academies of medicine, science, winners of breakthrough prizes, Nobel Prizes, amongst other

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things. It's an exceptional opportunity to really engage with a cohort of people that shape the science as we know it today.

Q. And was this dynamic between ATP and its portfolio companies one the factors that caused you to join ATP?

A. Yes.

Q. At a high level, how would you describe your responsibilities within the portfolio companies, to the extent you have a role?

A. Yeah, early on, it's about team building and about guiding the scientific progress of the portfolio. For a specific company we select team members, we hire people. It actually has a pretty wide breath of scope.

For example, we even explore real estate opportunities for best fit for the companies that we create. But some of them had specific needs.

Progressively, as the company advances and matures, we hire people that are more relevant to the needs at time, meaning that we will hire translational biologists when we have something to translate. We will hire chemists when we have something to produce and evaluate to work to enable

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the journey of the company.

One of the things that I would like to highlight for companies of ATP, certainly the ones that I was involved in, is that they're extraordinarily efficiently managed financially. Most of them actually for the tenure of five years had less or just about 20 people, for the most part, with the exception of one.

Q. Okay. And you just mentioned investment memorandum. Did you help prepare investment memorandum for the portfolio companies you were involved in?

A. I did. I was a co-author.

Q. Could you describe, at a high level, the purpose of the investment memorandum.

A. It's basically to capture all aspects that justify the spend, from strategy all the way to operation and execution, and also a pretty diligent time-bound, obviously, effort to understand the marketplace and how this company fits and differentiates.

Q. I think you may have mentioned this earlier, do the investment memorandum contain what's known as milestones?

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A. It did in the title.
Q. And what is the purpose of the milestones within the investment memorandum?
A. For us, the milestones were basically forecasts of a time and point in which we had credible data to guide three decisions: One is we continue as planned. The other was there's compelling data to pivot and change the direction of the company. And the other, obviously, always in scope was whether there was enough data to convince us to exit the investment. That's kind of the comprehensive purpose of what we called milestones.
Q. And do you understand the milestones to be a static requirement to receive additional funding for the portfolio companies?
A. No. And they shouldn't be because this is early research, and it changes quite rapidly.
Q. And were you ever told by anyone at ATP that milestones had to be hit to receive additional funding?
A. No.
ATTORNEY BORN: Objection, calls for hearsay.
THE COURT: Overruled.

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BY ATTORNEY BONACORSI:
Q. Dr. Liras, when you were working at Pfizer, did they take the same approach with respect to milestones?
A. Every time. We build what we called project operating plans. I had forecasts and projections for key delivery, and we defended those either on a quarterly basis or biannually in front of senior leadership in presentation.
Q. And did you understand the milestones to be substantive decision points with respect to research and development?
A. Yes.
Q. And not related to requirements to receive funding?
A. Absolutely.
Q. And in your experience at ATP, have there been circumstances when a company pivoted from the milestones set forth in the original investment memorandum?
A. Many times. For good reason.
Q. Can you provide a few examples.
A. Sure. Apertor Pharmaceuticals is one of our companies where we originally conceived the possibility of delivering a vaccine enhancement product. As many of us remember, that was 2021, 2022. It was the thick of the pandemic. We were encouraged by our SAB to do so. We found the clinical candidate. I met the objectives.
We went through a thorough commercial and clinical evaluation analysis and convinced ourselves that clinical development at the time of the pandemic with immunocompromised people was not going to be productive. So we pivoted from that.
We knew we had a very valuable platform in synthetic biology. And we discovered that that could be deployed against oncology targets with high medical need with not really a lot of availability of frontline cases, treatments of patients.
Q. In your opinion, is a pivot like that one that indicates positive development for the portfolio company?
A. Yes, in this particular one and in many other cases.
Q. And would you describe this flexibility with respect to milestones as a benefit of ATP's model?

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A. I do, because in the way that we construct our thinking about companies, we not only spell out what aspirational may be possible, but also what may not and where the risks are. And we contemplate those risks in an effective way to actually mitigate and preserve the investment and actually enhance the value of the investment.
Q. And thinking about your experience in biotech more generally, is pivoting something that exists outside of ATP?
A. I would argue that most successful companies in the history of biotech have pivoted. I can offer one fantastic example. There's a company called Gilead in South San Francisco. Gilead is a known antiviral company these days. They started as an oligonucleotide company completely irrelevant to the current mission.
In the early '90s, as everybody recalls in San Francisco, there was different pandemic, HIV. A lot of people were losing their lives. Gilead, as a courageous company, decided to dedicate their resources to solve antivirals, and they did this multiple times. In fact, they have produced hepatitis C, small molecule treatments that are

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curable. Now people no longer have to go through liver transplants. And I think this is one example where a company listened to actually what was the -- an immense and incredibly urgent social need as well as followed an opportunity for breakthrough science.

As part of the story, actually, Gilead outlicensed its oligonucleotide platform to a company called Ionis, which in itself is the most -- one of the most actually revered companies for the liver in early oligonucleotide therapeutics. So it was a win-win for everybody.

Q. Pivoting back to Apertor -- and that's one of the preclinical companies you're responsible for?

A. That's correct.

ATTORNEY BONACORSI: Can we pull up JX 095, please.

Q. Do you recognize this document as the investment memorandum for Apertor?

A. Yes. This is the investment thesis, the executive summary, which basically contemplates -- it's a summary of the rest of the investment memo presented in a more strategic fashion. It has all the key elements that we described subsequently in more

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detail.

Q. Okay. And did you draft this memorandum?

A. I did.

Q. And turning to page ending 0002, do you see the subheading here "Investment Thesis"?

A. Yes.

Q. And what is the purpose of this paragraph?

A. It's to lay out actually what would be not only the first indication that will create value for patients, but also subsequently ways to build on the breakthrough science that the company delivers to expand and build and accelerate investment and success basically.

Q. And this section is informed by the scientists and chemists working at the portfolio company?

A. Yeah, this is -- and many in the ATP cohort, actually.

Q. Can we turn to page ending 0027. And is this -- this section here refers to milestones. Is that what you were mentioning earlier?

A. Yes.

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Q. And these were set out before the company was ever funded?

A. These were set up before the company -- before the company was funded. In fact, that memo somewhat precedes that decision. And they are underpinned by no data, to be fair, because this is breakthrough science. So what we do there is we apply our knowledge of reasonable transitions, where we can deliver a body of data that will convince us about and support the three points that I raised earlier, which is continue, pivot, or discontinue.

Q. And do you see in front of you there's Tranches 1, 2, 3, 4, 5?

A. Yes.

Q. And could you describe Apertor's progress with respect to Tranches 1 through 3.

A. Even if you take those tranches literally -- and some of them are diagnostics. For example, just to point out your attention to Tranche 1, there's no reason to actually count how many compounds you make at a company. You don't judge a company by how many compounds they've made. Be that as it may, the company exceeded by a long shot the number of compounds that were specified.

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Importance is to focus on milestones that represent hard currency, in my opinion. Those are INDs and development candidates. Especially INDs, which are regulatory documents. We submit those to the regulators.

If you actually look at Apertor's delivery when you add up that investment memo to $33 million, which is a completion of Tranche 4, we were expected to have delivered an IND and a development candidate. What we delivered -- two development candidates with an investment as of May 29th of $29 million. So, in fact, we never were actually funded to achieve the delivery of this full tranche.

Having said that, as we model it subsequently, it would have taken us $1.5 million more of an investment to get to a full delivery of this milestone, which was aligned with our forecast. But we were not given that opportunity.

Q. And in your opinion, would you say that the company overperformed vis-à-vis the funding they had received up to that point?

ATTORNEY BORN: Objection. Leading. I've been letting this go, but ...

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THE COURT: The same instruction applies, Counsel. And you have been leading the witness. And that's fine, but it's hard for me to assess the credibility of the witness if you do so.

ATTORNEY BONACORSI: Understood, Your Honor.

BY ATTORNEY BONACORSI:

Q. Dr. Liras, you mentioned earlier Apertor had a period where there was a pivot?

A. Yes.

Q. Looking at these tranches, could you explain at what point the pivot occurred?

A. I would say the pivot occurred right about -- definitely by the completion of Tranche 3 and in the beginning of Tranche 4. In fact, I remember vividly that the investment that we made at the time was about $24 million, if not 25.

Seth, myself, Paul Da Silva Jardine had an exchange by email and other discussions where we actually put all options on the table, including shutting down the company. A breakthrough publication came out at this point of time that told us that the value of the synthetic biology platform was incredible. We deployed that based on that

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publication. We extended a very small tranche of $2 million to explore that concept, and this is what ultimately delivered the clinical candidates.

Q. What did this pivot mean for the remaining milestones in the investment memorandum?

A. In a sense, the remaining milestones, again, in a forecasted way, in my opinion, could be achieved had we received the whole investment of the Series A.

Q. And do the investment memorandum also contain a section regarding risk?

A. It does.

Q. And can you turn to pages ending 003, 004.

Can you describe the purpose of this section.

A. Yeah. This is to identify risks based on our state of the knowledge at the moment of incorporating -- or actually at the moment of drafting the investment memo. This is entirely actually aligned with what happened. And it kind of, again, demonstrates the rigor and depth of the ATP team.

We predicted that we could identify compounds, but we predicted that there could be some

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ambiguity as to whether -- which indications would make most sense, and we labeled this as a medium risk.

Once we actually decided that because of clinical complexity and commercial reasons adjunctive theory for vaccine enhancement wasn't the way that we wanted to go, we spent the time more thinking and less spending to think what would be the next potential valuable indications. And now we have a couple of indications for targeting renal cell carcinoma and non-small cell carcinoma that are basically guided by genetics, which facilitate patient selection of the clinic, which is a big ask.

Q. Were you involved in providing updates regarding portfolio company progress to ATP?

A. All the time with various means. We had -- obviously, we had board decks that were shared with ATP. We also had quarterly reports that are fact-based in terms of capturing things along progress or along opportunities to pivot. Those were supplied every quarter. And we also had, you know, direct and spontaneous dialogue within the team, as well as the justifications for calling additional tranches.

Q. Okay. Could you describe some of those dialogues.

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A. The dialogue that -- the dialogue that I referred between myself and Paul Da Silva Jardine, one of my colleagues, was whether we should actually consider promoting shutting down the company. We went through a very thorough debate about this, analyzed the literature, and decided that that wasn't really a desired path. We presented the case to Seth. We agreed that we would get a small investment, it was $2 million, to actually prove the new hypothesis. And that was pretty material to the progress of the company subsequently.

Q. And do you know whether any of the updates went to Rigmora?

A. Through the quarterly reports I think they did.

Q. And did you assist with drafting or drafting portions of those quarterly reports?

A. All the time. I received direct feedback from scientists about specific scientific facts, but I authored the final version which was submitted to ATP.

Q. And do you recall receiving outreach from Rigmora about the progress of the portfolio companies?

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A. Not ever.
Q. And can we turn to JX 560, please.
You see this is an email from an Anna Batarina to Anna Kolonchina and others at Rigmora, attaching the first quarter 2023 quarterly report?
A. Yes.
Q. Flipping to the next page, do you recognize this as "First Quarter 2023 Report"?
A. I do.
Q. And you testified earlier that you drafted the updates in this report for the companies that you were involved in?
A. That's correct.
Q. And can we turn to the bottom of 0011, please.
Dr. Liras, is this the update for Apertor?
A. Yes, it is.
Q. Can you summarize for the Court the purpose of this update and what you're describing here.
A. Yeah. Essentially, this follows one decision to pivot. And therein we state that we performed comprehensive analysis by basically engaging

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all aspects of ATP's colleagues, including commercial assessment as well as medical assessment. And we concluded that oncology in renal cell carcinoma will be one of the most productive ways to go and also identified evergreen opportunities in research areas outside of oncology.
Q. And could you read the paragraph starting "With key data" at the bottom.
A. That's right. There we -- we typically socialize companies as they come closer to delivery of a developing candidate or an IND. And we actually anticipated -- we made a schedule basically to accelerate the research and also accelerate the presentations and the content of the presentation so we can meet and have productive interactions with business partners. That's something that we do as par for the course across all companies.
Q. And is it your understanding that Rigmora received these quarterly reports?
A. Yes.
Q. And do you recall whether after receiving this Q1 2023 quarterly report, Rigmora provided additional funding to Apertor at a point in time?

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A. Yes.
Q. And pivoting subjects here a little bit, are you familiar with stock purchase agreements between the portfolio companies and ATP?
A. I am.
Q. And did you have any role in drafting those?
A. I read and signed the documents as a representative of the company.
Q. And could we pull up JX 1329, please.
And do you recognize this document, Dr. Liras?
A. Yeah. This is a Deep Apple Therapeutics SPA.
Q. What is the purpose of this document?
A. It basically -- it's a legal contract between the purchaser and the company to sell stock, and it's essentially a legal agreement to do so.
Q. Can we turn to the page 0038, please. And do you see this, Dr. Liras, here? This is section 1.3(d).
A. I do.
Q. Could you please read the first sentence of this clause.

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A. "Notwithstanding the foregoing, the Purchaser shall have the option, at any time, and upon at least three [] business days' notice to [] Company, to accelerate its obligation to purchase all or a portion of the Additional Shares (at a [] share price equal to the Purchase Price), notwithstanding [the] Milestone has not occurred."
Q. And do you have an understanding as to what this sentence means?
A. It means that the buyer can choose to buy stock independent of success of said milestones.
Q. And the buyer here is who?
A. ATP.
Q. And do you recall testifying a few moments ago that Deep Apple is another company that had a pivot with respect to the milestones?
A. I did.
Q. And could you describe the pivot with Deep Apple.
A. Yes. So we built Deep Apple on the basis of a fairly broad research platform. There, we identified targets that spanned a number of disease areas from psychotherapeutics and neurogeneration to oncology, inflammation, immunology, and genetic

obesity. Those were targets that were actually included in the initial investment memo.

Shortly thereafter -- I should also mention that Deep Apple has scientific leadership that probably adds up to 100 years in experience in cardiometabolic diseases. If not that, pretty close to that.

We engaged with KOLs. Because of our genetic obesity target, we were told that this was the time to move in, all-in, in obesity. Obviously this was supported by the clinical success and commercial success of medicines like GLP-1.

So we basically substituted 80 percent of that portfolio, kept only two targets, and rebuilt a portfolio of obesity, which now is yielding several clinical candidates, one of which -- one of the programs, an early program I might say, served as a basis of a very lucrative, strategic partnership with Novo Nordisk valued at $812 million. Novo Nordisk is potentially one of the two most recognizable names in the treatment of diabetes and obesity these days.

Q. Did you keep ATP updated on the progress of potential business development deals?

A. Yes, in a very progressive manner. We

started talking about discussions under CDA in our quarterly reports. We escalated that description to include description about the progress of the CDAs.

For example, I recall that we put in that with Roche we were in a co-creation of research plan, which is a necessary next step after people like what they see under confidentiality.

Then we proceeded to build term sheets. Deep Apple was fortunate to have term sheets from four or five companies, the who's who actually, because it was a company that was highly visible by that time. We negotiated that in good faith with three potentials, and we settled with Novo Nordisk on June 11th of 2025.

Q. And were these negotiations or the status of those discussions reflected in the quarterly reports?

A. Yes. And in fact, in our board decks, we also displayed all the term sheets with all financials.

ATTORNEY BONACORSI: Could we pull up JX 824, please.

Q. And, Dr. Liras, is this an email from Anna Batarina to Anna Kolonchina attaching the 2024

first quarter quarterly report?

A. Yes.

Q. Turning to page ending 002, do you recognize this document as that quarterly report?

A. I do.

ATTORNEY BONACORSI: And could we turn to 0014, please.

Q. Does this appear to be the summary you drafted on Deep Apple?

A. That's correct.

Q. And could you read the third paragraph please?

A. "Given the intense interest in obesity, the company is in active and confidential discussions with major venture groups including Atlas Ventures, Foresite Capital, Orbimed, Vida Ventures, Alpha Wave, and Blue Owl. Similarly, the company is exploring in parallel strategic partnerships with pharma including Roche, Novo Nordisk, Lilly, Pfizer, and Merck for obesity, and AbbVie, Argenx, Blueprint, and Otsuka for MRGPRX2," which is our inflammatory candidate.

Q. Were these discussions what led to the eventual deal with Novo Nordisk?

A. They did. And like I said before, it was a very competitive process because we had parallel term sheets from Roche and Amgen.

Q. This quarterly report was provided to Rigmora?

A. Yes.

Q. And did you receive any questions from Rigmora about these discussions?

A. No.

Q. And switching gears a little bit. With respect to your management oversight of the portfolio companies, how did you build the teams of personnel that worked with you in those companies?

A. Within the portfolio specifically?

Q. Or any of the portfolio companies.

A. Yeah, any of the companies.

So in the beginning, we basically, as the company is in an embryonic state, we hire people from founders labs that bring a lot of know-how. And progressively, as we built programs that need specific resources, for example, chemistry, we hire a small chemistry team.

Deep Apple is unique because we invested a good deal of our human resource in machine

learning and computational and cyclical studies because it's really a hot topic in AI and machine learning and drug discovery. So we did that fairly early.

And then, you know, we built -- successfully we hired the head of drug discovery and a head of translational biology as the company began to get closer to clinical development.

Q. And when you were hiring for your portfolio companies, do you face competition in the hiring process from other companies in the biotech space?

A. We always do. And I think a tribute to most of our competence is that we were able to extract people from notable companies, especially in south San Francisco, which is a hotbed for biotechnology.

Q. And how has the lack of funding for the portfolio companies over the last few months impacted the ability of these companies to retain the talent?

A. It's been devastating. On June 17, I had to go to San Francisco for 31 hours to oversee the layoff of about 75 people across four companies.

Q. And if funding resumes, do you believe you'll be able to resume operations at a normal level?

A. I believe that there is a good chance because we have exceptional founders and we have outstanding science. Though the companies at this point in time are obviously operating with skeletal crew.

Having said that, one remarkable thing that is worth sharing is that our company, Nine Square, which now has three scientific employees and one operating officer, just recently secured a term sheet, nonbinding, by a major pharmaceutical company for half a billion dollars in a research collaboration.

And I think that's a tribute to the company, to the resilience of the staff, as well as the visibility and exceptional quality of the science we produced.

ATTORNEY BONACORSI: No further questions. Thank you, Dr. Liras.

THE WITNESS: Thank you.

CROSS-EXAMINATION

BY ATTORNEY BORN:

Q. Good afternoon, Your Honor. Natascha

Born for the defendants.

Good afternoon, Dr. Liras.

A. Hello.

Q. Dr. Liras, in your view, it's not unreasonable to prioritize clinical companies over preclinical companies; correct?

A. It happens quite frequently in pharma and biotech.

Q. In fact, you saw the prioritization of clinical companies over preclinical companies plenty of times when you were working at Pfizer; correct?

A. I did not see that. I saw the prioritization of clinical substrate over preclinical projects.

ATTORNEY BORN: Thank you. No further questions.

ATTORNEY BONACORSI: No further questions.

THE COURT: Thank you, Doctor. You may be excused.

THE WITNESS: Thank you.

(Witness excused.)

ATTORNEY BARLOW: Your Honor, plaintiffs call Yuri Bogdanov. Rigmora will begin on

the questioning.

ATTORNEY BORN: Where should we put the translator? Mr. Bogdanov's English is quite good, but occasionally he needs help with a particular term.

THE COURT: Are the mics at counsel table on?

THE INTERPRETER: Permission if I could sit here.

ATTORNEY BORN: You want to move my chair. Can you sit there? Does that work for people?

THE COURT: Let's swear in witness. We'll deal with the logistical issue. I think it would be better if the translator was miked, but go ahead.

STEVEN LAGUTIN, having first been duly affirmed, interpreted between Russian and English as follows:

THE COURT: Is that okay, that positioning?

THE INTERPRETER: I'd rather be here, but it's okay.

THE COURT: All right.

ATTORNEY BORN: We don't need translation for everything, just if he has a question

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about a specific term, we'd like you to be on hand.
THE COURT: Why don't you state and spell your name.
THE WITNESS: Yuri Bogdanov, Y-U-R-I, B-O-G-D-A-N-O-V.
YURI BOGDANOV, having first beenduly affirmed, was examined andtestified as follows:
THE COURT: Give me one second here. You can understand English fairly well?
THE WITNESS: Yes.
THE COURT: So if you need translation, you are going to ask counsel for a translation; is that correct?
THE WITNESS: That's correct.
THE COURT: Thank you.

DIRECT EXAMINATION

BY ATTORNEY BORN:

Q. Mr. Bogdanov, could you please introduce yourself for the Court.
A. Well, I'm Yuri Bogdanov.
Q. Do you hold any graduate degrees, Mr. Bogdanov?
A. Yes. I graduated from the Moscow

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Finance University.
Q. And what discipline is your degree in?
A. Business and real estate valuation.
Q. When did you receive that degree?
A. In 2002.
Q. Are you currently employed?
A. Yes. I'm employed by Rigmora Holdings Limited.
Q. If I just refer to that as "Rigmora," you'll know what I mean?
A. Yes.
Q. What is Rigmora?
A. Well, Rigmora is the special advisory body for the trustees of the trust, and also the investment vehicle which holds a number of important investments.
Q. You just mentioned the trust. What do you mean by that?
A. It's the Scorpios trust created for the three generations of the Rybolovlev family.
Q. Does Rigmora invest in the biotech industry?
A. Yes.
Q. How so?

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A. Well, Rigmora, through the special purpose vehicle, the BVI companies, holds the limited partners' stake in the Apple Tree Partners.
Q. If I refer to Apple Tree Partners as the fund or ATP, will you know what I mean?
A. Yes.
Q. And do you understand those limited partner entities to be the defendants in this case?
A. That's correct. I do.
Q. If I refer to those as the Rigmora LPs or just the LPs, will you know what I mean?
A. Yes.
Q. Do you know where the capital that the Rigmora LPs invest in ATP comes from?
A. It comes from the trust's assets.
Q. And did the Rybolovlev family trust have investments beyond its indirect investment in ATP through the Rigmora LPs?
A. Yeah, the trust has significant investments and assets outside of ATP that included the real estate, other businesses, hedge funds, private equity funds, liquidity positions for many of them.
Q. What is your current position at

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Rigmora?
A. I'm co-CEO and chief investment officer.
Q. And how long have you held that position?
A. Since last October, since October of 2024.
Q. And did you have a role at Rigmora before you became the co-CEO and chief investment officer last October?
A. Yes. I held numerous executive positions. But last three or four years, I worked as the special advisor.
Q. And what did you understand your role to be while you held the title of special advisor?
A. Well, to advise the trustees and the management of Rigmora on various matters, including the investments, and act as kind of like the second opinion and sometimes like, if they don't like the content, to challenge the management decisions.
Q. While you held the role of special advisor, did you have any responsibility for managing the Rigmora LPs' investments in the ATP fund?
A. No.

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Q. When you were promoted to co-CEO and CIO of Rigmora in October 2024, did that involve any new responsibilities?

A. Yes, obviously. And I, like, began responsible for overseeing a large portfolio of assets and investments and advising trustees on the various matters, including the ATP-related, yeah.

Q. Did you do anything to familiarize yourself with Rigmora's investments when you became CEO?

A. Yes. I reviewed a number of documents, contracts or reports, presentations, yeah, covering those topics.

Q. Did you familiarize yourself with the Rigmora LPs' investment in the ATP fund specifically?

A. Yes, I did. Like, briefly reviewed a number of documents. But, again, at that time, you may know, we had an open litigation, so that was also another focus of my work.

Q. And you mentioned the Rybolovlev family earlier. Do you know Dr. Rybolovlev personally?

A. Yes, I do. I know him for more than two decades. I worked for Uralkali, the business

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which belongs to the family trust, in Russia.

Q. Have you ever spoken to Dr. Rybolovlev about the Rigmora LPs' investment in the fund?

A. Yes, I did. Many times.

Q. What impressions, if any, did you form about how Dr. Rybolovlev viewed the Rigmora LPs' investment in the ATP fund?

A. Well, he took them very seriously. And, you know, he has a medical background. He started as a doctor, and he was really very passionate about those investments. It's not just investments. It's like his attempt to do something good for the people.

Q. You mentioned earlier that there was litigation pending when you came in as CEO in October 2024; is that right?

A. That's correct.

Q. What was that litigation about?

A. It was the litigation about the limited partner's right to call the distribution of the particular asset, the Braeburn, and the GP refusal.

Q. Do you know what the outcome of that litigation was?

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A. The parties agreed to settle the case.

Q. And did you play any role in the settlement process?

A. Yes. I was the lead negotiator on the Trust side.

Q. Could you outline the settlement for me at a high level?

A. Well, the parties agreed -- well, first, to set certain rules and principles on how the Braeburn will be distributed. The parties agreed to distribute in kind the royalty subsidiary, the special purpose vehicle which holds the royalty, the right to receive the royalty from the Braeburn for the very material amount. And, finally, the parties agreed to discuss certain budgets of five of the portfolio companies.

Q. And was there an amendment to the LPA in connection with the settlement discussions?

A. That's correct. The parties signed the Amendment 22 which is, like, summary of the settlement terms.

Q. Let's turn to JX 1068, which should be the first tab in your binder.

A. Yes, I'm on it.

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Q. Is this Amendment 22 that you were just referencing?

A. Yes.

Q. And can you tell me the date of this amendment?

A. It's 20th of December, 2024.

Q. Let's take a look at paragraph 26, which is on page 4.

A. I'm on it.

Q. And we're going to start by looking at the first sentence.

Can you tell me your understanding of what this sentence required the parties to do with respect to budgets?

A. Well, the sentence requires the parties to discuss the new budgets for five portfolio companies in accordance with the process set in the LPA. And those companies are Ascidian, Aulos, Nereid, Nine Square, and Replicate. I used just short names of the companies.

Q. And as the lead negotiator for Amendment 22 on the Rigmora side, why were you willing to commit the Rigmora LPs to discuss budgets for these five companies?

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A. Just because it's our investments and our businesses. That's what we usually did. And that's what we planned to continue, to discuss the budgets and analyze the projects and understand the businesses in our investment pool.

Q. Turning to the final sentence of this paragraph, it says that "If any approval of a new budget is given by the [SLP]," and then it refers to "such approval" of a new budget being "contingent upon at least $300 million being realized" by the Rigmora LPs "on a sale or financing of [their] interest in ATP LLC."

Do you see that?

A. That's correct. Yeah.

Q. What, if anything, was your understanding of this provision?

A. Well, the provision introduced the condition for the execution of any budget approval. And that condition was the realization of either a sale of part of the royalty agreement I referred earlier or the refinancing.

Q. When Amendment 22 was executed, were you planning on waiting to discuss any new budget proposals you received from Dr. Harrison until the

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Rigmora LPs had $300 million in hand?

A. No. No.

Q. When Amendment 22 was executed, were you planning on waiting to seriously consider any budget increases until the Rigmora LPs had these $300 million in hand?

A. No. Of course not.

Q. At the time this amendment was executed, did you care whether the Rigmora LPs obtained the $300 million financing or not?

A. Of course I did. And I think we started the process even before the amendment was signed. We hired the broker, the professional investment broker, to help us with this transaction.

Q. Could you tell me a little bit more about the process that you were just referring to.

A. Well, it was, again as I said, quite a process. We engaged the Greenhill. It's a broker. It's a part of the Mizuho Group. And I think we started in November, unless I'm mistaken.

And we created a data room. We worked with the broker on the presentation of the case. And we agreed on a long list of potential bidders. We sent more than 60 -- yeah, more than 60 invitations to

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bid. And we signed, I think, around 50 of nondisclosure agreements with potential creators. And, again, that was quite a process.

And then when we have short list of candidates, we started the direct discussions of the terms.

Q. And was there any interest in providing the royalty financing?

A. Yes. There was certain interest. And we received, I think, the first bids around February or March, yeah.

Q. What came of that?

A. Say again, please.

Q. What came of that? What happened next?

A. Oh, well, it took longer -- well, for many reasons. Like, in the middle of the process, partially thanks to the new administration steps, the company -- I mean the Braeburn -- started to revisit its forecast. And it was revised significantly. I think that we got some years off by almost 50 or 60 percent.

And we were in the negotiations and discussions with the bidders. But it took quite -- it

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took quite some time for them just to understand what is going on with the market. And that's why the process was a little bit delayed.

Q. Have you been able to secure any royalty financing in connection with Braeburn?

A. We haven't yet done it, but we're still working.

Q. After Amendment 22 was signed -- and we can set Amendment 22 aside.

After Amendment 22 was signed, do you recall whether Dr. Harrison got in touch with you about potential budget increases for the five portfolio companies referenced in the amendment?

A. Yes. Shortly after the amendment date.

Q. Let's pull up JX 1079, please.

A. Could you please say again the last digit.

Q. 1079. Sorry. It should just be the next tab.

A. Okay.

Q. Let's start with the bottom email. Is this the email from Dr. Harrison that you were just referencing?

A. That's correct.
Q. And what's the date on this email?
A. 24th of December. It's Christmas night.
Q. Do you remember where you were when you received this email?
A. Yes. I was with my family on a holiday trip in the middle of nowhere in Argentina on the salt flats, is that the right term, yes, in the camp tent.
Q. Is Christmas an important holiday for your family?
A. Yes, of course. Like, they raise certain protests when I just work on that night. Not as important, where Russians has the Orthodox Christmas and New Year, but also important one.
Q. And so you mentioned that you worked on this night. It sounds like you did not wait until after the holidays to review the information Dr. Harrison sent?
A. No. I -- like, well, first I read those materials, and I forwarded them to my team and asked them to start work.
Q. What was the work that you and your

team did?
A. Well, we analyzed the materials, we reviewed some other documents, including the original investment memorandum -- memoranda -- and we started drafting a list of the questions, follow-up diligence questions.
Q. There's a reference in this email to D-rooms containing supporting materials. Do you know what Seth Harrison meant by "D-room"?
A. I think it refers to the virtual data room with some supporting documents.
Q. And did you and your team review the documents in the D-room?
A. I personally struggled to get in access, but I think that my team members finally got the access, or it took like few days. There were some IT issues I remember.
Q. What did Dr. Harrison propose with respect to Nereid in his December 24 email?
A. I'm just trying to find it. Okay. So on the Nereid, Dr. Harrison proposed what he called a synergistic merger with another portfolio company, Marlinspike.
Q. And did you discuss Dr. Harrison's

proposal for merging Nereid and Marlinspike with Dr. Harrison?
A. Yes, I recall we had a follow-up Zoom call, I think in early February.
Q. Do you recall what the Rigmora LPs' position was on that call?
A. Well, we, in principle, agreed with the proposal. But we understood that Dr. Harrison would require some further investigation on some tax and legal aspects of that merger.
Q. Did you hear anything further from the GP about the proposal for a Nereid-Marlinspike merger?
A. I think no, up till the very end of April, early May when he mentioned that.
Q. What did he mention?
A. He said that he stopped the merger because of certain legal issues and apparently a very expensive lease that they wanted to cancel. And apparently they were considering a different way for the bankruptcy, or Chapter 5, if I'm not mistaken.
Q. Was that the last you heard from the GP about its proposal concerning Nereid and Marlinspike merging?
A. That's correct.

Q. After Dr. Harrison's December 24 email, did you ever receive a budget request for Nereid that did not involve a proposed merger with Marlinspike?
A. No, to the best of my recollection, we didn't receive it.
Q. Looking back at Dr. Harrison's email, what did he propose with respect to Nine Square?
A. On the Nine Square, he proposed to increase the budget for another 15 million.
Q. Did you engage with the GP about discussions for a potential budget increase for Nine Square?
A. I think that we, probably in February, I don't remember the months, we agreed to discuss the Nine Square budgets once we have the royalty financing done.
Q. Did the GP ever follow-up on the potential budget increase for Nine Square after that call?
A. No.
ATTORNEY BORN: I'm just conscious that we have about five minutes left. We're about to get into a longer chunk, it might make sense to --

THE COURT: To break for the day?

ATTORNEY BORN: Yeah.

THE COURT: So we resume at 9:00 a.m. tomorrow.

And I'll have my assistant email Mr. Barlow and Mr. Rohrbacher to confirm the timing of the day so you-all know what to expect.

With that, we are adjourned. Thank you.

(Court adjourned at 4:54 p.m.)

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Exhibit H

June 3, 2026 Transcript

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE:	Chapter 11
	Case No. 25-12177 (LSS)
APPLE TREE LIFE SCIENCES, INC., *et al.*,	(Jointly Administered)
Debtors.	Courtroom No. 6
	824 Market Street
	Wilmington, Delaware 19801
	Wednesday, June 3, 2026
	11:31 a.m.

TRANSCRIPT OF HEARING
BEFORE THE HONORABLE LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

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(Proceedings commence at 11:31 a.m.)

(Call to order of the Court)

THE COURT: Please be seated.

MS. Good.

MS. GOOD: Good morning, Your Honor.

THE COURT: Good morning.

MS. GOOD: Katie Good of Potter, Anderson & Corroon on behalf of Apple Tree Life Sciences, Incorporated and its affiliated debtors and debtors-in-possession.

We're here for an omnibus hearing today, and we have three items going forward on our agenda:

What we'll call our "exit solicitation procedures motion" at Item Number 4;

Rigmora's motion for approval of a cross-border protocol at Item Number 5;

And then the last, but not least, our bar date order at Number 6.

I think we would propose to go a little bit out of order today and start with the protocol motion, if that's acceptable for Your Honor, then turn to the exit solicitation procedures, and then wrap up with what is hopefully our uncontested item at Number 6, the bar date order.

THE COURT: That's fine.

MS. GOOD: I'll turn the podium over to Ms. Labovitz for their motion at Item Number 5.

THE COURT: Ms. Labovitz.

MR. MERCHANT: Your Honor, I don't know that any introductions are necessary at this stage of this case.

THE COURT: Oh --

MR. MERCHANT: As you know, Ms. Labovitz --

THE COURT: Oh --

MR. MERCHANT: -- she's going to be --

THE COURT: -- thank you --

MR. MERCHANT: -- addressing this motion --

THE COURT: -- Mr. Merchant.

MR. MERCHANT: -- on behalf -- I'm also with Ms. Shelden and Ms. Kelly and my colleague Mr. Franchi.

THE COURT: Thank you.

MR. FRANCHI: Good morning.

THE COURT: Good morning.

MS. LABOVITZ: Your Honor, I had stepped on Mr. Merchant's introduction last time and I wasn't going to make the same mistake this week.

(Laughter)

MR. MERCHANT: I have one job.

(Laughter)

MS. LABOVITZ: He has many jobs.

THE COURT: I am sure he has many jobs.

MS. LABOVITZ: He has many jobs.

Your Honor, good morning. We are here before you

on what is hopefully not a lengthy, all-day endeavor.

With respect to the protocol motion, as Your Honor knows, we had filed our protocol motion shortly after Justice Asif in the Grand Court of the Cayman Islands had suggested that intercourt communications might be useful and might help clarify some issues, including process and potential clarifications necessary as between the differences between both U.S. and Cayman law and terminology and procedure.

We had initially sought to have that motion heard on shortened notice. Your Honor preferred that we try, to the extent that we could, to reach agreement with the debtors and the creditors' committee. We did not receive comments from the creditors' committee, I believe. We did receive comments from the debtors. They did not file an objection, but I'm sure they will, today, let you know what their position is.

If useful for the Court, I can walk through the areas of difference.

THE COURT: Yes.

MS. LABOVITZ: And I'll begin by noting that the initial order that we had attached to our motion essentially was verbatim, with only like necessary changes from the local rules and the JIN form. We've worked with the debtors to try to make some further changes.

There is a blackline attached to the -- our

filing, I believe of last night, that shows what we're asking the Court to approve. But I believe we also have attached a blackline that shows -- or the debtors have attached a blackline that shows the differences between their position and our position.

THE COURT: So I was trying to figure out the blacklines. I think I've got at least three. So ...

(Participants confer)

THE COURT: So, if I --

MS. LABOVITZ: Just to make sure --

THE COURT: -- if someone could --

MS. LABOVITZ: -- we're all --

THE COURT: -- tell me where --

MS. LABOVITZ: -- looking at --

THE COURT: -- to start.

MS. LABOVITZ: -- at the same thing, that would be helpful to me, too.

MS. TOMASCO: If I could, Your Honor, I think -- I'm going by Docket 735-3.

THE COURT: 735?

MS. TOMASCO: That's -- I -- to me, that is -- that document reflects the bid and the ask.

THE COURT: Dash 3. Okay. I do have that. I called it "Blackline 2."

(Participants confer)

MS. GOOD: Your Honor, do you have a copy?

THE COURT: I -- if -- 735-3, I have.

(Participants confer)

THE COURT: And this is a comparison of what?

MS. LABOVITZ: Yeah, I was going to ask --

MS. TOMASCO: It's a --

MS. LABOVITZ: -- the debtors --

MS. TOMASCO: It's a --

MS. LABOVITZ: -- if they wouldn't mind saying what it's --

MS. TOMASCO: It's a comparison --

MS. LABOVITZ: -- in comparison to.

MS. TOMASCO: -- of the latest version we received from Debevoise and our response, some of which is putting back in what they took out. So this is the latest that we sent to them yesterday.

THE COURT: Okay.

MS. LABOVITZ: Okay. I'll work from this one. It's a bad mirror version of the one I had, but I'll work from this one.

Your Honor, the sum and substance of the dispute between the parties is that, from the perspective of the Rigmora LPs, we think the protocol should not be substantive. We think it should address a process by which the two courts communicate. We think that process is pretty well

established by the JIN guidelines and the local rules, and so the summary of the differences between us relate to that.

The first, I think, difference between the two proposals is in Paragraph 7. And here, Your Honor, I think the difference between us is that we simply did not want to put anything in Your Honor's order that would be potentially objectionable to Justice Asif.

THE COURT: Uh-huh.

MS. LABOVITZ: And so we were uncomfortable accepting the debtors' proposed changes saying that this order would control overall. And we had added language saying that this order would control over all matters arising and are related to the Chapter 11 cases and proceedings before this Court. But we didn't think it was appropriate to presume that this Court's order would control Justice Asif.

THE COURT: So this paragraph is dealing with the order on the protocol entered by me and then whatever Justice Asif may enter.

MS. LABOVITZ: That's right. This paragraph is saying that, to the extent that there are any inconsistencies relating to the protocol and other matters as set forth between this order and the order that Justice Asif may enter -- and we took out the phrase recognizing this order in the protocol because we think he may just enter an order.

THE COURT: Right.

MS. LABOVITZ: And then we said the terms and provisions of this order shall control. And what we were simply trying to say is that this order should control over all matters before Your Honor. And if Justice Asif were to enter an order that we think should be the mirror image, that would control for --

THE COURT: Okay.

MS. LABOVITZ: That's that distinction.

Ms. Tomasco, keep me honest. I believe that was the only item in the order, and then we moved to the protocol.

MS. TOMASCO: The word "solely" --

MS. LABOVITZ: Oh --

MS. TOMASCO: -- in Paragraph 9.

MS. LABOVITZ: Thank you. I missed that.

So here, Your Honor, on Paragraph 9, the issue is that we did not think that the protocol was the place to decide where claims might ultimately be determined.

We will file proofs of claim under the bar date. I do believe that Ms. Tomasco and Ms. Good are correct that we have agreement on the bar date. But we were uncomfortable with the word "solely" because we didn't want to be determining here whether those claims ultimately might be resolved in another court. That's for a later day and for another order. We didn't want -- we didn't know what

"solely" meant if it wasn't prejudging that issue here.

(Pause in proceedings)

THE COURT: Why would this order on a protocol impact any substantive relief any party wants to bring before this Court or bring before Justice Asif?

MS. LABOVITZ: I don't think it should. Your Honor, both parties have reservations of rights embedded in it. And sometimes adding legal language can lead to trouble. But I think that's the issue. Both parties felt that they would feel more comfortable with reservations of rights. And so our only position is that we don't think a reservation of rights should limit those rights.

THE COURT: Okay.

MS. LABOVITZ: All right. Now moving on, I believe, to the communications protocol itself. And Your Honor, in general, I'm encouraged there's not too much red ink here.

The language on Paragraph 5, the defined term, I'm not sure anyone feels strongly about it. That may have just been something that came out in blacklining. We can define the term however we want to.

Likewise, regarding the paragraph -- the deleted Paragraph 6, our perspective was that it was just useful background. I think that this is relevant and necessary. I'm not sure why it needs to be deleted. But also, we think

it's really important to get the protocol in place. So, if we need to not have that language, I think that's also fine.

Moving into Paragraph 7 of the protocol itself, this, I think, is probably the most substantive of the issues. Maybe there's one more, as well.

Here, the issue is that the debtors would like to add language stating that the procedures and standards for retention and compensation applicable to the U.S. Court are applicable to them. We have no problem with that language. But they go on to say they shall not be required to seek approval of their retention or compensation in the Grand Court, and that the U.S. Court has exclusive jurisdiction over the conduct of the U.S. professionals.

And here, I want to back up and go into a little history. We, I think, originally, both sides, had tried to come up with language that would work to clarify -- from our perspective at least, we thought the language should clarify that, to the extent that professionals are acting in this Court, they would be subject to this Court's jurisdiction; and, to the extent that they're acting in the Grand Court, they should be subject to Justice Asif's jurisdiction. Walkers, for example, and -- I -- well, Walkers, for sure, is retained here and there. And so we were trying to add language that just clarified that each court had jurisdiction over their professionals when they were before them.

That proved unwieldy. It was difficult for us to agree on language. And so we, on reflection, thought it would be better just to leave that, not try to deal with that at all in the protocol, and simply rely on the introductory language that basically says each of the courts has jurisdiction over the matters before it. And I think that may be the easiest and best place to land.

If we were to try to add the language that the debtors are adding here, we would have clarifying language that says that the standards for professionals appearing before this Court apply, and the standards for professionals appearing before Justice Asif apply, and not try to argue otherwise.

And just to add one more clarifying point on that, or maybe an explanatory point, if we took the flip side of what the debtors are suggesting, which is to say that any professional appointed by or retained in the Cayman proceeding was subject to the exclusive jurisdiction of Justice Asif, I think that would be contrary to Your Honor's wishes, if Justice Asif were to move forward to a point -- I'm going to tread into dangerous territory -- JPLs, JOLs, officeholders, someone, to act in the stead of the GP with respect to the LPA, and if they retain professionals to represent them, and those are retained in the Grand Court, I do not think it would be appropriate for us to say to you,

Your Honor, that you have no jurisdiction over those professionals. And so, for us, we thought in the end, parsing it all through, it would be better just to stay silent on this point and trust that the two courts will work that out in due course.

I'm going to pause there because I know that one is a little naughty.

THE COURT: Well, it strikes me that professionals are -- I don't know if "jurisdiction" is the right word, perhaps it is -- under the jurisdiction of any court that they appear in front of. And if you appear in front of this Court, and I believe there's -- and I need to approve your retention or I need to approve your fees or I believe there's an ethical issue, or whatever I believe, that's going to take place here.

If, next week, counsel in this room are in front of Justice Asif on something in front of his court, then I think he has jurisdiction over what happens in front of his court. If there were an ethical violation, he could handle it there. If there were -- I don't know. If there's a need, like there would be, I suppose -- I assume Walkers is appearing in front of him as counsel, whatever -- even though they've been retained here to represent the debtors, then they're in front of that court.

It's no different than if there were relief from

stay given to appear in the State Court in Colorado, and you appear in the State Court of Colorado, well, then you're subject to the rules of the State Court of Colorado.

So I can look at this. I don't know how to parse through this. But I can't absolve anybody of their obligations in front of another court that they're appearing to handle a matter.

MS. TOMASCO: Your Honor, I'd like to explain --

THE COURT: Okay.

MS. TOMASCO: -- if I could?

THE COURT: Sure.

MS. TOMASCO: Is it -- can I make a response? I -- are you done with your part of it?

MS. LABOVITZ: I wasn't done with my presentation regarding the protocol, but let's -- why don't you take this point --

THE COURT: Yeah, let me hear this issue.

MS. LABOVITZ: -- as it is?

THE COURT: Let me hear this issue.

MS. TOMASCO: Okay. And if I could, your approach with the presentation.

THE COURT: I guess.

MS. TOMASCO: I don't know if you like these or don't like these.

THE COURT: It's not my thing.

MS. TOMASCO: I know.

(Laughter)

MS. TOMASCO: It's been the subject of much debate.

THE COURT: Okay. It's not my thing.

MS. TOMASCO: So when we originally put this up, we did not have this language in there, right? But a couple of things have started happening that raise some concerns. And I'll refer the Court back to Page 55 of your memorandum opinion, where you said any claims against the general partner will be heard in this court. You did not lift the stay with respect to claims against the general partner. That's at page --

THE COURT: Did I say that at 55, the way you just said that? I don't --

MS. TOMASCO: I'm not sure exactly --

THE COURT: I don't --

MS. TOMASCO: -- but --

THE COURT: -- think I said it that way.

MS. TOMASCO: -- I also don't think we --

THE COURT: I think I said what I didn't -- I wouldn't recognize --

MS. TOMASCO: You wouldn't --

THE COURT: -- a judgment --

MS. TOMASCO: -- pass the language --

THE COURT: -- against that -- those are kind of different things, but okay.

MS. TOMASCO: Okay.

THE COURT: I think I did say that.

MS. TOMASCO: And this is language that we pulled from a more extensive cross-border case in the Southern District of Texas between the U.S. Courts and Canada, where there were actually affiliated debtors, one of which was in its plenary proceeding in Canada, the other of which was in its plenary proceeding in Houston.

THE COURT: Uh-huh.

MS. TOMASCO: And then we had a Chapter 15 recognition, right?

THE COURT: Okay.

MS. TOMASCO: So the intent behind this language is that, in their objection to Quinn Emanuel's -- you know, they already objected to Quinn Emanuel's retention, and then they filed an objection to Quinn Emanuel's fee application and fee request --

THE COURT: Okay.

MS. TOMASCO: -- monthly fee request, where they said wait, you know -- and I'll turn the Court to this language. It's on -- just so you have it in front of you -- on Slide 12.

THE COURT: Okay.

MS. TOMASCO: Rigmora writes that:

"It is an open issue before the Grand Court whether, under Cayman law, the GP may use fund assets to indemnify itself for legal fees related to the Cayman and Delaware chancery proceedings, and LPA Paragraph 15 governs indemnification. And Justice Asif acknowledged that the question of whether the GP can indemnify itself for legal fees is at issue and will be decided at a later point in the Cayman proceedings."

That, to me, calls -- is -- has an in terrorem effect, not just for Quinn Emanuel, but for Walkers, and that's how it was intended by Rigmora. Essentially, if you don't do what Rigmora thinks is proper, then we're going to review everything that you're doing in the Chapter 11 case in front of Justice Asif.

And why do I say that? If you turn back and look at the filing on May 26 -- this is on Slide 10. Actually, I'm sorry, it's on Slide 8.

"There has been a new filing in the Cayman Court that adds new allegations to support the appointment of joint provisional liquidators, not on the basis of loss of trust and confidence, nor on the basis of substratum, but on a completely new ground, and that is that the general partner has been dissipating the assets by" -- "within this Chapter 11 case and is engaged in gross mismanagement."

MS. LABOVITZ: Your Honor, we're getting pretty far afield from the language in the protocol order --

MS. TOMASCO: I --

MS. LABOVITZ: -- but we're definitely highlighting why we need to have a protocol.

THE COURT: Well, I need to understand --

MS. LABOVITZ: I --

THE COURT: -- debtors' position on this and --

MS. TOMASCO: I would like to continue, Your Honor. THE COURT: I'm going to let you continue.

MS. TOMASCO: So, in Mr. Bogdanov's declaration, he raises a number of complaints, not about any of the pre-petition conduct of the general partner, but about the general partner's statements through counsel in this Court and alleges that these acts constitute gross mismanagement and that these acts would justify the equivalent of a Chapter 11 Trustee.

So, for example, in the -- you know, in the opposition to the shortened notice and objection periods, the general partner criticized Rigmora for refusing to step aside and allow other investors to take their place.

He also alleges in front of Justice Asif:

"Ms. Tomasco of Quinn Emanuel submitted to the Delaware Bankruptcy Court that the general partner could avoid the LPA and that Rigmora LP's rights under the LPA

would then cease."

That's not true. But whatever interest they have is contractual, obviously. And the LPA agreement that, once we, you know, find an alternative investor and reorganize, the LPA agreement can be modified pursuant to a plan.

They cite to a number of different filings made by Quinn Emanuel and statements made by myself and Mr. Winston to this Court as evidence of mismanagement.

And then, on top of that, the very next day, they object to our fees on the basis that -- again, I think this is probably waived in connection with their objection to the Quinn Emanuel retention -- that somehow Quinn Emanuel has aided and abetted a breach of fiduciary duty by the general partner.

So what they are doing is they are eroding and gnawing away at this Court's exclusive jurisdiction over property of the estate and the fee application process in front of this Court, suggesting that actions that we're taking in front of this Court would somehow give them the right to request additional relief in the Cayman Court because it constitutes fraud or mismanagement.

And I will say to Your Honor, I have a whole number of slides about this Court's in rem exclusive jurisdiction over property of the estate. You also have exclusive jurisdiction of claims against these estates,

including whether or not the general partner is entitled to indemnity from the limited partner, either under the terms of the LPA or under the terms of the exempt limited partnership law of the Cayman Islands. And what we see here is Rigmora's attempts to control the conduct of these cases by threatening the payment to the lawyers before you by allegations they're making in front of Justice Asif.

Now we have a whole other pleading about how this violates the stay, and I can go through why that is. They've added a whole new set of facts and allegations.

But what I took from this is that, if I, a Quinn Emanuel lawyer, do not do what Rigmora thinks is absolutely right and proper as to it and what it wants, that I am going to be subject to criticism in front of Judge Asif. And if you want to criticize me, I hope you will, and I will take it like a man. But I will not have to answer to two masters, and that's what they're asking us to do.

THE COURT: Well --

MS. TOMASCO: And I will not be appearing in front of Justice Asif.

THE COURT: Okay. Let's assume I agree with you on everything you just said. How do I cut that off? How do I cut off Justice Asif's decision, if he makes it, to entertain that type of argument, which, again, for these purposes, I would say should be in front of me? So how do I

cut him off from hearing that in a protocol? Is that -- how do I -- how does that work?

MS. TOMASCO: Well, because we've agreed throughout the protocol that -- this is not a traditional joint court protocol --

THE COURT: It isn't.

MS. TOMASCO: -- because there is a very narrow issue. That issue is governance and governance alone. It is not the allowance of claims. It is not the adjudication of claims between the GP and LP because that's in your jurisdiction. You have not lifted the stay for that.

MS. LABOVITZ: Yet.

MS. TOMASCO: And -- yet. Okay. All right.

Well, I would appreciate not being interrupted. I didn't interrupt her.

MS. LABOVITZ: This is my presentation.

THE COURT: Okay.

MS. TOMASCO: But do you -- I want the Court to understand that we are trying to move these cases forward on a really normal basis, really super normal. Now we have all of this stuff with the governance, but that's a narrow issue. And it's not the same as a joint protocol when you have two coordinated plenary proceedings.

What we have is not even an ancillary proceeding for recognition --

THE COURT: Uh-huh.

MS. TOMASCO: -- because Justice Asif has shown some reluctance to recognize the results. But it is a narrow issue that you have seen -- you have lifted the stay to do. It -- there needs to be some guardrails here because the fact of the matter is that Rigmora has repeatedly and will continue to seek mischief in the Cayman Islands that erodes away our ability to restructure these companies in Delaware. And when I say "our," I mean the estates. Whoever is in charge is going to have the same issue. They need to answer to this Court as to the conduct of these restructuring proceedings, and this Court alone.

This Court is the only court with in rem jurisdiction over property of the estate. And what Rigmora is doing, little by little, is eroding away the Court's decision to not dismiss these cases by nibbling away at the -- threatening the lawyers with nonpayment, seeking --

THE COURT: What -- again, what I'm trying to figure out is how a protocol, which Justice Asif may or may not sign because he may or may not agree with it in the form that I would sign it, how does it -- how does that get resolved in a protocol?

MS. TOMASCO: We could call it a number of different things. But it's time to put a stake in the ground as to what Rigmora can and cannot do.

Now we have the clarification motion. Rigmora has filed theirs. That's now been set for hearing on June 24th. We can deal more with the contours of this at that point.

But I think it's important that the allegations that have been made in front of Justice Asif are directed at the lawyers that only appear before you, and they are directed to have an in terrorem effect, and that should be offensive, and it is offensive to me.

To suggest that, if we -- I stand at the podium and I say Section 1129 or 1123(a)(5) says that I can, under a plan, disregard certain provisions of the limited partnership agreement, that should not get me or these estates in trouble in front of Justice Asif; it should not because that is the law.

THE COURT: Well, let's say -- again, let's say I agree with that. Let's say I agree with that. How does the protocol further that?

MS. TOMASCO: Because it -- one thing that was apparent to me that -- is that the -- following on the heels of their filing in the Cayman Islands, alleging that all of the lawyers that appear before you are conducting these cases in a way that should give rise to the appointment of the equivalent of a Chapter 11 Trustee in the Caymans, and on top of that, suggesting that their fees are at risk because Justice Asif may make a ruling that puts their fees at risk,

this Court --

THE COURT: How can I stop him from doing that is the question.

MS. TOMASCO: By --

THE COURT: I can say that I award the fees, they're allowable, pay them, I can do that. I can overrule objections on whatever grounds the Rigmora LPs choose to make.

MS. TOMASCO: I --

THE COURT: But if they then go to Justice Asif and he says whatever he says, I'm not sure how a protocol can stop that. I could say in here many things that, if Justice Asif doesn't agree with, don't matter, right? Because how do I enforce that? What is that?

I can certainly say I have jurisdiction over what I have jurisdiction over. I don't have jurisdiction to say Justice Asif can't do anything. I have jurisdiction to not recognize it and say it's a violation of the stay, hold the lawyers in front of me accountable. I don't have an ability to hold, I think, lawyers that are appearing in front of Justice Asif accountable for anything. I've got lawyers in front of me that I can hold accountable if I think there's something to be held accountable for on either side of the -- this courtroom. Okay?

But I'm just trying to figure out how a

protocol -- and now it's actually making me think I'm not sure what I can do with a protocol -- is going to solve this problem.

MS. TOMASCO: Your Honor, I don't think that, in the context of a protocol, the Court's jurisdiction should be eroded. The only point of this provision that we've added -- and I borrowed it from another case that had more extensive cross-border implications, to suggest that, in this, we could write the exact same parallel and make it applicable in the Cayman Islands; that the compensation of any Cayman Islands professional, to the extent that it is subject to Justice Asif's control and jurisdiction -- and I will suggest to you that any professional that's retained in this jurisdiction -- in this jurisdiction, would only be subject to fee disallowance or any other effect in this jurisdiction.

This Court has exclusive in rem jurisdiction over the professional fees and claims between these debtors. Those are two things that they're seeking to take away from you in the Cayman Islands.

THE COURT: Where in the protocol, if this provision isn't in here, is that taken away from this Court?

MS. TOMASCO: It's not taken away in the protocol. The protocol is designed to prevent that mischief.

THE COURT: But won't this protocol only be -- I don't know what the word is, I don't think it's

"enforceable." I don't think -- it's a protocol. Won't -- "effective"? I'm not sure what the word is, if it's recognized by the Cayman Court. The -- I can write whatever I want to write in a protocol, and if Justice Asif doesn't want to acknowledge it, he doesn't have to. And I would say vice-versa. Okay? He can write whatever he wants in his protocol. And if I look at it and I choose not to enforce it, then I -- what's he going to do about that?

That -- this is, of course, not ideal. I'm not suggesting this should happen, could happen, whatever. But what I'm trying to figure out is what this provision does, other than perhaps acknowledge -- and it's an acknowledgment, I suppose, that professionals retained in these cases -- have sole and exclusive jurisdiction.

I mean, it's a really interesting question, right? Because, if I lifted the stay so that something could get decided in the State Court of Colorado, and you went there in the State Court of Colorado, while your compensation might be before me, your conduct is not exclusively before me.

MS. TOMASCO: I'm not suggesting that any lawyer's conduct is not subject to the jurisdiction of the Court in front of it. I'm talking about the ability to approve the fee applications and raising issues that were raised pre-petition in the Cayman Court in response to a Quinn Emanuel and Walkers law firm fee application is entirely improper.

MS. LABOVITZ: Your Honor, I think it might assist the Court to explain exactly what the Cayman issue is and what the review of the Quinn Emanuel fees might be. If I might --

THE COURT: Okay.

MS. LABOVITZ: -- explain that issue and then also explain some of the issues that we're hoping to get clarification on from both you and Justice Asif.

Regarding the Quinn Emanuel fee issue, to the extent that their fees are ever reviewed in the Cayman Islands -- which is at issue now, as Your Honor knows, because there is a pending winding-up proceeding and Section 99 exists -- to the extent that the fees were reviewed by Justice Asif, my understanding is that is not a review of everything counsel has done.

It's -- the dispute that exists is extant in the Cayman Islands, is over which entity properly bears the cost of the Cayman proceedings that are going on. Is that the GP because the GP is the defendant, or is that the fund? The fund is currently paying and has paid a large retainer on account of Quinn Emanuel's fees. The question is not are the fees due and payable. The quest -- largely, I think, the much of the dispute is pre-petition anyway and those fees aren't before Your Honor anyway. But the dispute is not are the fees due and payable? The dispute is not did counsel's

conduct do the right thing or do the wrong thing.

As I understand it, the dispute is whether the payment should come from the GP's assets or the fund's assets. I -- that may, in the end, be a question of Cayman law. I don't know. We saw it in our otherwise non-objection to Quinn Emanuel's fee application to just preserve that issue for another day, to not address it one way or another. It's a reservation of rights that we sought to have in the interim fee application. To me, that's the only issue.

It's been under consideration at the Grand Court since the middle of last year, when Justice Asif decided that the GP was the proper party to the proceeding before him; and, therefore, it -- the GP is the party, right, but the fund is paying the GP's expenses. Those proceedings are stayed. They're not dismissed. All we're trying to do with our reservation of rights in the fee application is preserve the status quo. That's what lawyers do.

THE COURT: So, if -- yeah. Well -- so if I approve the award of fees to -- in this case, to Quinn Emanuel, you're saying that's not in front of Justice Asif.

MS. LABOVITZ: I'm saying, first of all, the objection is an interim fee application, so, as we all know, it's an interim fee order. Fees are up for review at the end of a case.

THE COURT: So, if I --

MS. LABOVITZ: That's just how we all are.

THE COURT: At the end of the case --

MS. LABOVITZ: But at --

THE COURT: And so --

MS. LABOVITZ: -- the end --

THE COURT: -- at the --

MS. LABOVITZ: -- of the case

THE COURT: -- end of the case, I approve fees --

MS. LABOVITZ: If you approve the fees, then you are approving, as I understand it, a payment. You know, you're going through an approval process that's required by Section 327 of the Bankruptcy Code.

I think the question then arises, as it does in all cases where there are multiple debtors, how should that be allocated --

THE COURT: Uh-huh.

MS. LABOVITZ: -- how should the expense be allocated.

THE COURT: Uh-huh.

MS. LABOVITZ: And all we're trying to say is we shouldn't be prejudging that now, that's an issue for another time.

THE COURT: Right. But why wouldn't I decide it?

MS. LABOVITZ: You might. We're not saying you wouldn't. We're simply trying not to deal with that issue in

the protocol.

THE COURT: Okay.

MS. LABOVITZ: That is the entire dispute over this language in the protocol.

And Your Honor, as I said, we actually, at first, sallied forth to try to put some clarifying language that put all of that into the document. That proved to be challenging. And we ultimately decided, as I think Your Honor is beginning to conclude, that it gets way too complicated in the context of a protocol to try to address any of those issues, and we should just stay silent on it and have it be purely procedural. And so that's our position on the protocol.

Your Honor, and I think the -- that gets us through the blacklining, too, because the only other blacklined paragraph is Paragraph 15, which is the same issue. But I think it is useful -- and Ms. Tomasco has neatly highlighted the need for the protocol.

I'll pause, Your Honor, while you look through that.

(Pause in proceedings)

THE COURT: Yeah, I don't know what that means --

MS. LABOVITZ: That was what --

THE COURT: -- Paragraph 15.

MS. LABOVITZ: -- we tried to add to clarify it,

but I think Quinn Emanuel would like to remove it, and I think we're fine removing that, too.

If I may, I'd like to take a moment to address what was filed in the Cayman Islands, where we stand on the multiple now competing clarification motions and orders and this new allegation that we violated the automatic stay.

THE COURT: I haven't read it yet.

MS. LABOVITZ: I know. And I think what you saw, could not have helped but see, was my frustration, this coming up as it did in the context of the protocol. But I am actually really pleased to have the opportunity to address it.

We are trying to be transparent with the Court and navigate what is a thicket of -- as you point out, this is not -- Your Honor's lift-stay order was not a typical lift-stay order, and we do not, indeed, have typical parallel proceedings, and that creates complications that we are trying to navigate.

And Your Honor, when I was standing just like this before you on May 19th, I thought you gave very helpful clarification about some of your desires. And it also, I think, clarified that this isn't an easy thing to navigate.

And so what I'd like to do is take a minute to explain what we're trying to do, what was filed in the Cayman Islands, and what we are hoping can be clarified through this

protocol in time for Justice Asif to proceed with the loss of substratum trial that is now less than a month away.

So, as Your Honor knows, the entered lift-stay order permits the Rigmora LPs to seek -- in its words:

"-- permits the Rigmora LPs to seek the appointment of joint official liquidators."

Right? In the Cayman Islands on two bases. And that was the loss of trust and confidence and the loss of substratum. And we've got that staged now to try in two trials --

THE COURT: Uh-huh.

MS. LABOVITZ: -- and that's what will happen end of June and then later in July.

And as Your Honor knows, since then, questions have arisen about the meaning of that order. And on May 19th, we heard what Your Honor said about not being permitted to have a winding-up order entered. You've read the transcript, Your Honor. You know that, prior to that, we were thinking we know the Court does not want to have a winding-up, and we understood that the JOLs were not to be vested with the assets and were not to conduct a winding-up. That was in the language of your order.

But we had thought -- trying to creatively think how to match the two procedures, we had thought it might be a possibility to have Justice Asif enter a winding-up order,

but hold the winding-up in abeyance. And that is what Mr. Scott had suggested in that May 12th conference that Your Honor has read the transcript of.

So we came back before Your Honor on May 19th. We heard that that was not what the Court wishes to do and we adopted that, of course, as we would.

Your Honor was clear at that hearing, however, that, if there is an alternative by which independent officeholders can be appointed without a winding-up order, then that would be helpful. And what I heard was you exhorting the parties to be thoughtful, creative about how to do that.

And the suggestion that Your Honor came up with was JPLs, and that's what Ms. Tomasco is referring to when she's talking about the equivalent of a Chapter 11 Trustee, that's what she means. And Your Honor observed that no one, neither of the parties, had briefed Justice Asif on that, had put before him the question of what lesser relief can you grant that doesn't have the title "JOLs," but that has an officeholder act in the stead of the GP for purposes of the LPA. I think I'm reciting Your Honor's language from the lift-stay order verbatim, I've read it that many times.

And frankly, Your Honor, your comments at that hearing resonated with me. In the U.S. and in Chapter 11, we're used to a very flexible system. That's why we like

Chapter 11. We're used to a system in which we're able to adapt the process to reach the end that a court believes is fair and equitable.

And look, in my experience, trying to replicate that in other judicial systems, it requires some discussion, coordination, and creativity. And that's what we've been trying to do. That's what we believe the protocol will help with, also.

I think one answer to Your Honor's question of how do I stop Justice Asif from doing things, well, you can communicate what you believe your jurisdiction is. And I think, having communication between the courts about things like that, about what order is required for entering, for appointing JOLs, what does that look like, what is this Court's concern about entry of that order, I think that will be helpful.

But anyway, Your Honor, in that regard, we went back after the May 19th hearing. We identified an alternative that will permit the Cayman Court to resolve the governance issue as to whether the debtor general partner is able to speak for the fund, the partnership, or whether independent officeholders should manage and represent the interests of the fund. And we think this could be done by appointment of JOLs or other independent officeholders.

And there might be other ways to do that, too. We

invited the Quinn Emanuel team to think about it and to share any ideas they might have. We held meet-and-confers with them on May 20th and on the morning of May 26th. And after having told the Quinn Emanuel team, and I guess the debtors' legal team generally, that we would do that on the morning of May 26th, and having heard no objection, no statement, hey, we think this violates the automatic stay -- in fact, at that moment, we were negotiating this consensual bar date order that you will see later during this hearing, which provides an extension of the bar date or a different bar date for claims that may be brought by JPLs or other officeholders.

We didn't think there was a dispute over whether it would be appropriate for us to move in the Cayman Court to put the issue before Justice Asif. We are trying to do this quickly because I imagine we may hear, in the context of the exit financing procedures, that the debtors are doing the best they can to move things forward and get out of Chapter 11. And we don't agree with them on a lot of things, but one thing we do agree with them about is that this has gone on for long enough, it's been expensive enough, and we should try to move these things forward.

So we filed a pleading on May 26th seeking appointment of JPLs or other officeholders. We immediately filed that with this Court with a cover letter, but I fully understand that Your Honor may not have had time to read it.

For full transparency, the pleading we filed is called a "summons." That sounds like it's a new action, but I want to make very clear that it's not. A "summons" is the word that is used in Cayman practice for something that, for us, we would call a "motion." So a writ is the thing that began this winding up -- or a petition, a petition is the thing that began this winding up. Sometimes there's a writ that begins things, but a summons is akin to a motion. And so we filed a motion. We did seek appointment of JOLs or -- sorry -- JPLs or other officeholders.

And while we do understand that, in some contexts, that could be called the equivalent of a Chapter 11 Trustee, Your Honor, we made it extremely clear to Justice Asif -- and you will see it in the pleading -- that the JPLs should be appointed to act in the stead of the GP for purposes of the LPA. This is your language.

We clearly said that this should be considered at the trial that's upcoming on loss of substratum and should only be ordered or approved if Justice Asif finds that the substratum has been lost, according to the pleadings that we've put before Your Honor, which did not stray into those Paragraph 10(b) grounds that Your Honor wanted us not to stray into. We have not done that.

We have argued loss of substratum based solely on the permitted grounds. And the request for JPLs would carry

over. If we were not successful in the loss of substratum hearing, it would carry over to that hearing on loss of trust and confidence. I want to stress that again. Those are the grounds on which we're proceeding.

Like Cayman law -- or like U.S. law, Cayman Law does have other requirements that you would need to meet in order for JPLs to be appointed or for other officeholders to be appointed. And the affirmation that has not sat well with the debtors seeks to make an alternative grounds, basically, to meet the two grounds on which JPLs might be appointed.

So those grounds would be that there is a potential for mismanagement of the assets or other pressing needs. And I am not doing Cayman Law justice because I don't have it in my talking points right here. But in that context, what Mr. Bogdanov's affirmation says is that it repeats the very breathtaking thing that the debtors said to Your Honor during the hearing on May 19th, which I guess I wasn't fast on my feet enough to react to with the shock I feel, frankly.

Your Honor, I think correctly, has noted in your lift-stay order that part of the reason it's important to resolve the Cayman issues under Section 99 is to ensure that what happens here in the United States, to the extent we proceed to a plan of reorganization or whatever may happen here in the United States, is not subject to later being

overturned under Section 99 if, at the end of the day, the dispute returns back to the Cayman Islands and Justice Asif then enters a winding-up order.

Your Honor said in your lift-stay order -- and I think this was wise and correct -- you said the automatic stay isn't meant to make disputes disappear, it's a stay. It means that the disputes don't get litigated during the Chapter 11 case. It doesn't mean there's never a day in court.

And so what we've interpreted Your Honor to have done is to sort it out and say these are the issues that are for Justice Asif, these are the things that Justice Asif should decide. And you said he can decide on loss of substratum, he can decide on loss of trust and confidence, and he can decide whether an alternate officeholder should be appointed to act in the stead of the GP as a matter of -- I think the debtors have gone back and forth on whether this is or isn't a governance issue, but I'm going to adopt that, today, it's a governance issue -- as a matter of governance. And if it can't be JOLs, then it has to be some other thing that we appoint, creatively as we do, in a restructuring situation.

What our filing in the Cayman Islands said is the debtors have now come into this court and said they don't think that's true, they don't think that that dispute over

governance need ever be resolved. That's what their pleading said. That's what the PowerPoint that was handed up to you on May 19th said. They said you can put provisions in the plan that will prevent the winding-up proceeding from ever going forward.

That's not how we understood the Court's order. We'll argue that that should never happen in the context of a plan, we certainly will argue that as necessary. I don't think that's right. I don't think Your Honor has jurisdiction to do that. I think you're right about what the automatic stay should be doing.

But they have said very clearly that what they will ask this Court to do is to enter an order saying this never gets back to Justice Asif. If that were to happen, that would be -- that would be a dissipation of assets without the opportunity for the Cayman Court to review, right? The plan would say whatever it says about what happens to the trust assets. It would make a disposition of the assets through the classes. It will do whatever it does as a plan. And what they're saying is that Justice Asif never gets to see that.

The standard -- and here, I'm going by analogy. Everything is a little bit loose. But the standard for appointment of JOL -- JPLs, JPLs is a little bit similar to a standard for prejudgment relief. It's are the assets are

going to be dissipated before the Court can make a judgment. Well, that's what we've said to Justice Asif. We've said you can go ahead and appoint JPLs since we're not permitted to go forward with JOLs, you can go ahead and do that because we meet the standard, and that's all we're saying.

If Your Honor doesn't want us to go forward on that standard for any reason -- although we think it's very fair. We think what the debtors have said, as a matter of Cayman law, that's breathtaking. But if Your Honor doesn't want us to go forward on that ground, we'll go forward on the ground that, if Justice Asif finds that there's a loss of substratum, then, as a matter of Cayman law, it would be improper for the GP to continue in his role, and anything he did would be ultra vires. And then that's another ground on which we could argue that the JPLs are appointed. From our perspective, that's the clarity we need, and we think that's what would be helped by having the protocol in place.

Nobody on the Rigmora LP side is trying to disrespect either court at all. We are trying to give respect to U.S. law and Cayman law and have our day in court in one of the courts.

We heard Your Honor loud and clear in your comments before delivering the funding order. You said the parties should be talking, it's clear that each of you has something that's really important to you.

And Your Honor, you entered an order saying that there should be funding for the portfolio companies. You haven't heard us stand up and try to undo that. We haven't gone to the Cayman Court to try to undo that. We haven't come here and tried to seek endless clarification of that.

We did take an appeal, that appeal will work its way through the courts. It's about legal issues of first impression that matter from the perspective of the private equity industry. That will wind its way through. But we're not trying to interrupt the Chapter 11 cases because we didn't win.

The frustration that you may hear coming from me is that the thing that was really important to the Rigmora LPs was to get back to have our day in court and to have Justice Asif determine whether the general partner should be managing the fund or whether some other officeholder should be managing the fund. All we're trying to do is get back and have that day in court as quickly as possible, so we can resolve the governance issue one way or another. And when it's resolved, we'll be able to move forward with this Chapter 11 case.

I don't think we should be fighting over the protocol. I don't think it should have taken from May 12th until today for us to get to agreement on the protocol. It, frankly, shouldn't have taken until late last night for us to

get to agreement on the bar date order. But we did, and that is a step in the right direction. And Your Honor, I -- well, I'll save everything else I want to say about that for commentary in connection with the exit procedures.

And if -- I'll just beg a moment to look at my notes and make sure I'm not missing anything, but I think I've said a lot.

I guess there is one more thing that I think is important to say because maybe a question that Your Honor might be asking is -- and this is a little bit -- comes through when you get to the debtors' motion for sanctions. It seems like what they're saying is we did this in the wrong order.

They actually, I think, understand that Your Honor had said that it would be appropriate to move forward with JPLs or other officeholders, effectively as lesser-included relief, right? You said we could have JOLs, but we can't, and so, some other thing that gets at the right result. It seems like they're saying -- they know, because they were here, too, on May 19th, they know that's what Your Honor contemplated. It's in the bar date order, it's in the protocol, I think.

But they don't think we did it in the right order. They think we should have come back here, tried to get a hearing date on regular notice because they don't want us to

shorten notice and Your Honor doesn't -- and we respect that, right? We filed a new motion for clarification. We didn't try to shorten notice. So that's up for June 24th now.

But what they're saying is we should have done that first, before putting the issue before Justice Asif. But it's crystal-clear to me that, if we had done that, then they would have said we can't go forward on this JPL issue, on this trial that's scheduled for June 30th and July 1st, which they've already tried to delay twice. They would say we can't go forward with that because it's too short notice now.

At some point, the delay has to come to an end. We need to be able to move forward with these proceedings, and that's all we're trying to do. Nobody is mounting a collateral attack. We're just trying to navigate the situation.

THE COURT: Thank you.

Okay. Well, I'm going to take a look at this protocol and decide what I can enter, what I'm comfortable entering. Ultimately, it's my order; it's not either of your orders. And it needs to be something that I'm comfortable with. And I need to give it some thought and review, given the arguments I've received.

MS. LABOVITZ: Thank you, Your Honor.

MS. TOMASCO: Your Honor, I want to say that,

during the phone conversation, the meet-and-confer on the morning of May 26th, the representation was made that would we agree that appointing JPLs, given the Court's comments, would be appropriate to put in front of the Court as part of the clarification order that we were discussing. We took that May 26th call. And if you'll recall, it's the day after Memorial Day, so people were just coming back from break. And we said we needed to talk to Cayman counsel to see, as a matter of Cayman law, whether you could appoint JPLs, given the trial that was then set, which was just on loss of trust and confidence and loss of substratum.

We never agreed, never indicated that we would agree, to a completely new set of allegations and a completely new set of additional proof that Cayman counsel, now having their vacation schedules require them to hire brand new counsel, on top of brand new counsel having to learn this record, now they have to learn a whole new set of allegations, none of which this court ever pre-approved them doing. That's the point.

But it is categorically false that we ever agreed to them asserting the right to appoint JPLs. We thought we were negotiating the terms of the clarification order in front of the Court.

THE COURT: Thank you.

MR. REILLEY: Your Honor, may I be heard?

THE COURT: Sure.

MR. REILLEY: Good afternoon, Your Honor. Nice to see you. Patrick Reilley from Cole Schotz on behalf of the Official Committee of Unsecured Creditors.

Your Honor, the motion to enforce the stay and sanctions is not before your court today, Your Honor, and I realize that. But since we're discussing the issue, I will say, first, the committee's comments to the protocol order were incorporated in the debtors' comments, and we thank the debtors for sharing that with us.

With respect to this stay issue, the committee is evaluating it and may likely file its own pleadings. But Your Honor, I was at that hearing in May, and I thought Your Honor asked for an education on what the options are. As I stand before the Court, I don't know. What does a JPL do? What kind of rights do they have? It's not clear, and it's not clear that Your Honor has that information. But I thought the discussion was helpful. But I didn't hear Your Honor -- we didn't hear Your Honor give specific permission to then file something in the Court in the Caymans.

With that said, Your Honor, again, it's not before your court today, and the committee is evaluating it. Thank you.

THE COURT: Thank you.

Okay. What's our next matter?

MS. TOMASCO: Your Honor, next on the agenda is the debtors' motion to approve an exit procedures protocol. I would be happy to simply start with the evidence, or if you'd like to hear a short argument first --

THE COURT: Well, let me ask this. So I saw the witness list and the pages of exhibits. And I view this motion as procedural and not really substantive. So what I see is the debtor trying to put in place a process by which it's going to, I guess, market the opportunity for investors to come in. And like it would market assets, in essence, right? And so all we're talking about is the process.

I'm not approving a stalking horse investor, I'm not approving the terms of any stalking horse. I'm not approving the termsheet. I'm not -- and there's like a lot of things I'm not approving. So isn't this just very procedural, process?

MS. TOMASCO: Well, I think if you read our reply, that's exactly our response. The -- Rigmora's objections that this was some kind of sub rosa plan or anything like that --

THE COURT: It's not.

MS. TOMASCO: I would just like to comment just off the cuff, Your Honor. The only thing that is different about this is the ability to reimburse expenses.

THE COURT: Yeah.

MS. TOMASCO: And we ask for authority because Braeburn, a non-debtor, already funded an Oaktree expense reimbursement. I'm happy to report --

THE COURT: I thought -- is this the due diligence?

MS. TOMASCO: The due diligence.

THE COURT: Yeah. And I've approved those on occasion, and depending on the circumstances, when a prospective purchaser or investor needs the opportunity to come in and take a look at the assets. And that perhaps needs some testimony from Mr. Mandarino or whoever is going to do it to support that. But I have done that on occasion, so yes.

MS. TOMASCO: Correct.

And I will just tell you what Mr. Mandarino will testify to, and that these are -- this is -- these are 15 unique companies with all different science and varying degrees of development. So it's like having, you know, 15 really brainy kids, some of which are getting ready to go to college and some of which are already starting their careers, and a couple of them --

THE COURT: That are still in the basement?

(Laughter)

MS. TOMASCO: Correct. Well, you know, those are -- I won't use the word, but, yeah. We have a variety of

different companies, that it's very difficult. It's not like we're dealing with, you know, David's Bridals and all the bridal stores have the same dresses and they all have the same general metrics, et cetera. So these are very, very complex assets.

THE COURT: Uh-huh.

MS. TOMASCO: I will tell you that, from my perspective, the Braeburn expending the million dollars to -- as a diligence fee for Oaktree has borne some incredible fruit. We're very, very close to getting to a termsheet; in fact, I'm happy to report Mr. Mandarino would testify, if he was on the stand, that we've brokered a meeting between Oaktree, Oaktree's very substantial partner, and Rigmora on Monday, in person, in New York. So we are moving forward with collaborating on getting these cases where they need to go.

Now I will say, I like my Chapter 11 cases to go very fast. This is going way too slow for me. But I think it's not necessarily because of the litigious nature of the case, but these assets are quite different. Like I said, there -- it's a range of different scientific developments and it's a range of different developmental stages. And so with that, we ask that the procedures be approved.

I will say, having done the work so far and having the level of interest that we have, I do believe that there

will be a credibility effect from what we have been able to accomplish so far that should attract other bidders, and that's exactly what we're trying to do.

And with respect to the fee that Rigmora objects to, I would say that the fee is not meant to spend money willy-nilly, but to make sure that Oaktree doesn't have a leg up on the competition. We want to make it an even playing field. And so we want to evaluate whether or not, in order to accomplish an even playing field, we don't need to spend that money with respect to a credible competing bidder. And that is the discretion that we're asking that you give to Mr. Mandarino, Mr. Tim Pohl, and the UCC to decide, right? It's -- ultimately, it's an administrative claim.

With respect to Rigmora's request to -- they call it "credit bid." Mr. Mandarino, if he was on the stand, would say that's an incorrect term because, of course, they're not a secured creditor. But we recognize that certain amounts of the funds that they would pay as a bidder would do a round trip. But it's impossible to quantify how much that is without running that money through a full waterfall. And the waterfall, of course, is going to be affected by things like which contracts are you assuming, what claims are you paying, how much is the actual residual value of Rigmora's equity.

I -- you know, understand they own a substantial

amount of the equity, almost all of it, but there are claims and classes that come before them. I'm not saying it's a non-starter. But I would say with respect to their request to be -- in the redline they sent us at 11:30 last night --

THE COURT: I don't think I've seen it.

MS. TOMASCO: -- I haven't fully processed that.

But I would say it is my practice and it is the practice of the judges I usually appear in front of, is that, if you want to be a consultation party, you have to disavow, you have to waive your right to participate as a bidder. You can't get all the confidential information about the other bids and then pop out and say here I am, I'm going to bid.

So, with respect to their position, I would say we're happy to accommodate Rigmora as a bidder. I want more competition, not less. But they're going to have to comply with all of the bidder protocols. And if they do want to be a bidder, they cannot be a consultation party, and that decision has to be made up front.

And to the extent that they want a mechanism for -- Mr. Mandarino calls it a "fulcrum bid" -- a fulcrum bid, that's going to require quite a bit of work to figure out what that math looks like.

But we agree with the Court that these are just procedures. They're meant to not just -- they're -- they don't determine anything substantive, but they determine the

rules of the road. And they're more about the relationship between the debtor and the bidders and, amongst the bidders, what's fair, as opposed to providing any other kind of substantive relief. And we're certainly not seeking that. I think we've made that very clear.

THE COURT: I don't think I've seen a redline from Rigmora; am I wrong?

MS. LABOVITZ: No, you're not, Your Honor. We sent it to Ms. Tomasco.

MS. TOMASCO: Do we have that?

UNIDENTIFIED MALE SPEAKER: Yes.

MS. TOMASCO: I'm happy to take up the redline, and maybe it's something that we should just -- the Court can give us your thoughts and maybe we can come up with something.

Like I said, I'm happy for them to be -- you know, there are people who have concerns about Rigmora's misuse of information as they have, for instance, with Dr. Lu and the RTW issue and not keeping things confidential and trying to use information in a way that's harmful to the estates. I don't know if that can be overcome with language.

But I do have the maxim that I've held in every single case that I've done and that is, you can't be both, a bidder and a consultation party, and that they need to choose a lane, as we say in Texas when somebody drives in the middle

of the road, instead of on either side.

MS. LABOVITZ: Oh, Your Honor, if I -- I can pass up the redline.

THE COURT: That would be helpful, thank you.

(Pause)

THE COURT: Thank you.

MS. LABOVITZ: Patty, do you have a copy of that redline?

(No verbal response)

MS. LABOVITZ: Your Honor, before we get into the details, I think I'll take the easy one first.

(Laughter)

MS. LABOVITZ: With respect to the consultation party point, I think the procedures already address that. The procedures list the Creditors Committee as a consultation party and then they have a process by which if any member of the Creditors Committee becomes a bidder, then they would no longer be a consultation party. We think that's -- we think that process is already in there and that's what should apply, so that one's easy.

THE COURT: I guess it depends on when you have to make up your mind as to whether you're a bidder or not.

MS. LABOVITZ: Again --

THE COURT: And I don't know that I remember that, but okay.

MS. LABOVITZ: -- I come back to they created that process already that they thought was fair for the Creditors Committee. I don't, at this moment in front of me, have exactly what that process is, but what I think what's fair for one party is fair for the other party. So that was our thinking in saying that we should be added as consultation parties.

THE COURT: Well, I will say that my general rule is that you can only be one or the other and the only issue is -- and it's varied in different cases, depending on the circumstances -- when do you have to make up your minds --

MS. LABOVITZ: Yes, correct.

THE COURT: -- so that we're not having a chilling effect on others, so that others know that Rigmora is in or they're not. Because I would think in these circumstances, that would be a pretty important factor to know.

MS. LABOVITZ: Yeah, I agree with that.

And, Your Honor, I'm now sort of -- I'm happy to walk through this blackline, but I'm going to make a suggestion first, which is to say, unlike with the protocol, the clarification order, the bar date order where we have had a fair amount of back-and-forth with the debtors, I will be perfectly candid and say 10 minutes ago was the first time I thought anything we suggested might be anything but a nonstarter at the debtors.

We did send over our form of order last night because they had been frustrated that we didn't. But, otherwise, since we filed our objection to the procedures, which was -- my gosh, it was Eastertime, Your Honor. It was before any of the decisions on the lift stay --

THE COURT: Yes, it was.

MS. LABOVITZ: -- funding anything else.

Since then, we have not had any substantive discussion with the debtors that indicated that anything we suggested would be palatable to them. And what I would suggest is, and if Your Honor is inclined to enter a procedures order, we should go back and discuss that and have a conversation about that.

So that's an overarching comment before I get into my presentation.

THE COURT: Okay. I'll hear your presentation, but I will say, I don't buy the argument that this is a *sub rosa* plan or that I'm approving anything that could be considered in that fashion. And I am not going to prejudge confirmation, either. So I'm not going to decide that, in fact, this term sheet presents a plan that is confirmable or that it presents a plan that is patently unconfirmable. I'm not going to decide that in this context.

What I'm looking at here, in fact, you know, the debtors, tomorrow, could put in front of me a plan that

embodies the term sheet, right, and just go forward and with Oaktree or somebody else and it would all be just in front of me. And that's when I'm going to rule on it. So, I am not -- the debtors put in a process that they think is appropriate to get the best outcome for their -- for an investor, as they're calling it, and I'm going to let them have a process.

But they don't even have to have a process. Could have just put it in a plan, put somebody in front of me, and we'd be off at races.

MS. LABOVITZ: So, I hear that, and Your Honor hasn't even mentioned all of the arguments that we included in our objection on the LPA, which --

THE COURT: I've --

MS. LABOVITZ: -- I read the room enough not to have raised today.

THE COURT: I've read the objection. I'm not ruling on that today. It's a confirmation issue.

MS. LABOVITZ: Yeah.

But, Your Honor, I want to explain why it is. And I have heard all of your comments. We will proceed, as appropriate, to work with the debtors to iron out issues with the procedures.

Your Honor, I want to explain why this process concerns us and why we don't think that it is purely

procedural --

THE COURT: Okay.

MS. LABOVITZ: -- even if just for context. I would really like the Court to understand what it is that troubles me.

And, look, I'm a stranger to the -- kind of -- to the procedures they lay out to me. They look a lot more like a 363 sale procedure than a financing procedure, but okay. I think that's a defined term issue, as opposed to something that's substantive.

But what I'm looking at, when I think about the plan process, I think that this auction process that they're conducting, it tries to get at, ideally, it would get at the -- it would flush out the highest-and-best bid for the assets; figure out what the value is; determine the valuation. And my concern is that's exactly what they will try to do at confirmation. They'll say, Well, we have a whole process and, by definition, the bid that comes forward is the highest-and-best bid and we're going to use that to underlie our confirmation arguments about that, of the valuation. So that's part of why I can't not object today. I have to put this issue before you now to explain why there are things about these procedures that cause me to think they won't lead to the highest valuation and that's the thing that troubles us.

So I'll just jump into that. I understand Your Honor's point that this isn't a *sub rosa* plan in the sense that you're not confirming a plan today or not approving it or prejudging those issues; however, what the procedures do is try to shoehorn any bids into the structure of a particular plan. They're saying anybody who comes forward and bids for these assets has to bid within our structure. So that structure is with this management team. It includes no less than a three-hundred-million-dollar cash investment. The management team decides in its discretion how much gets used to fund the debtors' post-confirmation.

All of those things might be acceptable to the Oaktree, but they might not be the things that would bring out the highest-and-best bid for some other party.

THE COURT: So, I'll say what I say in every sale procedures hearing that I have: I will not restrict people's ability to bid in any fashion that they choose to bid with whatever transaction structure they wish to put in front of the debtors. And that's why people get paid a whole lot of money, is to figure out among apples, oranges, and grapefruits, where's the value? But I'm not going to restrict any party to say they can only bid on the terms set forth in the term sheet. They come in any way they want to come in.

MS. LABOVITZ: Thank you, Your Honor. That's

helpful and that'll give us some framework when we talk about the procedures with the debtors.

Just to sort of put it before the Court, a couple of other things that just give context for what concerns us. They're requiring the bidding into a new fund structure, organized as a Delaware LP. That has tax implications that would be very unusual for a fund structure. Funds are generally organized in the Cayman Islands or Bermuda or Ireland or some other tax-efficient jurisdiction.

That's an example of how these procedures translate to real value for our clients. Because if somebody has to -- and I understand, I take your point that you've solved that for us, but I just want to provide the context and explain why we really have heartburn here. If we're requiring bidders to say they have to come into a U.S. jurisdiction, that, by definition, will reduce the valuation or the way they look at these companies. So, to us, that is substantive; it's not purely procedural. And we're happy to work that through with the debtor to remove that kind of other requirement.

Similarly, just, again, to give a flavor of the things that trouble us, I think the procedures, as they're written now, unnecessarily restricts the universe of potential bidders. Among other things, the procedures say that the debtors, in their sole discretion, can withhold

information from, and exclude it from the marketing process, quote, unquote, competitors, which is defined as an actual or a potential competitor of the debtor or a party that holds meaningful equity or debt interest in a direct competitor of the debtors.

So they're deciding in their sole discretion who might be a potential competitor in a field where I think if you don't have relevant biopharma experience, such that you might be a potential creditor of the debtors, you're not going to know what to do with the kids that Your Honor analogized: "Might be in the basement."

So our concern is that when you have that kind of a restriction, that depresses the potential value of the overall process. And, you know, I'm very glad we're not getting into evidence and testimony today, but Your Honor has seen enough 363 sale processes to know that there are strategic bidders and financial bidders. And often, it's the strategic bidder that looks at something and says, That would give the most value.

We're concerned that this limitation limits the strategic bidders who can commit.

THE COURT: But that's not an uncommon provision, to know, at least, that you're -- to make a decision that in a certain circumstance, permitting a competitor to come in, enhances value because they can bring a value no one else can

bring. I mean this is not new, right?

MS. LABOVITZ: For sure.

THE COURT: So debtors figure out how to do that. They've got at least one consultation party who's going to say, Wait a second. You may think that person is a competitor, but isn't there a way to get around that?

I will honestly say that issue has never been brought in front of me, notwithstanding many motions that have these procedures that have that very procedure in it.

MS. LABOVITZ: The reason it's never been brought before you, Your Honor, is that there are ways to handle situations like this and they're probably in those procedures, those other procedures. You can establish clean teams who receive the confidential materials; who stage the diligence process, so the most confidential information is only available at the end. There are ways to do it. And, Your Honor, I believe the debtors' corporate counsel is Wachtell Lipton. They can do it, but that's not the way they've chosen to draft these procedures, and we think that's the way it should work.

And just to put a context around this, I think we just now heard Ms. Tomasco say they're very concerned that the Rigmora LPs met with RTW, which is a recognized consultant in this space, who they -- you know, the Rigmora LPs wanted to use as a consultant. Did they share

confidential information, but already RTW has been tagged as a potential competitor. That's concerning to us.

Our question is, who else are they going to tag as a potential creditor? And at what point do we really have a universe of one, and now, I guess, maybe two bidders who are acceptable to Dr. Harrison. We're worried about that, and so we need to work with the debtors to come up with a way that that exclusion does not, (A), exclude the Rigmora LPs from participating in this process, which I think I've heard they don't want to do, and (B), doesn't exclude somebody else who might be willing to view the assets as more valuable than Oaktree and its colleague.

So, those -- that -- those are examples of things that we need to work out. You know, there are a couple of points in the procedures that we interpret, that do make it harder for the Rigmora LPs, specifically, to purchase the P&F [sic] [bidders.

And I hope I don't have to go into this, this question of why did the Rigmora LPs want to purchase P&F bidders to buy-back the asset they already know that they already own? My clients ask me that all the time, by the way, but the whole point here is that if you are, as Mr. Mandarino points out, it's usually a secured creditor, but if you are, here, the fulcrum bidder -- I like that phrase -- you want to be able to participate in a process

like this in case the assets might be sold for less than you believe they're worth. You want to be the bidder of last resort to come in and say, All those other bids, we think it's worth more and so we're going to put in our bid that tops that and you should give credit, value for the fact that much of the -- what we put in will flow back out to us and the only thing we're really topping is the bid with respect to the other parties.

I agree that could be mechanically complex. We'd have to work that through, but importantly, the Rigmora LPs should be able to participate in the process to be that fulcrum bidder of last resort.

There are a couple of provisions that we particularly are troubled by -- and I'm skipping over a lot of it -- one of the points is the one that Ms. Tomasco brought up, which is this idea of roundtripping. If the fund is worth -- I don't know, I'm going to pick a number out of the air and probably everybody will be mad at me -- if the fund is worth $4 billion and 95 percent of it -- I think that's low -- but 95 percent of it should go to the Rigmora LPs, we don't think that we should have to come up with $4 billion in cash that would sit in somebody's escrow account for two days and then flow back out, mostly, to the Rigmora LPs.

That's chilling. Could it be done? Probably. Is

it incredibly expensive to move that much cash and have that liquidity? Yes.

And we don't think that's fair, so we think there has to be some kind of mechanism to say that cash doesn't have to round trip. Whatever's left over, which I think would flow to Dr. Harrison and the other LPs, that can come in and that's what we should be talking about.

Likewise, there is a requirement in the procedures that 10 percent in cash of the value of any bid would have to be put up as earnest money. That, too, could be chilling of the valuations that we're talking about, and so that causes us concern.

And then I hope this is just an oversight, but it's something that's super concerning to us, is that there is a "broader than usual" consent to jurisdiction clause in the procedures that provides that, actually, anyone who is even contacted by the debtors' financial advisor as a potential bidder is deemed to have consented to jurisdiction of this Court for all purposes.

That's rather unusual for a couple of reasons. First, because I think they might have just -- if that were to be adopted, right, then Mr. Mandarino's outreach to Rigmora would -- could arguably be said to mean that we can't continue our appeal of jurisdictional issues. That can't be right.

And so all we would ask is that that would refer to a more normal provision that says that if you're a bidder, you consent to the Court's jurisdiction to run the auction process and if you're the winning bidder, then you consent to the Court's jurisdiction to enter into -- it normally would be a sale order, but here it's a confirmation order -- which would retain jurisdiction as to the plan.

That, I think, may, at the end of the day, be fair, but it should be limited to something like that. So that's one of our serious concerns.

Here, I'm going to turn to the fees. Your Honor, I'm not going to cite back your own case to you, UpHealth Holdings, where you've disfavored fees that amount to funding diligence efforts, don't encourage other parties to participate, et cetera. You know the law clearly.

But that does cause us some concern, right. Here, the due diligence fees that they're proposing to pay -- I agree, by the way, that they're saying they'll come back to you for any stalking horse fee or anything like that -- but the due diligence fees are, for the express purpose of funding potential bidders' due diligence efforts and the debtors are -- they are seeking prospective authority to offer some stalking horse protections.

We think if they get to the point of saying they ought to fund somebody's due diligence fees, they should put

that bidder in front of you and explain why. And that, you know, that clearly is not what's proposed.

And I'm a little bit arguing in the dark here because while I don't want to discount any effort at all by the debtors to reach out to us and let us know what's going on, and, therefore, I do not want to discourage the outreach that happened late yesterday when Mr. Mandarino reached out to Mr. Aebersold, the debtors' financial advisor, and suggested -- just it be clear, it's an advisors-only meeting; it's not with the Rigmora LPs. And until just before this hearing, we didn't even know that we were allowed to tell them the identity of the second potential bidder. So they -- they're not in the loop.

But I do view that as an important step, but up until yesterday, we didn't even know when the second potential bidder was. We don't know how far along they are. We don't know if it makes sense or not to fund their diligence efforts. And, candidly, we're not sure why we have to go forward right now when we have, you know, important governance issues that will be determined shortly.

So, on that, we would suggest if there comes a point where it makes sense to fund diligence fees, they should come back to the Court to have them approved.

Your Honor, I think that exhausts my list of major and kind of important highlight points that I wanted to bring

before the Court. But our blackline probably does go over some more detailed things that I'm not going to march Your Honor through right now. And I would suggest that we go off, we discuss, and we see if there's any way we can reach agreement on procedures, that would be fair and that would not be so tilted.

THE COURT: Thank you.

Ms. Tomasco?

MS. TOMASCO: Your Honor, may we call Mr. Mandarino to the stand?

THE COURT: You may.

(Pause)

THE CLERK: Raise your right hand.

PERRY MANDARINO, DEBTORS' WITNESS, SWORN

THE WITNESS: Yes.

THE CLERK: Please state your full name and spell your last name for the record.

THE WITNESS: Perry Mandarino, M-a-n-d-a-r-i-n-o.

THE CLERK: Thank you.

You may be seated.

THE WITNESS: Thank you.

DIRECT EXAMINATION

BY MS. TOMASCO:

Q Just briefly, Mr. Mandarino, would you mind explaining to the Court your experience in Chapter 11 restructuring and

how long you've been doing this.

A Sure. I've been doing this since my first case in 1987, on the Hyatt-Clark Industries. So, it's for, I guess, almost 39 years.

Q Now, let me ask you, how were the solicitation procedures at Exhibit 23 developed?

A Sure. They were developed through, you know, we used procedures that have been used very often in other cases, but we consulted with our independent director, Tim Pohl, with the Committee, with the Committee's advisors to put together what we thought were, you know, typical and common procedures that potential investors would feel comfortable with, as potential investors like to understand the rules of the road.

And I think especially in a situation like this, where it's complex because it is not, you know, retail or a manufacturing facility, where you have 15 different companies or up to 15 different companies that, to give a little bit of a lay of the land is important.

Q Now, Mr. Mandarino, I'm sure you heard Ms. Labovitz' argument that these procedures are too restrictive and that they will discourage bidding.

What is your answer to that?

A Completely disagreeing with that, because, in fact, the procedures were designed not to require you have to file the Oaktree term sheet. In fact, you know, Your Honor, to what

your comments before about you're not going to restrict anything, nor do I, because that would be really bad. That would be, you know, stupid for any banker, any investor, any person like me to do that.

You have to have an open process because people could want to do different things. So it's not tied to the -- it is absolutely not tied to the Oaktree term sheet. It's not tied to anything, other than what a potential investor would want. And if that needs to be made clearer in the procedures, then we can. That would have been an easy solution when they were filed, you know -- I don't know -- two months ago. But we haven't -- I never heard anything from Rothschild, comments on it or questions saying, Hey, maybe you can change this. That never happened.

Q And when was the last time you got a redline to the procedures?

A I mean, maybe something came through at 11:30 last night or maybe that was just to the (indiscernible) procedures. I never received them.

Q To be clear, these have been on file for two months?

A I think something like that.

Q All right. Now, is it your goal to use these procedures to provide the highest valuation possible to these estates?

A Yes.

Q Now, to that end, have you encouraged Rigmora to make a bid?

A Well, what I did through -- again, through their advisor, through Rothschild, yes, I encouraged Rigmora for a couple things. One, are they interested? Do they want to make a bid? How do they want to play? You know, again, having an open, blank piece of paper, not dictating how they should play; do they want to play.

Even up to the point where, do you have a floor number, for example, that you would accept -- that Rigmora would accept for the assets or for the companies or for one company or for a set of companies or for the pools. If you recall, Your Honor, there's basically -- I'll simplify three pools of assets: Pool 4, Pool Braeburn, and Pool 5.

Pool 4, essentially, is a litigation judgment that they have against a subsidiary of AstraZeneca and maybe an earn-out for another company.

Pool Braeburn is Braeburn in Pool 5 are the companies that you heard a lot of the testimony about over this case.

Q So if a bidder wanted to bid only on Pool 5, would that be reviewed as constructive by you on behalf of the debtors?

A Yes.

Q Correspondingly, if someone just wanted to bid on Pool Braeburn, would that also be viewed positively by you?

A Yes.

Q Did the procedures preclude any combination of bids by any bidder?

A Know.

Q Now, let's talk about competitors.

Is it common to have a clean room concept in bidding procedures for highly scientific and technical assets?

A Or for -- yeah, they don't have to be scientific. They could be proprietary assets. You know, I think there's a couple of things. First of all, we have not excluded anyone to date that's shown interest. Number two, the clean room concept, you know, I think about it; although, Ms. Labovitz is right, that that could have been put in. But I think of it more from an antitrust standpoint, right, you don't want certain information to go into the hands of a competitor because you could have antitrust issues and approval if it's over the, you know, the minimum.

So, sure, an anti -- a clean room concept could be used, but we would, you know, again in consultation with the independent director and with the Committee, we would, you know, determine if Company X, Y, Z came in and let's say they were a developmental-stage company that is a direct competitor of Evercrisp, to pick one, right.

We'd have to consider, at the time, we're not making any judgment now as to exclude anyone. We're just saying that we have the right to do what we think is best.

Q Let's talk about the due diligence fee.

What is the purpose of the due diligence fee feature of the bidding procedures?

A It's to provide a potential bidder with comfort that if they go in and spend a lot of money, which they would need to do to perform diligence. If, you know, after their initial round of diligence where they would provide, you know, something that we, again, with the consultation parties, with the Committee, with the independent director thought was real, that they know that they're not just wasting their time. Because this has been an incredibly contentious and litigious case.

And, you know, that could -- if there's anything that could, you know, chill bidding, it could be that. You know, it would -- so, it requires, I think in the context of this case, it may require a little extra diligence.

You know, if you recall, Rigmora had a witness, Dr. Rimm, that said that a bunch of these companies were worthless, if I -- I don't mean to miss, you know, misstate -- it's not a quote -- but that's the -- kind of what she said, you know. And that's Rigmora -- presumably, to me, is Rigmora's view.

So, you know, people are going to say, well, why are you paying anything for this? So -- but it requires the diligence to understand, really, the unique nature of these

companies and the potential that they have and that just costs a lot to build.

Q So, for example, Braeburn paid a million dollars to Oaktree, do you recall that?

A I do.

Q Okay. And has that been worthwhile in your estimation?

A In my estimation, yes.

As I said -- as you said, quoting what I would have said, is that I think we're very close to a term sheet with Oaktree and their partner, which I disclosed, as Ms. Labovitz correctly said, I disclosed to Rothschild last night and to -- and I am making sure that the Debevoise team knew of that conversation today in case they missed each other and that they know the identity and that they can share that identity, you know, with their client.

It's a real player. It's a, you know, large, global asset manager, one of the largest. And so, you know, we want to put that, because understanding Rigmora's role and respecting their role and their position in this case, we want to put that party in front of Rigmora so they could speak directly with Rothschild, and Rothschild said they were available for a meeting this Monday and we're trying to get that arranged.

Q How many parties has B. Riley contacted, with respect to their interest in these debtors?

A About 85 to date.
Q And how many parties have been in the data room?
A Sixteen and a seventeenth will be the data room soon. They -- again, another very large global asset manager finally responded yesterday, literally, and we have a call from this afternoon, and hope -- get them NDAed up and get them in the data room.
Q Now, you heard Ms. Labovitz speaking about a 10 percent deposit requirement.
Why is that in there?
A It's to know that they're real, that the bidder is real. And, yes, it's a big number, but, you know, if they're going to be spending, you know, a lot of money, if they're going to be spending, you know, a number that begins with a "billion," then they certainly have the ability to put up 10 percent in escrow that's safe money. That's not debilitating at all to me --
Q All right.
A -- in fact, that's common.
Q And just to make sure I cover everything you want to say, Mr. Mandarino, what would be the issues with Rigmora quote, unquote, credit bidding or fulcrum bidding?
A It's -- that would chill, you know, that could be, you know, something that could chill the bidding, right, and it happens often. And if you think of a normal case with,

like -- with a more typical case, I should say, with the secured creditor, that the secured creditor is the fulcrum and maybe they're undersecured, you know, it's been my experience that bidders always say, Well, gee, how do I know that, you know, X, Y, Z Bank or fund isn't just going to come in and top me after I do all this work?

And so, you know, to me, it's important to know and which is why I reached out to, you know, Rigmora through Rothschild to, you know, understand what's -- you know, does Rigmora want to buy back their asset?

And the round-tripping thing is important because it is, you know, as Ms. Labovitz said, if it's -- and using her example -- if it's -- you know, it doesn't matter -- if it's a hundred dollars and they have 90 percent of it, so do they just need to come up with, you know, $10 versus the full hundred?

You know, bidders may say, I could never compete against that. So, you know, I think Rigmora -- and if they are going to compete against that, then bidders should know that. And so if Rigmora is going to be a bidder, then they should not be a consultation party because that's just not fair, in my opinion, in my view, you know, and it's -- it is problematic, you know, to potential bidders, again, who want to put in the time.

And it kind of goes back to the need for -- and the

desire for the million dollars of the, you know, potential diligence reimbursement.

Q Mr. Mandarino, have you been attempting to keep Rigmora informed about the bidding process and the sales process, so far as well as periodic updates for Rigmora through your relationship with Rothschild?

A Yeah, I've had a number of conversations with them; again, it's been very high level to be clear, like, there's -- there hasn't been a lot of detail for the reasons we just discussed, but, you know, I have an immense amount of respect for Mr. Aebersold and try to have a good, you know, dialogue and relationship with him. And, you know, if he will get me the brokers to try to get something positive accomplished.

Q Thank you, Mr. Mandarino.

Anything else that you'd like to tell the Court about the procedures?

A I think we've covered it. Thank you.

Q Just making sure.

THE COURT: Cross?

MS. LABOVITZ: Thank you, Your Honor.

One last time before I retire.

(Laughter)

THE WITNESS: Two hundred and twelve days, right?

(Laughter)

MS. LABOVITZ: We are at two hundred and maybe eleven.

We are trying to demonstrate how non-litigious we are being, so I'm going to attempt to ask Mr. Mandarino a few questions.

CROSS-EXAMINATION

BY MS. LABOVITZ:

Q Mr. Mandarino, did you share the proposed procedures or discuss the proposed procedures with the Rigmora professionals before they were filed or any time after?

A Not before they were filed. And any time after, I believe we've asked for comments and we didn't receive them. There was no -- you know, generally, if something's filed, you give a response back, right. We never got a call on it.

Q Have you ever, in other cases, reached out to the majority stakeholder or fulcrum security to discuss procedures before they're filed?

A Well, it's really interesting because these procedures as, you know, Your Honor pointed out, are something that we would do anyway, right. We would norm -- what we would normally do is send a process letter to parties and say, Here are the procedures, right.

What's different about this, so, you know, would I share that with, you know, if there was a secured creditor? You know, maybe, maybe not. I don't know. I probably

haven't every single time, but I -- there were times that I haven't. But the only difference about this procedure is why we're here is for, I mean, at least to me, is the million-dollar reimbursement, right, because that's not an ordinary course payment. You know, we're not asking for an approval of the stalking horse and everything we've said a couple of times already.

So because we had to do that, you know, you certainly had the opportunity -- Rigmora had the opportunity to get their comments on it.

Q You testified about not typically sharing this with a secured creditor.

Wouldn't a DIP or adequate protection usually require you to talk with the secured creditor about procedures to sell its assets?

A I said in my process letter, right.

Q Okay.

A But this is different.

If it was an order -- if it was an order and a motion, you know, I -- we don't have that here, so I guess that's -- it's not apples and oranges, which is one of the unusual aspects of this case of having the fulcrum creditor not be -- or the fulcrum party stakeholder not be a creditor.

Q It's certainly unusual, I'm going to agree with you on that.

Mr. Mandarino, are you willing to discuss those procedures with the Rigmora LPs and their professionals now?

A I think we are.

Q Great. I look forward to that.

Mr. Mandarino, you testified that you had a number of discussions with Rothschild about a potential path forward.

Are there any or are you aware of any outstanding information requests from Rothschild or the Rigmora LPs related to valuation or operations of the business?

A I am, and we're in the process of fulfilling those requests.

Q I'm going to come back and clarify some aspects of your previous testimony, because I genuinely am confused.

MS. LABOVITZ: Your Honor --

BY MS. LABOVITZ:

Q Or Mr. Mandarino, you testified, I think that you had some concerns about Rigmora participating in the process.

Does that mean that you're opposed to Rigmora participating in the process?

A I am not; in fact, I was trying to encourage it.

Q You said you had asked Mr. Aebersold for a floor or what we were -- the Rigmora LPs would be looking for in terms of valuation?

A Yes.

Q Can you -- does it make sense to you that having basic

information requests or having outstanding information requests would make it difficult to give that floor?

A I mean, potentially. I mean, again, we're working on getting them the information and, you know, we gave them a timeline; in fact, I think there's four specific requests that are outstanding. We gave them a timeline and one of the timelines was, like, by this Friday and maybe that even will go to him tomorrow, which is the quarterly report that they tip -- that Rigmora typically receives.

Q Are you open to continuing to provide information to Rigmora about the LPs in response to their requests?

A You know, as appropriate and, you know, with, you know, again, considering, certainly, with the advice of counsel with the litigation in the Caymans and, you know, everything else, but sure. I mean, it's -- again, I'd like to know if Rigmora is going to be a bidder or not, right. I'd like to know, you know, what they're -- what they'd like. I'd like to help them get there; in fact, I will say here in court, if I need to go to London or wherever Rigmora is, you know, I've had exactly one call with a Rigmora principal in this case, which I find even more unusual than you may find not sharing procedures.

And I'd be incredibly happy to meet with them to get to a -- try to get to a resolution and understanding, a structure, in order to get it accomplished and perhaps, you

know, after, if we can meet with Mr. Aebersold on Monday, with Oaktree and their partner, maybe that will be the next step. But, you know, I view my job as to get something done here and, you know, that's what I'd like to do, including providing the information, as appropriate.

Q Just two more questions, Mr. Mandarino, and I will observe, it is unusual. I've seldom had a case where I've been instructed not to pick up the phone and call the financial advisor, so it's nice to be able to chat with you.

Maybe just one more question. Were you in court at the last hearing, the May 19th hearing, or on the line?

A I was not. I was in -- I listened to it via Zoom.

Q At that hearing, I was struck that debtors' counsel said that they would not share detailed information about portfolio companies with the Rigmora LPs because they hadn't previously, and they don't intend to now.

Has something changed?

MS. TOMASCO: I'm going to object.

First of all, I -- that's a paraphrase and that wasn't Mr. Mandarino's testimony. I believe that was made in argument, so I'm not sure how you can ask him about that.

THE COURT: I'm going to sustain that.

MS. LABOVITZ: I'm going to admit defeat and sit down, Your Honor.

Mr. Mandarino, it's been nice to talk to you.

THE WITNESS: Likewise.

THE COURT: Any redirect?

MS. TOMASCO: None, Your Honor.

Thank you, Mr. Mandarino.

THE COURT: Thank you.

THE WITNESS: Thank you, Your Honor.

(Witness excused)

THE COURT: Okay. I'm actually glad that Ms. Labovitz followed up with Mr. Mandarino on the question of Rigmora's participation, because I was confused, as well, and made a note. And I just want to make sure I understand that the debtors are not seeking to preclude Rigmora from participating in this process, correct?

MS. TOMASCO: We are not seeking to preclude Rigmora from participating in this process. We're not -- and I think there's two things that came out of this thought process. Number one is, if they are allowed to -- something along the lines of a credit bid, it could chill the competitive effect.

THE COURT: Well, that's why I asked the question, is -- because I didn't read anything in the motion as a request to preclude, via, a credit bid, Rigmora's participation because of some appropriate reason.

MS. TOMASCO: Correct.

Now, they are the ones that have put forth the

request to, quote, unquote, credit bid. I do think that that would have a chilling effect, and I also think that if it is a true round trip, they can find a financing partner to allow them to compete apples-to-apples with anybody else, because they're going to be getting back, you know, a significant portion. For every dollar they bid, you know, at least, you know, depending on the price level and the -- because the partnership at the equity level of the partnership, the sharing ratio is changed, depending on whether or not you've reached certain thresholds.

So this is going to be a very complex waterfall to figure out if Rigmora bids -- you know, if Oaktree bids one dollar and Rigmora bids -- does Rigmora have to bid 75 cents or 60 cents to beat that? I -- you know, we don't know, right.

THE COURT: Well, that's why advisors get paid so much money.

MS. TOMASCO: Correct.

So I do think that just like any other credit bid situation, it can have a chilling effect. We've seen cases in which the credit bidding, via a secured creditor, particularly when they're significantly unsecured and they can bid the asset beyond its, you know, its natural value, can be very detrimental to a competitive process.

Now, most secured creditors would say, Yeah, I'm

going -- I want -- I really want to sell this, so I'm going to temper that. You know, there's a lot of things that go on.

In this case, I do think that if we could come up with a rationale, you know, ratio of what Rigmora would have to bid, we can certainly talk about it, but the first threshold we need to know is, do they want to be a bidder or do they want to be a consulting party?

And then after that, we can start to think about, can we come up with a comprehensive waterfall, because as you're comparing bids -- I don't know if you've ever been through this -- you have to take into account, well, are you assuming this debt; are you assuming this obligation; what are my rejection damages claims with bidder A versus bidder B, like, those are going to change the dynamics of whether or not Rigmora has to bid -- you know, how much they have to bid that's not going to be round-tripped, right. So these are very complex.

We don't want to undertake that exercise in a vacuum. We would want to know, specifically, that -- is Rigmora interested in bidding and we think that that would be a hugely positive development for the case, right, me, personally, to come to terms on that. Because that means we have, as we say in Texas, a rodeo, we have something to do, and we have a positive direction everybody's participating

in.

And so -- but that would be our position. First, we need to know that they're definitely wanting to bid and then we can start working on, is there a rationale way that we can make that work.

THE COURT: So, a chicken-and-egg plan?

MS. TOMASCO: But what has -- yes, it is a chicken-and-egg plan, that's why we need to say, Do you want to bid?

THE COURT: But it goes both ways, right. Maybe they want to bid, depending on what the terms are.

So, why I ask, is it a chicken-and-egg plan, right; which comes first?

MS. TOMASCO: Yeah -- no -- and that's where I think Mr. Mandarino is kind of like, he's like, Okay, well, at least, do you have a minimum? Do you have -- what do you want? What do you want to do?

And they haven't given us any information, so, you know, I'm just like a dyed-in-the-wool debtor's lawyer. I'm like -- I was like, I've got to keep marching forward. I've got to move the case along. This is what this is.

And hopefully, we -- you know, when we start really talking about maximizing the value of the estate, reorganization, instead of liquidation, we will have overcome a monumental disagreement on where this case should be going.

I would applaud it, myself.

So, I would like to require Rigmora to indicate that they do want to be a bidder and we'll start working on how that can be done.

THE COURT: Well, there needs to be a point in time where that is done, and that's what I'm trying to figure out. And it's different in different cases, so I'm trying to figure out at what point in time it would be appropriate to have Rigmora make that decision.

And, clearly, that decision needs to be made because if, in fact, Rigmora is going to participate in the process, then they can't be a consultation party. So, but sometimes it's been necessary to require that off the bat and sometimes it's a little bit further into the process.

And so that's what I'm trying to figure out. And if it's going to be off the bat, then it sounds like Rigmora needs some more information. Mr. Mandarino owes them some information, which is going to be coming shortly, and they need some time to evaluate it. And so that's a different -- so, I don't know with your launch-plus dates, how that fits into your launch-plus dates, that time frame for Rigmora to decide if it's going to participate in this process or not.

MS. TOMASCO: So, I would imagine that Rigmora should make a decision in a couple of weeks, I think, and then we can start the process more, in my view, once we get

to that point. But I don't think we can really -- as I said, I think this case is moving slower than I'd like, but I understand that these are complex assets and they take time for bidders --

THE COURT: Yes.

MS. TOMASCO: -- to understand.

Rigmora has -- already has a leg up, right. They've been living with these assets since 2012 so, you know, I don't think that they're going to be behind the information curve in any significant way. That said, I do want to encourage -- and I know Mr. Mandarino feels the same way -- we want the most robust, competitive process possible. That is our goal. That is our obligation to the estate.

MS. LABOVITZ: Your Honor, I'm going to be very brief because none of us have had lunch. A couple of things.

I -- first of all, we have common ground. I, too, am a dyed-in-the-wool debtor's lawyer. And in that context, I share a desire to move the case forward, but I also know that to move a case forward, you have to give basic information to your constituents.

I wish that two weeks would be enough time for the Rigmora LPs to have a view on valuation. I wish that we did have a leg up on knowing the portfolio and what's going on. The reality is, Your Honor, that the information we're getting about the portfolio company developments is coming

from the press. It appears that there was a nondebtor that announced a transaction this week. It appears that there was a very significant, positive litigation development, with respect to the Syntimmune litigation that Your Honor is familiar with.

We learned about that from following the docket. We have sent in information requests about that. We haven't heard back.

I -- Mr. Mandarino correctly testified that they've said that they think they can get some of the Rothschild information requests answered this week, but the remainder of those requests, they've estimated would come toward the end of the month, I believe. And so we just need more information to even get to anywhere close to the level of information that's already been provided to the bidders who have been in the data room. And so I think we need some time to grapple with this process.

A couple of other points. To the extent that the Rigmora LPs are participating in the process, it will be purely defensive to avoid a sale of the assets that's at a valuation that they think is too low. I can't underscore that enough; they do not want a sale of the portfolio companies. They do not want a forced sale of nondebtor assets of valuable companies that are not distressed. And so, that's not their choice; it would be purely defensive.

The last point. You know, I understand a concept, Ms. Tomasco's point that you could borrow $4 billion and pay it back in two days, okay, but that's incredibly expensive. It's incredibly difficult to put together and it does not make any sense in this context. It doesn't make sense to require a cash bid from the Rigmora LPs when they've suggested to Your Honor and Your Honor has suggested that no party will be required to bid into a particular structure. So that should apply to the Rigmora LPs, too.

With regard to the idea that their investment could be chilling to a process, the reason it's chilling is because they've invested billions of dollars and they hold 98 percent of the value. So, yes, it would -- it ought to be difficult for someone else to come in and buy the assets for less than the Rigmora LPs think they're worth.

And all we're trying to do, Your Honor, is have our ability to evaluate the assets, figure out what they're worth, and have the value that we've invested. So I'll stop there.

THE COURT: Okay. So, I'm going to give you some thoughts on the particular issues that have been the subject of objection and then I'm going to let the parties talk.

In terms of the competitor issue, we've already said Rigmora has to make a decision. The question to me is when and how does that fit into the launch timetable? And

you all have to talk to me about that.

There was no specific request made -- and I had not given thought to whether Rigmora should be able to participate at all in this process because it is chilling, so I'm not prepared to rule that they cannot participate because it's chilling. And I don't think I got enough evidence to be able to make that ruling today.

The 10 percent deposit and earnest money, it may be on the high side, but nonetheless, this is a multi-billion-dollar company, and any serious bidder should be able to come up with those funds and that's the testimony that I had.

In terms of the diligence fees, as I said, I have permitted them in some circumstances. I haven't in others, such as UpHealth. I can't even tell you what the term -- what the circumstances of UpHealth were. I don't remember. But I think in this circumstance it's appropriate that the debtor should have the discretion, presumably, in consultation with the Committee.

And if Rigmora doesn't bid, perhaps they're a consultation party, with respect to giving a particular bidder a fee. I understand that the diligence fee is it's a three-million-dollar pool with a million-dollar cap to any particular prospective investor.

MS. LABOVITZ: Correct.

THE COURT: I'm fine with that and I think the debtors should use their discretion appropriately. These assets are complex; I've learned that. And I do think when someone is looking to put their time -- it's not just cost; it's opportunity cost; it's time of their professionals and/or their internal resources to this endeavor. I think this case could warrant it and I also have the testimony on that.

Consent to jurisdiction, yeah, it seems a little broad. It should not be just to anybody the debtor reaches out to, or Mr. Mandarino reaches out to. If somebody becomes a bidder and they put in a bid, then they're subject to jurisdiction, with respect to this particular process.

I've already indicated that people can put their investment bids in, in whatever form or fashion they think is appropriate. It might mirror the term sheet; it might not. And that needs to be made clear in the process.

(Pause)

THE COURT: Limitations on competitors bidding. I'm not sure that that's different here than in any other case where we have competitors, particularly strategics, who are looking at assets. I did see references to clean teams here. Obviously, that would be appropriate. Whether there could be some staging of diligence in a clean room, I'll let the parties talk about that.

But I don't -- I've never had anybody come in front of me and say, Judge, we think the debtors have been inappropriately excluding a competitor where it's somebody who is real and is willing to sign appropriate confidentiality agreements and a clean team and all of that. And I agree, that's what professionals figure out how to do.

So I would expect that the debtors and their professionals could figure out how to permit, whenever possible, a competitor to participate in this process, because it does seem natural, as in so many cases, that competitors are often the ones who are interested in the assets. So we don't want to discourage them, but appropriate accommodations need to be made and protections for the debtors' intellectual property and their assets during this process.

As I understand it, stalking horse fees, people will come back to me, so we'll deal with that, then. I think, as I read, there was five business days' notice of that request. That's fine.

And as I've already said, I am not prejudging anything. I understand the concern that this process could lead to a valuation that gets embedded in a plan. I'll see how I deal with it then, but I am not prejudging that the term sheet presents a confirmable plan. I'm not prejudging the end result of this process. We're simply putting a

process in place so that the debtors can start looking for an investor, a purchaser of assets. It can come in any form, and it can be for a group of assets, a pool of assets, a one-off. It can come in any form that people who are interested, deem advisable to them.

(Pause)

THE COURT: I didn't really hear about expense reimbursement, but my thought was that was getting deducted from diligence fees. I know it was getting deducted from something.

MS. TOMASCO: Correct.

The expense reimbursement is if you didn't get a diligence fee.

THE COURT: Okay. So that -- is that being offered as part of the stalking horse?

MS. TOMASCO: Like a stalking horse reimbursement.

THE COURT: Okay. Well, I'll deal with that when --

MS. TOMASCO: The diligence fee is to get people in the room --

THE COURT: Right.

MS. TOMASCO: -- and then the stalking horse protections and an expense reimbursement --

THE COURT: Right. And --

MS. TOMASCO: -- is if you're not the winner.

THE COURT: Right. So I'll deal with that when and if that gets put in front of me. Okay.

I'm not sure I missed a category -- did I miss a category?

MS. LABOVITZ: Not to my knowledge.

THE COURT: I don't think so.

Okay. So the big issue, obviously, is -- and that I don't have an answer to -- is how the time frame that should be given to Rigmora to make a determination and whether any part of the process can start while that is happening and whether there can be some concurrent process.

(Pause)

MS. TOMASCO: Right. I think Mr. Mandarino says that they need to make -- they need to decide before the bids are due, right, whether they're going to be a consulting --

THE COURT: Yes, that's clearly, they need to decide before then.

MS. TOMASCO: Okay. So I don't know if that would allow us to have a launch date that's, you know, earlier. So, in other words, we could launch, have a bid due date, then, they would not have to decide until the bid due date.

THE COURT: How does that line up with your launch-plus number of days?

MS. TOMASCO: So it's 50 days after the launch date is the letter of interest --

THE COURT: Is the letter of -- okay.

MS. TOMASCO: -- LOI deadline.

THE COURT: Okay.

MS. TOMASCO: So, if we, like, lets just -- .

THE COURT: Because there's already 50 days --

MS. TOMASCO: Yes, there's already 50 days.

THE COURT: -- in the LOI process.

MS. TOMASCO: Right.

THE COURT: All right.

MS. TOMASCO: So it seems to me that we could enter the order and do the launch, right. They would have 50 days. That's more than enough time, I think, for this.

THE COURT: Fifty days seems like a lot of time.

(Pause)

MS. LABOVITZ: Your Honor, I think we have some discussion to do on the order itself. I think the parties should go off and discuss it.

The seven weeks, if the information flows, may be enough time if we're in the data room, but I think they would want us to say we're -- we need to discuss this, whether we have access to the data rooms and we're on an equal playing field with other bidders. I think we should just go talk about it.

MS. TOMASCO: I don't disagree, but I think this gives them plenty of time to make up their mind.

THE COURT: Okay.

MS. TOMASCO: And to be fair, they have all -- I mean, I have all the slides about all the stuff that they've been provided.

THE COURT: There's a lot of slides out there.

(Laughter)

THE COURT: You can get them all --

MS. TOMASCO: You've been provided with a lot of slides, Your Honor.

THE COURT: -- and you can get them all.

(Laughter)

THE COURT: The -- I want y'all to talk about the form of order.

MS. TOMASCO: Okay.

THE COURT: And you can include this as part of that.

But I am going to say that I'm not going to put off entering a form of order for weeks upon weeks while this gets sorted. I think the process needs to start and --

MS. TOMASCO: And we can start the process and then if we have a disagreement about whether they're in or out, we can always come back --

THE COURT: Yes.

MS. TOMASCO: -- in the middle.

THE COURT: Everybody seems to know how to get me.

So if there's disagreement when you're coming up upon the date, where the bids need to be in, then, well, I haven't ever had that dispute before, I can hear it, okay.

So, my only point of saying that is, I am going to move the process along. Y'all need to talk, but I am going to move the process along. So I would expect to get an order next week, I would hope, so that this process can start, but I'll let y'all talk.

MS. TOMASCO: Thank you, Your Honor.

THE COURT: Okay.

MS. TOMASCO: We have just the bar date order, and I think it's just to mark up to put in front of you. I think everybody's agreed.

THE COURT: Okay.

MS. TOMASCO: If you want to hear about it or you can just --

THE COURT: If y'all have agreed to it, I think, as long as people have cut out the parts that I don't like, which are -- Ms. Good is shaking her head, so I'm going to assume it's been done, and I'll be fine; if not, I'll cut them out when I get it, okay.

MS. TOMASCO: All right. Thank you, Your Honor.

THE COURT: Okay. So, does that conclude?

(No verbal response)

THE COURT: Okay. Thank you very much.

We're adjourned.

MS. LABOVITZ: Thank you, Your Honor.

(Proceedings concluded at 1:51 p.m.)

CERTIFICATION

We certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter to the best of our knowledge and ability.

/s/ William J. Garling June 3, 2026

William J. Garling, CET-543

Certified Court Transcriptionist

For Reliable

/s/ Coleen Rand June 3, 2026

Coleen Rand, CET-341

Certified Court Transcriptionist

For Reliable

Exhibit I

Debtors' May 12, 2026 Letter

quinn emanuel trial lawyers |
295 5th Avenue, New York, New York 10016-7103 | TEL (212) 849-7000 FAX (212) 849-7100

pattytomasco@quinnemanuel.com

May 12, 2026

VIA EMAIL
nlabovitz@debevoise.com

Ms. M. Natasha Labovitz
Debevoise & Plimpton LLP
66 Hudson Boulevard
New York, New York 10001

Re: Apple Tree Life Sciences, Inc., et al., Case No. 25-12177 (LLS) in the United States Bankruptcy Court for the District of Delaware // Rigmora's May 5 Email // Rigmora's Counterproposal

Counsel:

As you know, we represent ATP Life Science Ventures L.P. ("ATPLSV"), ATP III GP, Ltd. (the "GP") and their debtor affiliates (collectively, the "Debtors") in the above-referenced chapter 11 cases. We write you regarding (1) the May 5, 2026, email communication that Mr. Patrik Blochlinger, Chief Legal Officer of Rigmora (Switzerland) Ltd, sent to Mr. Brian Hirsch, General Counsel of Braeburn Inc. ("Braeburn") (the "May 5 Email"); and (2) the May 7, 2026, counterproposal that Mr. James Lazar, Rigmora's financial advisor, sent to Mr. Perry Mandarino, Debtors' Chief Restructuring Officer (the "Counterproposal").[1]

Both the May 5 Email and the Counterproposal disregard and misrepresent the April 14, 2026, Memorandum Opinion [Docket No. 458] (the "Opinion") and the May 5, 2026, Letter Ruling [Docket No. 621] (the "Letter Ruling") of the United States Bankruptcy Court for the District of Delaware (the "Court"). In addition, the May 5 Email constitutes another violation of the automatic stay under section 362 of title 11 of the United States Code (the "Bankruptcy Code"),

[1] Copies of the May 5 Email and the Counterproposal are attached hereto as **Exhibit A** and **Exhibit B**, respectively. In this letter, the term "Rigmora" refers to Rigmora Biotech Investor One LP, Rigmora Biotech Investor Two LP, Rigmora (Switzerland) Ltd, and associated entities.

further evidencing Rigmora's intentional and continuing disregard of the Court's authority[2] for which the Debtors reserve all rights.

First, the May 5 Email falsely represents the holding of the Opinion by claiming that (1) Rigmora has ownership rights over Braeburn; (2) ATPLSV's interests are inextricable from Rigmora's interests because the latter is a limited partner of ATPLSV; and (3) the GP no longer represents the interests of ATPLSV but is rather acting in its sole self-interest.

The Opinion found the opposite, as Rigmora knows: that (1) ATPLSV—and not Rigmora—owns the majority equity interests in Braeburn and that interest remains property of ATPLSV's estate; (2) ATPLSV's interests are distinguishable from—and do not need to match with—Rigmora's parochial interests, especially when the latter have "nothing to do with the good of" ATPLSV; and (3) the GP has acted to safeguard ATPLSV's interests prior and after the commencement of the chapter 11 cases:

- I am denying the motion to dismiss. I conclude that the Fund is eligible to be a debtor and that the Fund and the General Partner filed their cases in good faith. Op. at 2.

- I conclude that an exempted limited partnership can own assets and create debt—even absent a separate legal personality from its partners. *Id.* at 27.

- I also conclude that the Fund has property in the United States (i.e., shares in the Portfolio Companies and $97 million in a bank account). *Id.* at 30.

- [A]s of the filing of the bankruptcy petitions, the need for further funding to maximize the value of both the Portfolio Companies and the Fund was not hypothetical or prospective. It was immediate. *Id.* at 39.

- The General Partner, which is charged with making all operational decisions for the business under both the LPA and the ELP Act, has the view that the way to maximize the Fund is to continue supporting the Portfolio Companies …. I cannot find that view to be unreasonable. *Id.* at 42-43.

[2] *See* Op. at 18-19: "At the status conference, Counsel for the Rigmora LPs asked that I grant limited relief from stay to permit the parties to appear at the pretrial conference so that Justice Asif could ask questions, get input and have dialogue with counsel. Out of courtesy to Justice Asif and his calendar, I granted that limited stay relief.[] I certainly did not grant relief from stay for the Rigmora LPs to file an eighteen page skeleton argument with the Grand Court outlining new arguments, nor did the Rigmora LPs ask me to grant such relief or indicate that under Grand Court procedures or Justice Asif's own procedures it would be necessary to do so in order for the pretrial conference to go forward.[]"

- Mr. Bogdanov was sheepish when questioned on cross about the Bogdanov Memorandum suggesting he was embarrassed it showed the real motivation behind the Rigmora LPs' decision not to fund certain Portfolio Companies—a motivation that had nothing to do with the good of the Fund and everything to do with the good of Rigmora Holdings. *Id.* at 42 n. 177.[3][

- T]he evidence reveals that Rigmora Holdings is looking to maximize itself, and not the Fund. *Id.* at 44.

Second, the May 5 Email mischaracterizes the Opinion by impermissibly extending the scope of the Court's narrow lifting of the automatic stay of section 362. The Court did not authorize Rigmora "to wind up ATP and appoint a joint official liquidator to replace the General Partner," and there is no forthcoming winding up order in the Caymans Islands. To the extent there was any doubt regarding the foregoing, the Court unequivocally stated the following in its Letter Ruling (at 4):

> As the parties are aware, the automatic stay prevents the entry of a winding up order. My Order granting limited relief from stay did not permit the entry of a winding up order; it only permitted the winding up petition to proceed to determine whether (i) the Rigmora LPs can prove that they have justifiably and irretrievably lost all trust and confidence in the General Partner's ability to manage the Fund; and/or whether the Fund has lost its substratum and the possible appointment of joint official liquidators.

The Counterproposal likewise falsely characterizes the Opinion by asserting that the Court ceded the supervision of any potential official liquidator to the Grand Court of the Cayman Islands. In fact, the Opinion unequivocally states that the Court would retain control over the official liquidator(s):

> [T]he Rigmora LPs may not seek any other relief from the Grand Court, including to transfer (or deem transferred) the rights or property of the Fund to the Joint Official Liquidators or to permit the Joint Official Liquidators to wind up the Partnership in the Grand Court. Further, this Court will not recognize a monetary judgment against the General Partner or the Fund. To be clear, while Debtors remain in bankruptcy the automatic stay is in force and will continue to apply to the Rigmora LPs and to any Joint Official Liquidators that may be appointed by the Grand Court. Op. at 55-56.

[3] The Opinion contains a similar statement at page 44 n.187.

Third, Rigmora's May 5 Email violates section 362(a)(3) of the Bankruptcy Code[4] by attempting to exert control over Braeburn by directly or implicitly threatening Braeburn's board or management with an (unfounded) breach of fiduciary duty—claims that, in any event, belong to ATPLSV and for which Rigmora has no standing. *See*, *e.g.*, *Nicole Gas Prod., Ltd.*, 916 F.3d 566, 577-79 (6th Cir. 2019) (noting that "[the debtor] was in bankruptcy, [so that] the Trustee was in charge of any claims the debtor-business might hold," with the consequence that the debtor's sole shareholder violated the automatic stay by pursuing a claim that belonged to the estate); *In re Gainesville Venture, Ltd.*, 159 B.R. 810, 811-12 (Bankr. S.D. Ohio 1993) (section 362 of the Bankruptcy Code is violated when the sole limited partner of the debtor seeks to impede a future transaction by asserting a claim or defense that belongs to the estate); *In re All American Ashburn, Inc.*, 805 F.2d 1515, 1518 (11th Cir. 1986) (affirming bankruptcy court's order enjoining debtor's shareholders to exercise control over property of the debtor by asserting a claim that belongs to the estate); *Weiberg v. GTE Southwest, Inc.*, 272 F.3d 302, 306 (5th Cir. 2001) (only trustee may assert causes of action that are property of the estate).

Relatedly, and more generally, the Debtors demand that Rigmora cease interfering with the GP's management and control of ATPLSV's business, which violates section 362(a)(3) of the Bankruptcy Code.[5] *See In re Edisto Res. Corp.*, 158 B.R. 954, 957-58 (Bankr. D. Del. 1993) (interfering with the management of corporation owned by the debtor constitutes a violation of the automatic stay because it usurps debtor's control over its property's interest); *In re Altman*, No. 6:16-BK-15248-MW, 2018 WL 3133164, at *6 (B.A.P. 9th Cir. June 26, 2018) (section 362 protects from shareholder's interference the debtor's right to manage a corporation that belongs to the estate and constitutes its most valuable asset); *In re Extraction Oil & Gas, Inc.,* No. 20-11548 (CSS), 2020 WL 7074142, at *3-4 (Bankr. D. Del. Dec. 3, 2020) (noting that "[s]ection 362(a)(3) applies to actions against third parties as well as actions against the debtors," and nullifying as stay violation creditor action to control debtors' contractual and business relationships with contract counterparty (cleaned up)).

The Debtors demand that the May 5 Email be rescinded immediately. The Debtors reserve all of their rights to seek redress for your stay violations under the Bankruptcy Code and other applicable laws, including compensatory damages and reimbursement of attorneys' fees and expenses. Nothing contained in this letter, nor the omission of any facts or legal arguments, should be construed as a waiver of any applicable arguments or defenses.

[4] Section 362(a)(3) explicitly forbids "any act … to exercise control over property of the estate." 11 U.S.C. § 362(a)(3).

[5] The Court already found that the GP—not Rigmora—makes the operational decisions of ATPLSV, and that Rigmora should not try to exert control over the GP. *See* Op. at 7 ("As set forth in the LPA, the General Partner manages the Fund's business"), 43-44 ("[T]he Rigmora LPs … are ignoring the LPA …. [which] provides that, until removed, the General Partner controls the affairs and conducts the business of the Fund….").

Very truly yours,



Patricia Tomasco

Exhibit A



From: Patrik Blochlinger <PBlochlinger@rigmora.com>
Sent: Tuesday, May 5, 2026 10:24 AM
To: Brian Hirsch <bhirsch@braeburnrx.com>
Cc: Yuri Bogdanov <yuri.bogdanov@rigmora.com>; Mike Derkacz <mderkacz@braeburnrx.com>
Subject: RE: [External Email]-Braeburn

Dear Brian

Thank you for your emails that we answer as follows:

ATP Dispute and Fiduciary Duties

We note your acknowledgement of Rigmora's role as an important stakeholder and ATP Life Science Ventures, L.P. ("ATP") as the Company's sole stockholder. From Brian's latest email, it is clear that the Board based its analysis of whether or not it has discharged its fiduciary duties on the premise that "*the Board's fiduciary duties run to the Company and its stockholder(s)*".

However, as the Board and the Company are aware, Rigmora is more than just an important stakeholder, it is the sole limited partner with 100% equity interest and by far the largest carry holder

(92.5%) in the ATP Braeburn investment pool and, therefore, Braeburn's indirect sole equity owner. Thus, the Board was and remains required to manage the affairs of Braeburn in the best interest of ATP and its stakeholders, namely Rigmora.

Furthermore, as you are aware: (i) control of ATP is currently disputed and Rigmora is seeking a judgement in the Cayman Islands to remove and substitute the General Partner of ATP; and (ii) the General Partner no longer represents our interests or those of ATP but is rather acting solely in his self-interest.

On April 14th, 2026, the United States Bankruptcy Court for the District of Delaware has granted Rigmora relief from the automatic stay to permit Rigmora to proceed with our petition before the Grand Court of the Cayman Islands to wind up ATP and appoint a joint official liquidator to replace the General Partner. We are confident that our petition in Cayman will be successful, and we intend to appoint the joint official liquidator as soon as we receive a judgement in a manner consistent with the United States Bankruptcy Court's decision. This development makes the General Partner's authority over ATP even more tenuous.

In addition, under Section 27 of the limited partnership agreement of ATP ("ATP LPA"), the General Partner acting through Seth Harrison is required to prevent Braeburn from entering into certain transactions without our consent[1]. We intend to enforce all of our rights under ATP LPA.

As we previously stated, the General Partner no longer represents our interests as the sole limited partner in the ATP Braeburn investment pool. On that basis, we require that in order to properly discharge their fiduciary duties to us, the Board shall:

(i) maintain the status quo within Braeburn;

(ii) cease any major transactions that would have an impact on ATP's interests in Braeburn (including by diluting its interests, issuing equity or debt to third parties and/or by repaying, accelerating, modifying or assigning the Hercules Loan or any transaction prohibited under the ATP LPA without our consent);

(iii) make any material changes conditional upon the forthcoming judgement of the Grand Court of the Cayman Islands; and

(iv) except to the extent necessary to comply with General Partner's obligations under the ATP LPA not to permit certain transactions without our consent, exclude Seth Harrison, Dr. Karabelas and Joseph Yanchik from participating in any Board deliberations and decisions and from receiving any supporting documentation in respect of matters that involve ATP's interest whether directly or indirectly (including any matter relating to the Hercules Loan).

Oaktree Diligence Fee

You assert that Seth Harrison and Mr. Yanchik exited the Board meeting prior to the Board's deliberations and did not participate in the decision-making process. However, we do not consider this sufficient to discharge the Board's fiduciary obligations. Dr. Harrison and Mr. Yanchik were present during the presentation by Oaktree's representative and had the opportunity to influence the discussion — including by providing their perspective on the proposed payment and the potential transaction — before recusing themselves. In circumstances where control of ATP is actively disputed, a late-stage recusal does not adequately address the conflict. We therefore believe that the Board has not properly discharged its fiduciary duties as regards this decision.

Additionally, we disagree with the Board's determination that Dr. Karabelas is a disinterested director as it pertains to ATP. Dr. Karabelas has an ongoing association as a "Venture Partner" with ATP, as confirmed in a SEC filing by Regenxbio Inc. available at https://www.sec.gov/Archives/edgar/data/1590877/000095017023012070/rgnx-20230405.htm. This association clearly makes him interested as he has a continuing reputational and relational interest in ATP's affairs that persists irrespective of recent compensation. The Board's reliance on a three-year absence of payments as the basis for its determination is, in our view, insufficient. Further, please identify whether: (i) Dr. Karabelas has any economic interest in ATP or entities linked to ATP (including but not limited to whether he is entitled to contingent, future or residual compensation from such entities); and (ii) the Board carried out these enquiries as part of its determination of whether or not Dr. Karabelas was interested.

We are disappointed that this Board took the unusual decision to approve payment of a $1,000,000 "due diligence fee" to facilitate an arrangement designed to facilitate the bankruptcy process of ATP – a process to which Braeburn is not even a party — and are concerned that such approval was granted on the basis that Braeburn might unlock unspecified "potential strategic benefits" and without third party review. We require that you provide us with all materials that the Board relied upon in reaching its determination, including: (i) minutes of the Board meeting of 18 March 2026; (ii) all papers, presentations and other materials provided to, or presented before, the Board in respect of that meeting (including those materials provided by Oaktree's representative); and (iii) all documents entered into by Braeburn and Oaktree in respect of the diligence fee and any other transaction involving Braeburn.

Strategic Benefits

We were disappointed to read that the potential Oaktree transaction would, in the view of the Board, result in strategic benefits to Braeburn. In our view, Braeburn would get the same strategic benefits, and more, under Rigmora's continued ownership.

We are open to hearing your rationale to seek increased operational flexibility and the ability to pursue strategic transactions or an IPO – we are strategic investors and always open to consider value generating transactions. We reiterate our support for Braeburn and our wish to continue working together to make Braeburn even more successful for the benefit of the company and all stakeholders.

Hercules Loan Repayment

Thank you for confirming Braeburn's continued compliance with the terms of the Hercules Loan and its intent to continue complying with them going forward. As noted above, we require Braeburn to maintain the Hercules Loan on its current terms and provide us with prompt written notice of any non-compliance or potential non-compliance with its terms.

We make these requests in furtherance of our shared interest in Braeburn's long-term success for the benefit of all its stakeholders.

Nothing in this letter is intended to waive, and Rigmora expressly reserves, any rights, claims, defenses, or positions it may have, whether at law, in equity, or under contract.

We expect your prompt response to the matters raised in this email.

Kind regards,

Patrik

[1] The General Partner shall – amongst others – not allow Braeburn without Rigmora's consent to *"(i) to engage in any financing of the assets or business of Braeburn that are material to its overall business operations; provided that this clause (i) shall not restrict or prohibit an extension to the Hercules LSA as long as such extension includes (A) terms that, taken as a whole, are more commercially favorable than the current terms and conditions of the Hercules LSA and (B) the modified LSA no longer contains any change of control provision or other fee or cost that would be payable upon the distribution of Braeburn to the Subject Limited Partner [i.e. Rigmora]; (ii) to enter into any material licensing or royalty agreements with respect to new products; or (iii) to acquire any businesses or similar assets (other than inventory) from a third party (including, without limitation, portfolio companies of the Partnership) pursuant to a merger, consolidation, stock purchase or asset purchase, in each case, without the consent of the Subject Limited Partner, including to use any authority the General Partner has (including over its representatives or agents) with respect to Braeburn to give effect to the foregoing obligation"*. [see: https://www.veritaglobal.net/appletree/document/25121772603060000000000003 at page 1627]

Chief Legal Officer
Rigmora (Switzerland) Ltd
Direct: +41 78 820 7205
Email: pblochlinger@rigmora.com
Stockerstrasse 8
8002 Zurich, Switzerland

From: Brian Hirsch <bhirsch@braeburnrx.com>
Sent: Wednesday, April 15, 2026 11:11 PM
To: Patrik Blochlinger <PBlochlinger@rigmora.com>
Cc: Yuri Bogdanov <yuri.bogdanov@rigmora.com>; Mike Derkacz <mderkacz@braeburnrx.com>
Subject: Re: [External Email]-Braeburn

Dear Patrik,

We refer to your correspondence dated March 31 regarding, among other matters, (i) the payment of a diligence fee to Oaktree Capital Management, L.P. ("**Oaktree**") and (ii) the Company's current plans with respect to its loan from Hercules. We appreciate your patience and write to address those matters.

Oaktree Diligence Fee

The decision to authorize the payment of a diligence fee of up to $1,000,000 to Oaktree was considered and approved by the Board of Directors of Braeburn (the "**Board**") at a duly convened meeting on March 18, 2026.

At that meeting, the Board received a presentation from a representative of Oaktree regarding a potential transaction involving bankruptcy exit financing involving the ATP portfolio, including Braeburn (the portfolio's most valuable asset). The Board considered the potential strategic benefits to the Company of such a transaction, including increased operational flexibility and the ability to pursue strategic transactions (such as expanding its portfolio) or a potential initial public offering.

Seth Harrison, M.D., Chairman of the Board, was present and provided his perspective regarding the proposed payment and the potential transaction. Following that presentation, and consistent with appropriate governance procedures, Dr. Harrison and Mr. Yanchik exited the meeting prior to the Board's deliberations and did not participate in the decision-making process. Further, we point out that Dr. Harrison and Mr. Yanchik's presence at the meeting until deliberations and decision-making is permitted by Delaware law, consistent with best practices, and provided the disinterested members of the Board with the opportunity to ask questions of the Apple Tree affiliated members of the Board.

The Board also considered director independence in connection with its deliberations. Two of the Company's three disinterested directors participated in the deliberations and voted in favor of authorizing the diligence fee. The Board has determined that directors Jerry Karabelas, Ph.D., Dennis Langer, M.D., and Hon. Patrick Kennedy are disinterested directors for purposes of this matter. Delaware law generally regards a director as disinterested if the director does not have a material personal financial interest in the transaction at issue and is not subject to the control of an interested party with respect to that decision.

Hon. Kennedy was unable to participate in the meeting due to a prior commitment, but he received proper notice of the meeting. Dr. Karabelas is, and has been, regarded by the Board as disinterested with respect to matters involving Apple Tree, including the payment by Braeburn of the diligence fee, based on, among other things, the absence of any compensation from ATP for more than three years.

In evaluating the decision to pay the proposed diligence fee, the Board acted in accordance with its fiduciary duties under Delaware law. The Board considered whether the payment could reasonably be viewed as being in the best interests of the Company and its stockholder, ATP, and determined that facilitating Oaktree's diligence process—given the potential to unlock strategic alternatives for the Company—met that standard.

Appropriate conflict management procedures were followed. Directors with potential conflicts recused themselves from the deliberations, and the decision was made by disinterested directors following discussion with legal counsel to the Company, who was present at the meeting.

With respect to your question regarding supporting materials, the Board's determination was based on the information presented at the meeting, together with the Board's ongoing familiarity with the Company's strategic position and alternatives. A fairness opinion is not customary or required under Delaware law in connection with a decision of this nature, and none was obtained. Fairness opinions are typically obtained in connection with transactions involving a sale of the company, a merger, or other change-of-control transaction, or where a board is evaluating the financial fairness of consideration being paid to or received from stockholders. The

authorization of a diligence expense of this nature does not present those considerations and does not typically warrant a fairness opinion.

Finally, while the Company acknowledges Rigmora's role as an important stakeholder, ATP is the Company's sole stockholder, and the Board's fiduciary duties run to the Company and its stockholder(s).

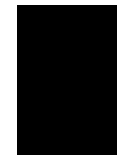
Hercules Loan

At this time, Braeburn remains in compliance with the terms of the Hercules Loan. Consistent with prudent financial management, Braeburn may evaluate its options from time to time with respect to that facility in light of the Company's overall strategic objectives and liquidity considerations.

No determination has been made to accelerate, assign, or otherwise modify the Hercules Loan. Any such decision, if made, would be subject to Board approval in accordance with applicable fiduciary duties and contractual obligations.

Nothing in this letter is intended to waive, and the Company expressly reserves, any rights, claims, defenses, or positions it may have, whether at law, in equity, or under contract.

Sincerely,
Brian



Brian Hirsch
GENERAL COUNSEL

1-610-761-9054
braeburnrx.com

From: Patrik Blochlinger <PBlochlinger@rigmora.com>
Sent: Tuesday, March 31, 2026 11:02 AM
To: Mike Derkacz <mderkacz@braeburnrx.com>
Cc: Yuri Bogdanov <yuri.bogdanov@rigmora.com>; Brian Hirsch <bhirsch@braeburnrx.com>
Subject: [External Email]-Braeburn

Dear Mike

We are referring to our previous correspondence and write on behalf of the Rigmora Biotech

Investor One and Two LP ("Rigmora"), indirectly the largest creditors and shareholders in Braeburn Inc. ("Braeburn").

Consent to Termination of Knight License

We received the request from you seeking our consent to the termination of the licence granted to Knight Therapeutics Inc. ("Knight") in respect of Brixadi. We are evaluating this request in good faith and in the best interests of Braeburn and all its shareholders.

In conducting our evaluation, we will be relying on the recommendation of the board of directors of Braeburn ("Board") in respect of the business rationale for the termination. Please confirm our understanding that the rationale you sent to us is consistent in all respects with the recommendation of the Board.

That reliance is predicated on our assumption that the actions of the Board are in the best interests of Braeburn and its shareholders, including Rigmora as majority shareholder.

To assist our evaluation, please confirm that the proposed termination (i) is unrelated to any other potential transactions we are not aware of involving other parties, including Knight and/or Camurus AB and (ii) and has no negative impact on the EBITDA of Braeburn.

Ongoing Support for Braeburn

Notwithstanding our ongoing disputes with the general partner of ATP Life Science Ventures, L.P. that is represented by Seth L. Harrison ("General Partner") ("Disputes"), Rigmora has always believed in the long-term prospects of Braeburn and will continue to stand behind Braeburn. Accordingly, we will strongly resist any attempt to dilute our interests in Braeburn whether through unwarranted bankruptcy proceedings (such as those already instigated by the General Partner), any equity or debt offering or otherwise.

As you are aware, the shares of Braeburn are held by the principal shareholder on trust for Rigmora and the General Partner is acting solely as trustee. Since we are in the process that leads to the removal of the General Partner from the role of general partner of ATP through court proceedings in the Cayman Islands, he no longer represents Rigmora's interests and is acting in his self-interest. He is attempting to frustrate our efforts by continuing groundless Chapter 11 bankruptcy proceedings in the United States, which also includes the direct principal shareholder of Braeburn. We request that the Board and management of Braeburn resolutely resist any attempt to put Braeburn in bankruptcy, dilute the interests of its principal shareholder and creditors or sell any of its valuable assets.

We were particularly alarmed to discover through a court filing in the bankruptcy proceedings last week that Braeburn agreed with Oaktree Capital Management L.P. ("Oaktree") that it would "*pay Oaktree a due diligence fee to facilitate Oaktree's ongoing due diligence*". This "fee" was paid by Braeburn in an amount of up to USD 1,000,000.

Braeburn is neither a debtor entity in the relevant bankruptcy nor insolvent. To our knowledge,

Braeburn is not in the process of raising new capital, which would require our consent. Rigmora is strongly opposed to any transaction that would dilute our interest in Braeburn and we do not consider payment of this due diligence fee to Oaktree to have been in the best interest of Braeburn, its creditors and other stakeholders. Therefore, we request that you provide to us:

(i) an explanation as to why the Board considered such payment to be in the best interest of Braeburn and its shareholders;

(ii) all relevant Board or Braeburn documentation that supported this decision (including any advice from external counsel, any fairness opinion obtained in connection with the payment to Oaktree or any related transaction); and

(iii) a copy of your agreement with Oaktree in respect of the payment of the due diligence fee.

Ongoing Conflict of Interest

Due to the Disputes, Seth Harrison, Jerry Karabelas and Joseph Yanchik, who are members of the Board have an ongoing conflict of interest and should accordingly be excluded from participating in any Board deliberations and decisions and from receiving any supporting documentation in respect of matters that may give rise to a conflict of interest. Please confirm that appropriate procedures have been put in place.

Hercules Loan

As the largest indirect shareholder and creditor in Braeburn, we consider that given current market conditions and the uncertainly created by unwarranted bankruptcy proceedings instigated by the General Partner against the direct principal shareholder of Braeburn, the maintenance of the loan from Hercules to Braeburn ("Hercules Loan") on its current terms is in Braeburn's best interests. At present, we are not going to support any attempt to accelerate repayment of the Hercules Loan or to assign it, either of which would trigger substantial early repayment fees. The Hercules Loan was raised with our express approval. Given that Braeburn has no other material financial indebtedness (except the debts to Rigmora), maintenance of this facility through its scheduled maturity is in the best interests of Braeburn, its shareholders, creditors and other stakeholders.

We further require that Braeburn continues to comply with all terms of the Hercules Loan and associated documentation. We also require: (i) 30 days' written notice before any irrevocable steps are taken to repay early or accelerate the Hercules Loan; and (ii) prompt written notice of any non-compliance or potential non-compliance with its terms.

We would like to reiterate again our resolute support for Braeburn and our commitment to ensure that it is successful for the benefit of all of its stakeholders.
We expect your prompt response to the matters raised in this letter.

Kind regards,
Patrik

Chief Legal Officer
Rigmora (Switzerland) Ltd
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[1] The General Partner shall – amongst others – not allow Braeburn without Rigmora's consent to *"(i) to engage in any financing of the assets or business of Braeburn that are material to its overall business operations; provided that this clause (i) shall not restrict or prohibit an extension to the Hercules LSA as long as such extension includes (A) terms that, taken as a whole, are more commercially favorable than the current terms and conditions of the Hercules LSA and (B) the modified LSA no longer contains any change of control provision or other fee or cost that would be payable upon the distribution of Braeburn to the Subject Limited Partner [i.e. Rigmora]; (ii) to enter into any material licensing or royalty agreements with respect to new products; or (iii) to acquire any businesses or similar assets (other than inventory) from a third party (including, without limitation, portfolio companies of the Partnership) pursuant to a merger, consolidation, stock purchase or asset purchase, in each case, without the consent of the Subject Limited Partner, including to use any authority the General Partner has (including over its representatives or agents) with respect to Braeburn to give effect to the foregoing obligation"*.

Exhibit B

Subject	Rigmora's Position (4/16)	Debtor's Position (4/22)	Rigmora's Counter (5/7)
Ongoing Funding	• Conceptually, Rigmora agrees to funding the Debtors and non-debtor portfolio companies through the date that is two weeks after the later date of Justice Asif's ruling on the merits and, if applicable, on the appointment of Joint Official Liquidators (the "Funding Period"). Funding would be in the form of delayed draws from the Specific Performance Account (as defined in Docket No. 228) on a biweekly basis and subject to an agreed budgetary reporting process. The funding would pay for the ordinary course expenses needed to keep the companies operating, including for Aulos, Nereid, and Nine Square that have exhausted their approved budgets. Specifically, funding would include such line items as ordinary course contractual obligations, employee salaries, pre-existing research and development, Aulos's ongoing clinical trials, and the management fees (less the $1.6 million offset for Akero stock option exercise). Funding for new research and development (ie, activities that had not begun or were suspended as of year-end 2025) would not be included. For the avoidance of doubt, this agreement is subject to the parties coming to an agreement on the specifics of the funding and its proposed uses, and both Rothschild and B. Riley agree to work in good faith to come to an understanding on the details to be reduced in writing in the form of a consensual order to be submitted to the	• Subject to Court ruling on April 22, 2026, which shall proceed.	
		• Rigmora agrees to funding or Debtors use Bankruptcy Court approved funding.	• Funding authorized by Bankruptcy Court on April 22, 2026 may proceed. On a biweekly basis, for each portfolio company and for Apple Tree Life Sciences Inc. and ATP Research & Development, Inc., Debtors to provide Rigmora and its representatives information, consisting of items identified on Annex A to this term sheet.
		• Funding to include all court-approved professional fees	• Funding authorized by Bankruptcy Court on April 22, 2026 may proceed (subject to

Subject	Rigmora's Position (4/16)	Debtor's Position (4/22)	Rigmora's Counter (5/7)
	Bankruptcy Court as soon as possible. Upon agreement on a consensual form of order (including the specifics to be determined in consultation with Rothschild and B. Riley), the Debtors will withdraw without prejudice or adjourn sine die the Funding Motion [Docket No. 228] and Interim DIP Financing Motion [Docket No. 313] for the pendency of the Funding Period.		ordinary requirements for approval of professional fees).
		• Rigmora withdraws objection to QE/B. Riley.	• Agreed as to B. Riley. N/A as to QE retention, in light of the Court's approval of QE's retention.
		• Funding to include Aulos, Nereid and Nine Square.	• Funding authorized by Bankruptcy Court on April 22, 2026 may proceed. On a biweekly basis, for each portfolio company and for Apple Tree Life Sciences Inc. and ATP Research & Development, Inc., Debtors to provide Rigmora and its representatives information, consisting of items identified on Annex A to this term sheet.
		• Funding levels to be consistent with Debtors' proposed budget subject to modification as required governance change below.	• Funding authorized by Bankruptcy Court on April 22, 2026 may proceed. On a biweekly basis, for each portfolio company and for Apple Tree Life Sciences Inc. and ATP Research & Development, Inc., Debtors to

Subject	Rigmora's Position (4/16)	Debtor's Position (4/22)	Rigmora's Counter (5/7)
			provide Rigmora and its representatives information, consisting of items identified on Annex A to this term sheet.
		• Rigmora cedes control of funding to Compromise Board consistent with Rigmora's rights in JOL structure in Cayman law.	• Reject
Exclusivity	• Rigmora will consent to an extension of the Debtors' exclusivity period through the Funding Period and withdraw without prejudice their objection to the Debtors' motion for an extension of the exclusivity period [Docket No. 537], as long as the relief requested is modified to be consistent with the Funding Period, rather than the 150-day	• Exclusivity extended subject to further motion by the Debtors and entry of order by the Bankruptcy Court.	

Subject	Rigmora's Position (4/16)	Debtor's Position (4/22)	Rigmora's Counter (5/7)
	periods, and counsel for both sides agree on a consensual form of order to address the pending exclusivity motion.	• Debtors may file a combined Disclosure Statement and Plan, which may include a sale or financing transaction subject to higher and better bids and Bankruptcy Court approval. Debtor also may seek approval of a sale process or sale prior to filing a combined Disclosure Statement and Plan. All parties rights are reserved with respect to the Debtors pursuing the foregoing.	• Exploratory discussions about potential plan/exit to be held among Aebersold, Pohl, and Mandarino, potentially with assistance from mediator
Financing Procedures	• The Debtors will withdraw without prejudice or adjourn sine die the Financing Procedures motion [Docket No. 478] and the request to retain APC as placement agent [Docket No. 480]. The Debtors agree not to propose a plan or otherwise pursue a sale or restructuring during the Funding Period. In addition, the Debtors agree that they will not cause any portfolio company to raise new equity or engage in any non-ordinary course transitions, sale or financing transactions.	• Rigmora to provide markup of financing procedures motion, which procedures shall be submitted as soon as possible to the Bankruptcy Court for approval.	• Debtors will abstain from seeking approval of any exit financing procedures until JOLs are appointed, which remains subject to the JOLs' oversight and consent. • Exploratory discussions about potential plan/exit and potentially soliciting new investors or selling certain assets to be held among Aebersold, Pohl, and Mandarino, potentially with assistance from mediator

Subject	Rigmora's Position (4/16)	Debtor's Position (4/22)	Rigmora's Counter (5/7)
Governance/Winding Up	• The parties will jointly reach out to Justice Asif to determine his availability for the winding up proceeding as soon as practicable. • The parties will work together in good faith to jointly propose a protocol to facilitate communications between Judge Silverstein and Justice Asif, pursuant to Local Rule 9029-2.	• The 2 Rigmora-nominated individuals listed in the Winding Up Petition will be appointed to GP board along with Tim Pohl (the "Compromise Board"). Tim Pohl becomes a full Compromise Board member. Each board member of the Compromise Board will have the same fiduciary duties as a Delaware corporation board member. The GP, through the Compromise Board, controls the Fund.	• Debtors will stipulate to the appointment, by Justice Asif of the Cayman Court, of JOLs to replace GP under supervision of Cayman court, consistent with Judge Silverstein's April 14 ruling.
		• Dr. Harrison will resign from the GP board and be appointed as CEO of the GP (as CEO he will report to the newly constituted Compromise Board).	• Agree Dr. Harrison will resign from the GP board; otherwise reject.

Subject	Rigmora's Position (4/16)	Debtor's Position (4/22)	Rigmora's Counter (5/7)
		• Dr. Harrison will receive management fee as CEO salary, so long as he remains CEO. If he is no longer CEO, he will receive management fees through the current arrangement under the management agreement.	• N/A
		• The GP or Compromise Board shall not be changed or dissolved, without Bankruptcy Court approval.	• Reject
		• Dr. Harrison as CEO may pursue on behalf of the Debtors funding or a sale, reporting and consulting with the Compromise Board on a weekly basis, and shall remain as CEO until the conclusion of the transaction. Dr. Harrison may be terminated only as provided for in the LPA and subject to Bankruptcy Court approval.	• Reject

Subject	Rigmora's Position (4/16)	Debtor's Position (4/22)	Rigmora's Counter (5/7)
		• The pending winding-up proceeding shall be deferred and neither Rigmora nor the Debtors shall take any action in such proceeding pending further order of the Bankruptcy Court. To the extent that the Bankruptcy Court requires a protocol consistent with this term sheet, the parties shall negotiate and propose a protocol.	• In lieu of a trial in the Cayman court, Debtors will stipulate to the appointment, by Justice Asif of the Cayman Court, of JOLs to replace GP under supervision of Cayman court, consistent with Judge Silverstein's April 14 ruling. • Rigmora will shortly file motion for protocol consistent with Local Rules. Debtors are welcome to join or respond to the motion.

Annex A – Information Sharing Protocol[1]

- Updated financial statements, including cash balance, cash flow statements, and updated list of creditors and all outstanding liabilities
- Updated list of employees, including roles, responsibilities, and start date
- Updated description of all current research projects, including:
    - To the extent applicable, a list of all vendors and partners necessary to complete research projects, including the total cost and length of any contracts.
    - To the extent applicable, updated information on when each portfolio company expects to reach its next value inflection point.
    - A list of all patents, patent applications, and other intellectual property owned by such portfolio company.
- For any portfolio company with ongoing partnerships or collaborations, information on the terms and financial impact of those partnerships and whether those partnerships can sustain such portfolio company at current spending levels.
- All offers received for portfolio companies or their assets, including a report from Centerview
- With respect to Braeburn, in addition to the items listed above:
    - An update on Brixadi, specifically its commercial performance and market share. Are there any pipeline programs beyond Brixadi and, if so, what is their status?
    - Quarterly and year-to-date net revenue figures for Brixadi with comparison to prior periods.
    - Information sufficient to show it is in compliance with Hercules loan.

[1] For the avoidance of doubt, this protocol relates to both the Debtors and their non-Debtor affiliates.

Exhibit J

May 19, 2026 Transcript

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE:	Chapter 11
	Case No. 25-12177 (LSS)
APPLE TREE LIFE SCIENCES, INC., *et al.*,	(Jointly Administered)
	Courtroom No. 2
	824 North Market Street
Debtors.	Wilmington, Delaware 19801
	Tuesday, May 19, 2026
	2:00 p.m.

TRANSCRIPT OF HEARING
BEFORE THE HONORABLE LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For the Debtors: L. Katherine Good, Esquire
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(Proceedings commence at 2:07 p.m.)

THE COURTROOM DEPUTY: Please rise.

THE COURT: Please be seated.

Ms. Good.

MS. GOOD: Good afternoon, Your Honor. For the record Katie Good of Potter Anderson & Corroon on behalf of Apple Tree Life Sciences, Incorporated and its affiliated debtors and debtors-in-possession.

Before we jump into our one item on the agenda today, I did want to just make a couple introductions. I know there are several familiar faces but we have at least one new on our side. I am joined in the courtroom today by my co-counsel from Quinn Emanuel, Mr. Winston and Ms. Tomasco. As well as my colleagues from Potter Anderson, Mr. Haywood and Ms. Forshay. And Your Honor has heard testimony before from Dr. Harrison but we are also joined today by Ms. Shelley White from Walkers who is the debtors Cayman counsel.

We have one item on our agenda today which is the debtors motion for relief from order partially granting motion for relief from stay or, in the alternative, to confirm the scope of the stay or, as we've called it, our clarification motion. And we do have a short PowerPoint that we thought might be helpful. And if it's acceptable to Your Honor, I can hand that up and pass copies out to others in the courtroom.

THE COURT: Okay.

MS. GOOD: May I approach?

THE COURT: You may. Thank you.

MS. GOOD: With that, I would turn the podium over to Mr. Winston who is going to handle argument on our side for this.

THE COURT: Mr. Winston.

MR. WINSTON: Good afternoon, Your Honor. Eric Winston of Quinn Emanuel for the debtors. Its nice to see you again. Its been a few weeks.

The good thing is we're not going to really go through most of that deck. It's actually more for your information if you thought you needed it but I thought I would start first with a brief overview of why we filed it and where we are today, then give some progress, because there's been some good news, and then talk a little bit about what we're actually seeking today.

THE COURT: You don't want to start with the progress.

MR. WINSTON: I'm happy to start with progress. More then happy too. And happy to do so because I think it's actually useful; you will see this in Slides 6 and 7 where we are today and what we're expecting to do over the next six weeks till the end of June.

What Slide 6 shows, Your Honor, is what is going

on with the clinical and pre-clinical portfolio companies. Some of them are debtors, some of them are not. And I'm not going to run through all of it. That would not be a good use of time but I do want to highlight just a few things because I think they're interesting for Your Honor.

One, your likely to see pretty soon a motion to consolidate some of these portfolio companies because we think that will lead to a lot of efficiencies. Some of these portfolio companies are doing things that are adjacent to each other and we think it would be very intelligent to put them all under one umbrella. We have actually hired a new chief science officer for that role to oversee that. So, you are going to likely see a motion along those lines pretty soon.

Another one I would like to highlight is Evercrisp. That is the one you heard the testimony from the CEO. They have reinitiated their research programs following the funding decision and are on track to deliver critical data by the end of 2026. We are very excited about that. Another one is Nereid. All three of those programs have been reinitiated with funding and they are on track to initiate their IMD enabling studies in the first quarter of 2027.

And then one we haven't really talked too much about, because its not a debtor and it was self-funding before, is Marengo. That has established some

very interesting new data relating to breast and colorectal cancers. That data we can't really share publicly but it is moving forward very promisingly and we do expect that of the remaining funding we may be moving forward with more funding from our reserves to fund Marengo but continue its good work. One of the things we're wrestling with is do we need Your Honor's permission or not in light of what has been decided.

So, those are things that are happening now in light of the rulings Your Honor has made that we find very promising.

And then if you look at Slide 7, within the Chapter 11, we are making very significant progress towards a plan and potential exit from these Chapter 11 cases. And while the slide lists a number of things I want to bring your attention to one in particular. And Your Honor has heard before about Oak Tree hanging around. We had the DIP motion at one point. Now we have taken that off.

What I think Your Honor should know is that after conducting its initial due diligence on a potential transaction Oak Tree has decided to partner with an additional investor to consider its investment opportunities. They have continued their diligence efforts in earnest. That diligence has focused on technical, regulatory, and business due diligence. We have been responding to those diligence requests. They have been quite extensive. There has been a

lot of discussions. We have provided access to management teams and it's the debtors view that Oak Tree and its partner, subject to its continuing due diligence, are working towards the delivery of a term sheet for a transaction in the next few weeks; hoping that happens.

I bring that to your attention, Your Honor, because it goes to, in part, why we filed this motion but more importantly what we are asking for now. We filed this motion shortly after Your Honor's decision on the dismissal motion and the very detailed discussion Your Honor put in there because the way that the ruling went on relief from stay is that we believed JLO's cannot be appointed without a winding up order and yet Your Honor gave relief from stay to go establish the factual predicates that could lead to a winding up order.

So, we were concerned that there was some ambiguity and we wanted to get ahead of it. We didn't want to have a repeat what happened in December where Your Honor gave limited relief from stay, and then things happened in the Cayman that we felt were way off, and we then had to come running back here. We wanted to avoid that. So, we filed the motion.

At the same time, because it appeared to us that the only legitimate argument for continuing the Cayman was to, you know, deal with corporate governance issues we

offered a compromise. The same people that they had nominated we would put on a board here and they wouldn't have to answer to two courts, just one, save a lot of costs, and if there was a corporate governance issue it would be resolved. That was rejected.

The primary concern we had has actually been resolved by Your Honor when Your Honor overruled the objection to my firm's employment and in that letter ruling said thou shall not have a winding up order entered. That actually takes off the table what was our primary concern, which is why in our reply and why I'm standing up here now is a much more limited relief. Its, in some ways, mostly administrative and a matter of efficiency because what has happened in the Cayman on May 12th is that a schedule has now been set to conduct the first of the two rounds of the factual predicates that Your Honor granted, what we call the substratum issue. It has been set for June 30th, a two-day trial.

The fact that its bifurcated that is not a problem. Both sides thought that might be an intelligent use of resources but the problem with June 30th and why I'm still asking for relief is that there was a lot of scheduling conflicts between our counsel, Rigmora's counsel, and the Court, and the party that ended up losing on that was us. The end result is because Ms. White is not available and our

King's Counsel, the KC, "the silk" was also not available we now have to hire a new KC at a very, very exorbitant cost to the estates simply because of scheduling. There was a time in later July that was available. That was rejected.

So, in part, making sure we understand where Your Honor's order granting relief from stay was aimed at, I didn't think it was aimed at prejudicing the estate to the tune of over a million dollars simply because of a scheduling conflict. And as part of our issue we know we have a protocol motion being heard on June 3rd. We know that the Judge in the Cayman Islands is welcoming the opportunity confer with you, which we think is a good idea. We have sent comments to the protocol order earlier today thinking that we will hopefully resolve it before June 3rd.

What we would like to have happen simply as a matter of administrative efficiency and saving of cost to the estate for the benefit of all stakeholders that that hearing not go forward on June 30th. Part of it is it's just a colossal waste of time and money. Its also part because we are fully confident long before June 30th there is going to be something that we can bring to Your Honor that will show a path towards Chapter 11. We are not also eager to have to be preparing for a trial that may not be necessary at all at that stage.

So, that is why we are still standing here. Its

why we didn't pull the motion even though the major reason for the motion has already been resolved.

THE COURT: So, shouldn't the motion for reconsideration, if you will, go to Justice Asif for his scheduling explaining that it will cost the debtors a million dollars and maybe he will feel differently on the schedule but how can I -- why should I interfere with the schedule that he's putting in place? I understand what you have said and if it were me, I would work around it and I would find a way that you didn't have to hire new counsel. But how can I -- why should I interfere with his scheduling?

MR. WINSTON: I fully expected Your Honor to ask that question and, of course, you cannot dictate to another court its schedule. I think partly laying the groundwork for why we think the protocols could be necessary is for that exact reason. If nothing else, having the ability of Your Honor to say its going to cost the estate a lot of money, are you sure we can't work this out where everyone's schedules meet together we think would be wise. Even just hearing Your Honor, what you just said, if there is a way to have a cross-border conversation about that then we would.

THE COURT: Well, see, I don't know. I don't think a cross-border protocol means I just pick up the phone and say, hey, Justice Asif, this is Judge Silverstein, could you move this trial. I don't think that is how it works.

MR. WINSTON: I agree.

THE COURT: But I also don't think I -- and maybe because you all didn't know but I read the transcript and I don't see this explained to Justice Asif that this is what this is going to entail. I did read that there were calendaring concerns. I didn't read that this is what it's going to cost.

MR. WINSTON: In fact, the last slide of our deck lays this out and this is why Ms. White is here if Your Honor had any questions about it. I think more of the extreme professionalism of the lawyers in the Cayman and how they talk to one another, being very "My learned friend" --

THE COURT: Unlike here.

(Laughter)

MR. WINSTON: -- here it's pretty blunt. I think to some degree they all understood that there was scheduling conflicts. It just happened to land on the estate and in light of that having to go out and get quotes from KC's, it has been extraordinarily expensive. And just to put this in front of Your Honor it's in the last slide of the deck, those are the quotes we received and we picked one of them assuming we are proceeding on June 30th. It is a lot of money simply because of a scheduling court.

THE COURT: But your picking, probably, one area where I, and I think any other Judge, would be loathed to

step in --

MR. WINSTON: I understand.

THE COURT: -- which is scheduling another Judge's trial.

MR. WINSTON: I fully understand.

THE COURT: And there is nobody else at either of the -- whichever is the King's Counsel and whichever is the Cayman counsel there is no one else at their firms that can step in?

MR. WINSTON: So, within our side there is no other King's Counsel. The one we have currently is actually based in the Cayman Islands. So that would have been fantastic. He's unavailable because of schedule.

THE COURT: Because he's unavailable.

MR. WINSTON: Ms. White, who has been leading this, is unavailable exactly at that time. Its really just a few week differences. She will correct me if I'm wrong but there is no other King's Counsel within her firm that would be available. It just -- its bonkers to me that we have to go through this but Your Honor is a hundred percent correct, you can't control another Judge's calendar.

THE COURT: Which is what you're really asking me to do just in a different way.

MR. WINSTON: I was -- I'm standing here to say that for purposes of the order of relief that you granted it

shouldn't be used in an abusive way. It should not be used in a way that -- I will restate. It should not be used in a way that happens to grossly prejudice the estate which it's going to do.

THE COURT: Okay, I hear you.

MR. WINSTON: Thank you, Your Honor.

THE COURT: Thank you.

Ms. Labovitz.

MS. LABOVITZ: Good afternoon, Your Honor. Natasha Labovitz from Debevoise & Plimpton on behalf of the Rigmora LP's here with my colleagues, Natascha Born. Oh, I should have let our local counsel introduce themselves. So sorry.

Your Honor, one thing that is mildly refreshing now that we are back to hearings being conducted by bankruptcy lawyers is that we sometimes speak in ways that are not what I would call litigatorees. Mr. Winston used the word "bonkers" and I smiled because I feel that way too right now. This is bonkers.

A couple of points and then I would actually like to get to the substance of this motion that is before you, Your Honor, because I think there is some substance that needs to be addressed here today beyond scheduling but before we get to that just a couple of points in reaction to Mr. Winston's presentation.

Your Honor, one thing that I find a little mystifying is that the good news that was announced with regard to the debtors' business operations, discussions with a potential new investor, progress towards a potential plan of reorganization, every part of that is news to us. It is confusing to me that we hear about this progress and this good news and efforts towards reorganization in the courtroom for the first time.

I am going to begin where I thought I might end my remarks today which is to continue making a plea that the debtors talk to their largest stakeholder. We should be talking. We should not be hearing about news like that for the first time in the courtroom.

THE COURT: Well, I will confess that I thought progress meant among the parties before me but it didn't mean that.

MS. LABOVITZ: Who knows, maybe there would have been progress if we had learned that there was some major breakthrough in a non-debtor portfolio company that we should be funding. Maybe we would have thought that was great. Maybe we would have thought there should be more funding. We are finding out about it for the very first time today. That, I don't think, is a way to make progress. Its not going to lead to a consensual plan of reorganization in any way. Its only going to lead to litigation.

When I read the debtors' pleadings that is exactly the thing they say they want to avoid. They're saying let's avoid costly litigation, let's work things out, let's find a way to talk about things but to do that we have to talk. I'm just going to stop there on that particular point about the good news.

The point about the scheduling is pretty similar. Your Honor, we were aware, certainly, based on the hearing that was conducted before Justice Asif two weeks ago. We were aware that their King's Counsel, Mr. Ayres, had holiday plans during the timeframe when Justice Asif scheduled the June 30th trial and that was, you know, the subject of some lengthy back and forth. You have read the transcript, so you've seen it, and you're aware that Justice Asif changed his own holiday plans to accommodate what he thought was the best result.

What we didn't know about until, again, sitting in the courtroom today, is that there would be any difference in cost to the estate. We weren't aware of the numbers that were put forward on Slide 7. I have now glanced at them but haven't had a chance to digest them. I don't know what additional costs there will be to the estate. I do know that I've canceled many vacations for this case. You know, so we are where we are with that too.

In terms of scheduling, I agree we should try to

work things out when we can but working things out involves picking up the phone and talking to us about problems, not telling us at this point that there is an issue. So, I would, again, plead that if there is a scheduling issue, if there is something that is going to cause a great cost to the estates that my clients are bearing we would like to hear about that and we will talk about it but I think on this particular issue I don't have a lot to say about the scheduling because, as you point out, Your Honor, that is a Cayman matter not for me either. I just listened to it when I was listening to the hearing but I do think that Justice Asif was aware of the issue.

So, with that I guess that takes care of the points from Mr. Winston's presentation today but I would like to ask for the Court's indulgence to make this a little bit longer and to actually go into the substance because I fear that we do have a brewing disconnect between what the other -- my colleagues on the other side believe this Court has said in its ruling and how we're interpreting the ruling. And it may be that there is some bit of a disconnect between terminology in this Court and in the Cayman Court.

Your Honor, I looked up this quote and was unable to find the right attribution for it but its sometimes attributed to George Bernard Shaw that we the Americans and the English are two nations divided by a common language.

And I think that is what is going on right now and I'd like to air that because I'm going to come back to the point again that I think more discussion will help us resolve problems in this case. And I think this might be a good moment to do it since we're before Your Honor. We have all come here. I know Mr. Winston flew in from California. I'm sure Ms. Tomasco came up from Texas. And I came from Vermont.

So, since we're all here if I may ask your indulgence, I'd like to approach with a slide deck and walk through pieces of it.

THE COURT: Okay, thank you.

MS. LABOVITZ: I must confess, Your Honor, I'm not very used to working with slides in the courtroom. I am just a bankruptcy lawyer and an old school one at that.

In this case we thought it was useful to look at the actual words of what people are saying in part, Your Honor, because I'm genuinely confused at this point about what the debtors position is. This motion originally, I think, came about with the debtors acknowledging that this Court's order modifying the automatic stay, allows the Rigmora LP's to move ahead to seek the appointment of JLO's to act in the stead of the general partner.

In the original motion, I think the debtors were kind of speculative that the Rigmora LP's would violate that order by asking the Cayman Court to do something else. And

that didn't happen. And I am not sure I need to walk through in detail what actually has happened in the Cayman Court because Your Honor said you read the transcript and I think you're aware.

I submit that was entirely consistent with the Court's order and now I think the debtors pivoted to a new argument in their reply. There was a lot of mudslinging about the automatic stay in that reply, which I'm not going to address at this moment, but I think I do want to come back to it at the end with the seriousness of response that that kind of allegation deserves.

First, I just want to focus on the issue at hand which was in the reply, I think, a shifting request which is that the debtors were asking this Court to change its mind and revise the lift stay order to impose a settlement that its just not agreed among the parties. In the reply brief the debtors' position was that -- and I think I hear that it is now -- that under Cayman Island law there can be no JLO's appointed absent a winding up order.

THE COURT: Well, isn't that the question.

MS. LABOVITZ: What's that.

THE COURT: Isn't that the question. And I will say, in having read the transcript, that I do think some clarification of my order is probably appropriate, not the ones the debtor has requested and not any language that any

parties put in front of me but isn't that the question.

MS. LABOVITZ: I think that is the question, Your Honor. And having read the transcript I think you may be cutting through my need to go through a whole bunch of slides, which this bankruptcy lawyer is grateful for, but I do think that is the question.

Your Honor, it appears to me, as a Cayman Islands layperson, that the order that results from a winding up petition, which Your Honor clearly has authorized us to move forward with, the order that results from that is called a winding up order. The question is whether that order, if entered, can appoint the JLO's to act in the stead of the GP, which I think is what Your Honor had intended or Your Honor had intended that Justice Asif decide when to appoint the JLO's to act in the stead of GP. The question is whether that relief can be crafted.

THE COURT: Absent a winding up order.

MS. LABOVITZ: Well, absent an order that allows the -- or that causes the JLO's to proceed with a winding up. We clearly understand that Your Honor has not permitted a winding up. And the position of the Rigmora LP's King Counsel, which I don't think -- it wasn't disagreed with on the record of the Cayman hearing but I think it is an issue left open. The question of whether its possible to enter that order but say that the JLO's are appointed, they are now

to appear in the bankruptcy court and wait for further instructions, in effect, and not proceed with a winding up, not proceed with taking control of the debtors property exactly as Your Honor had ordered.

THE COURT: Well, what I don't know is somebody, I think it was the debtors, equated this to like a Chapter 7 Trustee and not being -- I would equate it more to an involuntary; okay, an involuntary where someone comes in, the petition has been filed, the order for relief has not been entered but somebody comes in and seeks emergency relief to get a trustee in place because they believe there's fraud happening or there's some basis for doing so.

I have no idea if in the Cayman's there is something like that, something equivalent, some provisional, interim, some other kind of liquidator who could be put in place where the winding up order which has consequences to it is not entered. So, I have no idea. So, I can see a reason for some kind of clarification but I think we need some education from the appropriate lawyers and what I didn't get in any of the filings was here's the language that would clarify the situation probably because they were -- at cross purposes probably because the first relief sought, as you were just starting to discuss, but I don't understand how I could ever do that, impose some compromised reward, I don't understand that.

But having read the transcript, I do have some concerns about what order might get entered in the Court, the Grand Court, and I certainly don't want there to be a misunderstanding between myself and Justice Asif but I also do not want the consequences of a winding up order to attach and then we're in a conflict position as to whether this Court recognizes them, what that Court does and we're back and forth.

MS. LABOVITZ: We understand and I think speaking solely for the Rigmor LP's we agree with that. We don't want to go all the way through a trial where our side is paying for the expenses of both sides and find that Justice Asif feels that he can't grant the relief that he, otherwise, would.

THE COURT: Yes.

MS. LABOVITZ: Your Honor, if I may, our reaction to the conference and to Justice Asif's commentary about wishing to interface with Your Honor in a not just pick up the phone way but a more formal way that I think is established for communication between Courts in an international insolvency situation, Your Honor, our reaction was to file the motion to establish a protocol.

I understand you didn't want to hear it on shortened notice. We did receive comments from Ms. Tomasco early this morning and I would say -- although I was in

transit and I have not had a chance to fully brief them, I would say that we have no disagreements about the substance of the protocol on how the Courts would communicate. There are wording disagreements related to specifically this winding up issue but I'm confident that good lawyers should be able to bridge past that with reservations of rights or, you know, appropriate language.

So, I wonder if one path forward that addresses both the LP's desire to move forward with the Cayman resolution of these important governance issues but also addresses the debtor's desire to move forward with their business. Perhaps one answer might be for us to work hard this week to agree a protocol and submit it to Your Honor in advance of the June 3rd hearing so that we don't have to address it then. If we could submit a consensual order, I think that would be helpful. So, we will undertake to do that. I know you can't order them to do that. We will try to work on that and resolve it.

I think the point that I wanted to get across today are a couple. First, from our perspective, we do think it's important to resolve this terminology issue about what a winding-up order and get to the bottom of whether that really is substantive or whether Justice Asif can, in fact, craft relief in the way that I think U.S. Bankruptcy lawyers are used to doing it, right, that we can just write the order and

make it work. And so I think we should explore that and get to the bottom of that. I do believe that the protocol will help in that regard.

Until then, I think the position of the Rigmora LPs is that the original order remains unstayed. We're going to keep moving forward with the process that Justice Asif has ordered --

THE COURT: Uh-huh.

MS. LABOVITZ: -- but we will keep trying to be as transparent as we possibly can be, even before we have a protocol to make sure that Your Honor knows exactly what's happening in the Cayman Islands, because I think that's important. So that's what our path forward would be.

A couple of other points. Your Honor, I want to make sure -- it sounds like I may not need to go into great detail here, but I want to, for the record, make clear that we are not just being difficult for the sake of being difficult when we cannot agree to this so-called compromised word. The challenge there, among other things, is that would be a board of directors of the GP, which is owned by Dr. Harrison. The only creditors listed on the schedules are portfolio companies. Those are these claims that we don't think exist --

THE COURT: Uh-huh.

MS. LABOVITZ: -- but the debtor, Dr. Harrison

thinks exists. And any directors appointed at that entity owe their fiduciary duty under Delaware law either to Dr. Harrison or to the portfolio companies. Appointment of a compromised board at the GP does not do anything to address the concerns that the LPs have in terms of who's looking out for the fund. If the JOLs, if they were even willing to accept that appointment, which I think would be unusual for Cayman financial advisors to accept an appointment like this one, even if they were willing to do that, their obligation would lie in a different direction. So that doesn't really substantively solve our problem. It also doesn't solve the Section 99 problem and I think Your Honor clearly understands that. We've read your opinion. We've heard what you have to say about that. I think this proposed solution doesn't solve that problem, so it puts the Court, as well, right back into a bind where anything that happens here would be subject to Section 99, which says that the action would be void if a winding-up order were ever entered in the future.

So, that's the reasoning behind why we didn't feel that the compromised board solution worked. Not to get into a big back-and-forth, we did respond to that proposal with a counterproposal that also hasn't yet been well-received by the debtors. We'll keep trying and we'll keep talking, but as of now, I think we're talking about mediators tomorrow, so maybe that'll help a little bit.

But I think it's -- in light of my opening comments where I expressed surprise that we don't even know what's going on with these debtors, I think we do need to keep moving forward with the judicial process. It is still the case that the Rigmora LPs lack confidence in the management of the (indiscernible) they've invested in. They don't even know when, apparently, Moringa has a major breakthrough.

If you don't mind, I'll check my notes and see if there's anything more, but unless my colleagues jump up and down, I will not walk through the slides.

(Pause)

MS. LABOVITZ: I think I'm going to sit, Your Honor. I think you well-understand what the issues are.

THE COURT: Thank you.

MS. LABOVITZ: I reserve a moment in case something new comes up.

MR. WINSTON: Your Honor, may I --

THE COURT: Yes.

MR. WINSTON: -- add for a few things?

THE COURT: Yes.

MR. WINSTON: So, one good thing, and counsel just commented on it, is that there is going to be a conversation tomorrow about mediators. Both sides have exchanged names and both sides have familiarity with the other side's names,

so hopefully that's good. That's something you may recall we brought up in February and that might be a solution.

I do want to comment on a couple of things because I think it is important. We were not expecting this to be an evidentiary hearing, so that's why Mr. Mandarino is not here. There's been a lot of conversations going on at the business level. One of the very distinct, stark differences between where the Chapter 11 debtors, and I'm going to guess, the Committee are and where Rigmora is, is precisely of what court's going to ultimately decide what happens to these portfolio companies. And it has been our position, and we fought very hard and believe we've prevailed in our dismissal motion, which they've appealed, that it is this Court that decides.

They talked about wanting to be helpful. Not only did they appeal the dismissal motion, they appealed the funding motion. Maybe they'll appeal the -- my firm's application. That's hostility.

And you just heard from counsel that even though we've offered to put their people on a Chapter 11 debtor board, which is often the way to deal with corporate governance issues, as opposed to filing a Chapter 11 Trustee motion, that they still want to go to a foreign court when this Court has already decided that these debtors belong here, in part, raising, again, the Section 99 issue, which

never is triggered if no winding-up order is entered. And the threat over us that somehow everything Your Honor has authorized is void because of another court, we'll take our chances with that because I think there is almost no possibility that regardless of what happens in a foreign court, that this Court is somehow *estopped* from doing anything, which is what we're trying to get past.

We offered the compromise. They said no. Your Honor has made it clear: no winding-up order. Okay. They can still proceed on the grounds -- and they're entitled to do that. We think it's a colossal waste of time and money. They're entitled to do that because Your Honor has said it's okay, and I'm not standing here saying, no, other than I'm trying to, like, deal with some scheduling issues. But regardless of whether they prove it or not, it doesn't change the outcome of no winding-up order, no Section 99 risk.

Talk about transparency, about things going on in the Cayman. They did file with Your Honor just earlier this week or last week, the amended winding-up petition, you probably saw that, with a cover note. One of the things in the cover note they said is, they've updated for accounting for Chancellor McCormick's decision. And they say in the letter that there's an agreement, that it stops as of the petition date. That is a hundred percent not what we've agreed to.

THE COURT: That what stops?

MR. WINSTON: That facts -- facts giving rise to the substratum and the trust in confidence stop at the petition date. That is absolutely not what the debtors' position is going to be. It will be litigated in the Cayman Islands.

What is permissible? I'm not asking Your Honor in any way, but --

THE COURT: Whatever Justice Asif decides.

MR. WINSTON: -- but it goes to this notion, there's no -- there's not an agreement on that.

Didn't come to us ahead of time saying, hey, this is what we're going to say. Are you guys in agreement? It didn't happen.

When it comes to specifics of these portfolio companies, yeah, we're not going to tell Rigmora details because that's not what has happened for 12 years and we're not -- that's not been the business of this debtor to tell its limited partner, specifics of ongoing things that are otherwise confidential. We're not going to do it. I mean, maybe if there was a discussion about a consensual process towards a plan, where there's value that we understand would take them to be satisfied, maybe there could be a discussion. But sitting here today, when they're literally appealing the funding of these companies? No way. No way.

And so you're still seeing a lot of the friction that has been in this case. I think it has, to some degree, simmered down a little bit and I'm -- I realize our motion was an unusual one when we filed, to get ahead of what would have otherwise been, I think, an utter mess, had that trial happened and then we were trying to fight about what it meant in this court. We were trying to get ahead of that. I think it's been useful simply for that reason because Your Honor can see there is still a very strong difference of opinion about, ultimately, where this case ought to go. Is it going to be in the hands of a Chapter 11 estate, whoever happens to run it, or is it going to be in the hands of a foreign appoint -- Court-appointed joint liquidators?

If they -- even if they establish the grounds for it, which we're going to argue they can't, but even if they do, if the only way for them to do so is to have a very problematic, formed resolution that has negative impacts on this estate, given what Your Honor has decided, we don't think Your Honor should let that happen. It's not in front of you today because we think you've been clear: No winding-up order.

And if Rigmora wants to come to us and say, you know what? We think it's important to have something happen in the Cayman Islands to aid this Court, we probably could have a discussion about that. But that's very different than

what you saw in that letter that we attached to our reply that went to Braeburn. That letter made it very clear what their agenda is. This general partner, which this Court has said is the one to run this Chapter 11 debtor, unless something else -- Chapter 11's estate unless something else happens, it has -- it is not the representative of the limited partnership. It is not the one that's supposed to make those decisions. That is what Rigmora's general counsel wrote over the most important asset in the limited partnership.

When you see something like that, that's not transparency. That's not cooperation. That's abject hostility and that's why we made sure to bring it to Your Honor's attention. We haven't filed another stay enforcement motion, we haven't done that, but it was important to understand why we are so concerned about making sure that people understand, whether it happens on June 30th or some other date, that it's not going to actually dictate the outcome of this case.

THE COURT: I don't think it is, but I guess that makes me ask: Why didn't you provide me with a draft order that made clear what you say you want to be clear, that no winding order could be entered -- no winding-up order could be entered? If that means Justice Asif can't appoint joint official liquidators, that's what that may mean, but that's

where I have a question. Is there nothing that can be done in the Cayman Court akin to an involuntary trustee, akin to the equitable power -- using equitable powers that this Court often uses, correctly or incorrectly, right, to both, further the relief from stay, which I granted and I'm not going to change, and the clear message I'm giving now, that it would be a violation of the stay to enter a winding-up order.

And if that needs to be clarified in my order because it's not clear -- and maybe it's not -- I have thoughts about why it might not be, and I think it's because -- I'll use someone's word, the mud-slinging back-and-forth, sometimes obscures the actual legal issues that the parties should be focusing on and educating me on, both sides. But if we need clarification, then, to me, having read the transcript -- I could be misreading -- that's what Justice Asif has concerns about.

So, how are we addressing them? I am not changing the relief from stay. I granted it. I think it was appropriate. I still think it's appropriate on a governance issue.

But it may be that Justice Asif is hamstrung. I don't know. Do I think if he enters some order, I'm going to stop presiding over this case? No. But neither do I think that he's going to stop presiding over what he's presiding over, okay. So, therein, is the conflict.

MR. WINSTON: Understood.

THE COURT: So, so far, nobody's given me a form of order that clarifies, at least what my read of the transcript of the hearing in front of Justice Asif suggests there ought to be clarification of.

MR. WINSTON: And, Your Honor, I will take ownership that in our reply we did not provide a form of order. In fairness, once we saw the letter ruling, we thought it was clear. We could have done that and we should take responsibility for that.

THE COURT: Well, I think Justice Asif thought that was *dicta*, so maybe you ought to give him what he needs --

MR. WINSTON: Right. And that's --

THE COURT: -- okay?

MR. WINSTON: And that's if we limit it to, you know, it's up to the Cayman Court to decide scheduling --

THE COURT: Yes.

MR. WINSTON: -- and understood that point and, otherwise, Your Honor's ruling clarifies any prior rulings, but thousand shall not enter a winding-up order. And whatever that means from a Cayman law perspective, that's going to be Ms. White's and if we have to bring in new counsel, have to deal with, because I don't know what else is out there in other paths. I just don't know and we're not --

THE COURT: I don't know either.

MR. WINSTON: -- and advocating for anything.

And maybe having this clarification and having a good sense of the rules of the road as between Your Honor and Justice Asif, maybe that will spark a reconsideration internally of whether there is a consensual way to get what they claim they want and, yet, doesn't create a whole set of problems that we do not, like, we don't even understand why they're even not considering them. I mean, like, I view it as of course you would want to resolve a corporate governance issue in an intelligent way in a Chapter 11 case. That happens. That's how, sometimes, people avoid a Chapter 11 Trustee motion, as I said before.

If that is just not the way we're going to go, then maybe what Your Honor just said, which is the rules of the road have been established. Whatever Cayman law is to implement that or not implement that, that's for Ms. White and whoever our (indiscernible) ultimately will be.

THE COURT: Okay.

MR. WINSTON: Thank you, Your Honor.

MS. LABOVITZ: Your Honor, I do need to ask to be heard again.

THE COURT: Okay.

MS. LABOVITZ: There were a couple of things I wasn't saying, but now I have to. But, first, Your Honor, I

would respectfully request that before we make any decision about whether a winding-up order -- and I'll put my air quotes on the record -- whether a winding-up order can be entered, I would respectfully suggest that this is precisely the things that Justice Asif would like to talk to Your Honor about. He said many times in the transcript that I know you've read, that he thinks that inter-court communication would help bridge any issues in terms of procedure and different mechanisms that the Court may have.

And with respect, Your Honor, he said he would like to have that conversation sooner, rather than later. And I think it would make sense to establish the communication protocol, allow for that discussion to be had, and that will, I think, lay the useful foundation for clarifying the order to the extent necessary.

Your Honor, there's not going to be a trial until June 30th.

THE COURT: Right.

MS. LABOVITZ: We understand what you want and we are --

THE COURT: I am not going to be ruling today or entering an order today.

MS. LABOVITZ: Right.

THE COURT: There's no need to do that. The trial is not starting --

MS. LABOVITZ: Right.

THE COURT: -- until the end of June, so -- but I think it should progress in the course that Justice Asif deems appropriate under Cayman law and practice and we'll have to deal with this issue. But I'm putting it out there as to how, at least, I read the transcript and where I do see potential for clarifying my ruling.

MS. LABOVITZ: We understand, Your Honor, and we think the protocol is the right next step. We don't, as I said before, want to go down a path in the Cayman Islands only to find that it ends up in a procedural bind. We'd like to deal with the procedural issues first.

And so, we understand that -- and, Your Honor, let me just say in terms of the repeated allegations that our side has violated the automatic stay that always seem to come in a reply so we don't get a chance to respond, and with apologies, that's why I jumped up just now, Your Honor, I have spent a 30-year career listening to, respecting, caring deeply about the orders of Bankruptcy Courts. I have never knowingly violated one. I have always done my best to understand what the Court is looking for. I have announced my retirement. I have 227 left -- days left to practice and I'm not going to start violating the automatic stay now.

I am the person who used the word "mud-slinging." I don't want to go down that road. I will say that the May

5th letter that the debtors have complained vehemently about was actually an attempt on our side to take a higher road and not file a motion in this court, taking issue with the fact that the fund uses equity position in a nondebtor and its board position in a nondebtor to cause payment of a million dollars for a financing motion that they knew the debtors would have had to seek Section 363 approval for.

I don't -- I'm not going to file a motion on that. We didn't want to do that. We just sent a letter to the Board saying don't do things that are outside the ordinary course of business. I don't think a letter to a board of directors of a nondebtor reminding it of its fiduciary duties is an automatic stay violation and that's all I'm going to say about that.

One last point, which is the point Mr. Winston made, that the amended winding-up petition is not agreed and that there was never an agreement on that point, I think it is fair to say that we did not pick up the phone to ask about this. And here, I will direct the Court, now or later, to page 12 of our slides, which include quotes from the debtors' or GP's Cayman counsel making clear that they thought that an amended winding-up petition was negligence to protect the GP's interest, including that second quote, which happened during the Chapter 11 case at that infamous December 17th conference.

And the specific thing that the debtors' Cayman counsel was saying was that their pleadings would need to be amended to take into account the Chancery Court decision. It's not fair to accuse the Rigmora LPs of playing fast and loose with the automatic stay or with this Court's decisions when the Rigmora LPs did exactly what the GP's counsel said would be unfair not to permit.

We for -- in the sake of transparency, put that amended pleading before Your Honor. I will not take you through all of the specifics of it, although, that, too, is in the slides. That pleading was amended to put a new prayer for relief that did not ask for the JOLs to be allowed to proceed with a winding-up. It implemented Your Honor's order. It did update to reflect the Chancery Court decision that happened prepetition, as the GP's counsel had said would be appropriate.

And, Your Honor, I think we pointed out in our cover letter that unscrupulous attention to Your Honor's ruling, which I have read again and, again, and, again, we carefully did not include any reference to the Chapter 11 cases, other than a reference to Your Honor's order and what we're permitted to do.

THE COURT: Okay. Thank you.

Well, Justice Asif will obviously decide what it is that he thinks is important from an evidentiary standpoint

to rule on the issues and how much impact the Chancery Court ruling and findings have and he will decide all of that.

Okay. So, as I already said, I'm not ruling today on the clarification motion in the sense that I'm not granting the specific relief that was requested. That's clear. If there is an agreed-upon way to clarify my order, fine. If my -- if the debtor doesn't feel the order needs to be clarified anymore, I guess it can withdraw its motion. It's up to the debtor.

I do feel that there is some room for clarification here, because Justice Asif has suggested that there's some room for clarification, and we'll see where it goes. We'll be back here on June 3rd, maybe -- yes -- which is -- I don't know where we are today -- the 19th -- which is, what, two weeks?

In the interim, I do ask the parties to speak on -- about the protocol. I understand there have been some exchanges. Please work on that. If there's an agreement, fine. If there isn't, I'll take a look at it. I wanted that conversation to happen, which is why I didn't expedite the hearing on that, and I would hope that there could be some progress between the parties before the hearing on June 3rd.

MS. LABOVITZ: Thank you, Your Honor.

MR. WINSTON: May I just briefly?

THE COURT: Yes.

MR. WINSTON: One of those things about figuring out what to do with your own motion. We were going to take and think about what's the best way to do -- listening to Your Honor about the intelligence of some clarification, what we might do before June 3rd is come up with a very simple form of order. We'll run it be Rigmora, see what they think. I --

THE COURT: Ahead of the morning of the hearing.

MR. WINSTON: Ahead of the morning of the hearing.

Also, we'll seek -- because I think it's going to match with our, at least, our commentary on the protocols --

THE COURT: Okay.

MR. WINSTON: -- and we'll see what the reactions are to that. We have the two weeks, but hopefully we'll figure that out beforehand.

And I think, if I've heard Your Honor correctly, the clarification is going to be very narrow and very straightforward. I think that's what we're going to try to achieve here.

THE COURT: Yeah. And if there's a way in the Cayman Islands to appoint liquidators -- I don't know if they're official, provisional, whatever they are -- if, in fact, that's where Justice Asif ends up, which I don't know, but if there's a way to do it, absent a winding-up order, that might be helpful. I don't know that anybody briefed

Justice Asif on that. I know he knows Cayman law. I like to think I know the Bankruptcy Code, but sometimes people surprise you with the views -- with what they come up with that you hadn't thought about before.

So, I don't know if there's more than one way to skin this cat --

MR. WINSTON: Uh-huh.

THE COURT: -- but I'd like to have as little friction as possible between the two courts.

MR. WINSTON: Understood, Your Honor. Thank you.

THE COURT: Okay.

MR. WINSTON: Appreciate it.

THE COURT: Thank you.

We're adjourned.

MS. LABOVITZ: Thank you, Your Honor.

(Proceedings concluded at 3:05 p.m.)

CERTIFICATION

We certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter to the best of our knowledge and ability.

/s/ William J. Garling May 20, 2026

William J. Garling, CET-543

Certified Court Transcriptionist

For Reliable

/s/ Tracey J. Williams May 20, 2026

Tracey J. Williams, CET-914

Certified Court Transcriptionist

For Reliable

Exhibit K

April 28, 2026 Transcript

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE:	. Chapter 11
	. Case No. 25-12177 (LSS)
APPLE TREE LIFE SCIENCES, INC., et al.,	. (Jointly Administered)
	. Courtroom No. 2
	. 824 Market Street
Debtors.	. Wilmington, Delaware 19801
	. Tuesday, April 28, 2026
. . . . .	. 11:25 a.m.

TRANSCRIPT OF HEARING
BEFORE THE HONORABLE LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For the Debtors:	L. Katherine Good, Esquire POTTER ANDERSON & CORROON LLP 1313 N. Market Street, 6th Floor Wilmington, Delaware 19801
	- and -
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Proceedings recorded by electronic sound recording, transcript produced by transcription service.

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(Proceedings commenced at 11:25 a.m.)

THE CLERK: Please rise.

THE COURT: Please be seated. Ms. Goode.

MS. GOODE: Good morning, Your Honor. Katie Goode of Potter Anderson & Corroon on behalf of the Debtors, Apple Tree Life Sciences, Incorporated and its Affiliated Debtors and Debtors-In-Possession. Thank you very much for the additional time this morning. I am pleased to report that it was productive and that we have whittled our agenda of matters that are contested down to one item for today.

I will turn the podium over to Ms. Tomasco to go through the agreements that we were able to reach out in the hallway. And then the one item that is going forward on a contested basis would be Item Number 6 on the agenda, the Quinn Emanuel retention application, that would be going forward solely with respect to the objections noted in the supplemental statement filed by Rigmora yesterday.

There were a number of items on the agenda that are now uncontested. I don't know if Your Honor had any questions on those. We did file some revised forms of order, but we could certainly take that up at the end if that's easier.

THE COURT: Let's take that up at the end.

MS. GOOD: Excellent.

MS. TOMASCO: Good morning, Your Honor.

THE COURT: Ms. Tomasco.

MS. TOMASCO: Patty Tomasco, Quinn Emanuel, on behalf of the Debtors' still proposed counsel.

We've been exchanging -- as the Court is aware, we've put forth a governance term sheet that we've attached to our motion for clarification and our motion for a stay of the court stay order. We think that that would benefit from the assistance of a mediator, and we've been working and nibbling around the edges with the Rigmora side.

For today, there are five points of agreement that we would like to stipulate to, subject to the working out of a joint communication between Walkers, who represents the Debtors, and Campbells, who represents Rigmora and the Cayman Islands. They're going to work out a joint communication because Rigmora would like that sent in the morning, and that is what they're working on right now.

Subject to that being worked out, the remainder of the stipulation would be that there would be no hearing, substantive hearing in the Cayman Islands before June 1st. The Debtors' motion for clarification that was filed last evening would be heard in approximately two weeks. Of course, these are scheduling. This is nothing substantive. Everybody's reserving all of their arguments and objections.

The exit financing procedures motion would be heard not earlier than June 1st. The Quinn Emanuel retention

would go forward today, and the parties will endeavor to select a judicial or non-judicial mediator to facilitate further negotiations over the governance protocol and any other issues that they are able to resolve between them between now and June 1st.

That is the proposal that we have to resolve the matters before Your Court, before Your Honor, except with respect to the Quinn Emanuel retention, which, as you know, the Rigmora Parties want to go forward with.

MS. LABOVITZ: Your Honor, we apologize for a bit of sausage-making. In an ideal world, we would have agreed on the exact words of what would be read into the record, and we've been trying, but we also understand that Your Honor has limited time today. So we will -- we are largely in agreement with what Ms. Tomasco laid out. I do have a couple of points of clarification, which I hope are not controversial.

Regarding the new motion for reconsideration or alternate relief, we have agreed that that can go forward in two weeks. Our understanding is that agreement means that their request for a stay, to the extent there is one, would also be heard in two weeks, that there's not a stay in place right now. I don't think that matters very much because we do agree that what will happen in the Cayman Islands now is that there will be a joint agreed email that will go to the

Court that will be along the lines of what was attached to our pleading.

We understand that Walkers has what's been characterized to us as tweaks, and the agreement would be that we would request Justice Asif not to schedule a substantive hearing. In other words, effectively the trial would not be before June 1st. Our hope would be that Campbells and Walkers, who I understand are speaking right now, would be able to reach agreement on that quickly. Ideally, we would like to have that resolved within the next couple of hours.

Moving forward, Your Honor, we agree with Ms. Tomasco's characterization that their exit procedures motion would be heard after June 1st at a date convenient for the Court. We reserve our rights to object to it then, including on the ground that it's premature, but we've agreed that they can go forward starting then.

Regarding the Quinn retention, we do agree it can go forward today. Your Honor, to preview, we don't believe that will be a long argument. We've made our point. We will not be trying to teach you about Section 327. It will be a quick hearing, and Your Honor will decide what you decide.

And then regarding the mediation, we do agree to a standby mediation. Our hope, which we think is shared by the other side, is that we could first try to have the

independent director, the CRO, and the investment banker rotate on the two sides, work constructively to narrow the issues. They have had some constructive discussions over the weekend. We hope that continues. And we hope that a mediator can continue to facilitate those discussions.

We would need to agree on the mediator, but we do agree that there would be a mediator appointed, not for a full, formal, in-person mediation, but to facilitate those discussions. We think that can be constructive, and we agree to move forward with that.

The reservation that we've made, which we believe is agreed by the other side, is that the mediation would not be used as a reason to delay the Cayman proceeding beyond that June 1st date that we've agreed to. And as I said, I think that's agreed by the other side. And it would not be a full, formal mediation that would be conducted in person in the space of a day. It would be more the mediator facilitating discussions, which, again, I believe is agreed.

And I think, if no one is passing me a note, that that is all the clarifications that I have. I may be wrong.

(Pause)

MS. LABOVITZ: Your Honor, I'm told that, so far, Walkers and Campbells are not yet speaking, and we hope they will. Our agreement to all of this is premised on the fact that there are only a few tweaks to the proposed

communication that were generally on the same page. And as of yet, we don't know what the Cayman lawyer's position is on this. And so, for us, that is an open question. And all of these agreements are premised on that.

THE COURT: Okay.

MS. TOMASCO: Your Honor, I think to say it's something that's just tweaks versus a tweak is kind of where we are. Yes, there needs to be a joint communication. We don't practice Cayman law. My understanding is that there were several issues with the draft communication that the Walkers counsel in the Caymans is attempting to address.

With that, I think it gives us a pathway to do a couple of things. One is to have a reasonable hearing on the Debtors' motion for clarification, which I think is self-explanatory.

THE COURT: I have not read it. Just to be clear, you filed it last night. I've got many other things that I'm working on that are as emergent in their cases as this is in this one. And I haven't read it. So I will read it when it's scheduled appropriately, and I'll deal with it then. But I haven't read it.

MS. TOMASCO: Understood, Your Honor. With that, in assuming that the joint communication, even if it's setting out the respective positions of the two sides, can get drafted, we would propose to move forward with the Quinn

Emanuel retention.

THE COURT: Well, it's fine with me. Whatever the parties decide they want to put in front of me, you have three hours today. You can use it any way you want. So I'm happy to hear the Quinn Emanuel. I don't know what's going to happen. And you all have agreed not to hear other things. That's fine, too.

And my understanding, then, is the only thing to be heard today is the Quinn Emanuel retention, and I'll hear it. If there's now some concern that the Cayman Islands lawyers aren't talking and something needs to be changed, you'll have to tell me. I do not consider, though, that I have the motion to stay or for clarification in front of me. It is not, for purposes of today.

MS. TOMASCO: She's asked for a Word version of their draft. They just now sent her the draft, and she's working on it. But she can't do both. She can't both be at this hearing and respond.

THE COURT: I'm not --

MS. LABOVITZ: Your Honor?

THE COURT: Should I order the Cayman attorneys to be here? It seems like the only time that anything gets done is when people are here and they're forced to address each other.

MS. LABOVITZ: Your Honor, you've hit the nail on

the head in terms of what our concern is, which is that we think we've made good progress today and we'd like to continue it. But, Your Honor, I think what I heard you say is that we'll hear the motion for reconsideration --

THE COURT: Yeah.

MS. LABOVITZ: -- when it's duly scheduled.

THE COURT: I'm not hearing --

MS. LABOVITZ: That until then, the stay is not in place. Nevertheless, we will work with the other side to try to agree a joint communication. Even if the stay is not in place, we'll do the best we can. And if we can't reach that resolution, we'll send ours, and they will surely send another one. But we will try very hard to work on a joint communication. We will send that when the stay expires tomorrow.

THE COURT: Well, I'm sure Justice Asif would appreciate a joint communication.

MS. LABOVITZ: We agree. We very much agree. With that, I think that resolves -- that was helpful clarification. It resolves our course of action. And as I said, we will endeavor to work very hard to make it --

THE COURT: My order is in place. It is unchanged.

MS. LABOVITZ: We understand.

With that, I think I should sit.

MS. TOMASCO: Sure. Okay. So, Your Honor, we have a matter on the agenda, which is Quinn Emanuel's retention.

(Pause)

MS. TOMASCO: May I approach, Your Honor?

THE COURT: You may. Thank you.

MS. TOMASCO: According to their supplemental filing, the only matter on which the objection still stands, we had prepared this, and I'm not -- I want to make sure that I'm absolutely clear. I'm going to go through these slides really quickly and ask Ms. Labovitz if I understand that the issue with the inherent conflict between the general partner and the limited partnership, that objection has been withdrawn.

MS. LABOVITZ: Your Honor, we did withdraw that objection in our pleading yesterday. While we still do believe that there's an inherent conflict of interest, we've read Your Honor's ruling, that you're looking at all of the Debtors together for the purposes of considering financial distress. And we applied the principles of that ruling, and we decided not to press this issue for purposes of the retention objection.

MS. TOMASCO: Thank you. That takes us to Slide 9. The other matter that Rigmora objected to Quinn Emanuel's retention was that Quinn Emanuel had previously represented

Dr. Harrison between November 2020 and June 2021, or five years ago, where Quinn Emanuel billed $10,000. And in 2023, in connection with an intellectual property dispute where Apple Tree was the primary client, Dr. Harrison was a potential defendant, and Apple Tree Partners paid the related professional fees related to Dr. Harrison of $57,000. Again, that was three years ago.

I would like for Ms. Labovitz to confirm that Rigmora is no longer objecting on the basis of Quinn Emanuel's prior and terminated representations of Dr. Harrison in relation to matters that were related to Apple Tree Partners.

MS. LABOVITZ: Your Honor, our pleading from yesterday continues to be accurate. We're proceeding on only one ground. We note that Quinn Emanuel filed a supplemental filing yesterday reflecting some language that I believe they've worked out with the United States Trustee, clarifying that they will not represent Mr. Harrison or other parties in these proceedings. While I don't think that resolves all of our concerns, our objection is withdrawn.

MS. TOMASCO: Thank you. In addition, Rigmora objected to the Quinn -- on Slide 10. Rigmora speculated that Quinn Emanuel aided and abetted the breach of fiduciary duty by the general partner in relation to the proceedings before the Delaware Chancery Court, the Cayman Court, and

this Court. And that was their objection at Paragraph 21 and 26.

Now, I will state that categorically the aiding and abetting a breach of fiduciary duty is contrary to the LPA, which says that the general partner's actions against the limited partner cannot be a breach of fiduciary duty to enforce a capital call. As I read their supplemental pleading, I believe that the only issue that's left and that they're not pursuing the aiding and abetting a breach of fiduciary duty, I just want to confirm that that objection is also withdrawn.

MS. LABOVITZ: And I want to be very careful here, Your Honor. That objection is withdrawn for purposes of the retention application. All rights are reserved in the Cayman winding-up proceeding if that goes forward, et cetera.

THE COURT: That's how I read the supplemental response.

MS. TOMASCO: Well, that raises a point, Your Honor. I mean, we believe that the Cayman Islands proceeding, and I'm not going to get into it, but the only thing that Judge Asif will be doing will be adjudicating whether or not joint official liquidators should be appointed and then nothing more.

THE COURT: Well, at the moment, yes. But I don't know where that proceeding may ultimately go if I get some

other request or if we end up doing some joint protocol. I don't know. But this is where it stands at the moment.

MS. TOMASCO: All right. That leaves us with solely the issue of whether or not a $20 million retainer that was paid to Quinn Emanuel creates an actual conflict of interest that is disqualified. And to that end, I would point the Court to the Limited Partnership Agreement, which is in the exhibits, but I have it quoted here.

THE COURT: I do not have my well-worn copy of the Limited Partnership Agreement in front of me, apparently, but you can tell me what provision it's in.

MS. TOMASCO: Okay. It's Section 18(g)(5) of the Limited Partnership Agreement provides,

> "In determining what, if any, action shall be taken against a limited partner in connection with such limited partner's breach of this agreement, the general partner shall seek to obtain a favorable result as determined by the general partner in its sole discretion for the partnership and the other partners.
>
> "To the fullest extent permitted by law, each limited partner hereby specifically agrees that in the event such limited partner violates the terms of this agreement, such limited partner shall not be entitled to claim that the partnership or any

of the partners are precluded on the basis of any fiduciary or other duty arising in respect of such limited partner's status as such from seeking any of the remedies permitted under this agreement or applicable law."

This is an important section for a lot of what has gone on in this case because it recognizes that the general partner has an obligation to obtain a favorable result and that the limited partners cannot claim a breach of fiduciary duty. And while I don't want to beat the drum on this, the Delaware Chancery Court found that Rigmora had breached the Limited Partnership Agreement. So this sets the stage for everything else that's going to come after this because I think it's important for the Court to understand that that's what the parties agreed.

So with respect to the $20 million retainer, the general partner paid Quinn Emanuel, this is not contested, on August 4th, 2025. The retainer facilitated the successful enforcement of the limited partnership's contractual rights for the benefit of the partnership of $97 million. It's in a specific performance account, as the Court is well aware. This is precisely what 18(g) of the LPA requires of the general partner.

In these Chapter 11 cases, the Court ordered that the automatic stay remains in place with respect to the

winding-up of the partnership. The Court's order says specifically, I am not lifting the stay for there to be a winding-up. Thus, a winding-up will never occur to trigger Article 99 of the Companies Act.

THE COURT: Well, not at the moment.

MS. TOMASCO: Not at the moment. Under Article 9 of the Companies Act, all transfers of partnership property between the winding-up petition and the winding-up-order are void.

So if I was to analogize this, there's a couple of Bankruptcy Code analogies. One would be a preference, right? The other would be like a gap creditor and involuntary bankruptcy, where if you had filed an involuntary petition and before the order for relief was entered, you had entered into a transaction with a creditor, that would be subject to being a gap creditor and potentially being clawed back.

It also works a lot like our Section 547 preference statute in that, and we can go through this, Article 99 is quoted on Slide 13 of the slide presentation. That's Article 99 of the Companies Act --

THE COURT: The Companies Act.

MS. TOMASCO: -- which is also in the Court's exhibits. It has the effect that once the winding-up petition is granted under Article 100 of the Companies Act, those transactions are void, much like a preference would be

voidable, correct? But we also know, and this is true in the Cayman procedures, and that is that if the estate is solvent and the estate has to pay the claims of all of the creditors before it can distribute any money to equity, well, the preference, you don't bring those preference causes of action because if you have a solvent estate, there is no -- it's a round trip.

We treat it differently. In a Chapter 7 liquidation, you would have gotten paid in full anyway, correct? And so the same situation occurs under Cayman law, different constructs, but the same practical effect, and that is even if there was a winding-up petition that was actually granted, there still wouldn't be a claim that couldn't be proved and paid ultimately. And so the fact that it's a void transaction, it would not be probably voided by a liquidator because it's just going to take a round trip, so it's a big waste of money to pursue it.

THE COURT: As long as it's a legitimate debt.

MS. TOMASCO: As long as it's a legitimate debt, correct. Which is why I started with the premise under Section 18(g)(4) of the LPA, which is that it is the general partner's obligation to enforce the capital calls against the limited partners. And that obligation, obviously, includes the payment of funds to professionals. And there's more provisions that I'm going to go through in the LPA that also

pan that out. So --

THE COURT: So do you want me to determine today that in fact the $20 million isn't recoverable, or --

MS. TOMASCO: No.

THE COURT: -- are you just going to use that to say it's not an actual conflict?

MS. TOMASCO: It's not an actual conflict. And I dare say given the Court's order on the scope of the stay relief, it's not a potential conflict because the winding-up order, if it were to occur, right, it would void all payments to all creditors, including the payments this Court has authorized, including the $4 million payment to Rigmora for their tax distribution that we made last week.

THE COURT: It might.

MS. TOMASCO: And so if that's the case, then every single counsel's retainer, every single payment to every counsel, would be void under the Companies Act because it voids everything, everything, subject to being proved as a legitimate debt.

THE COURT: And that is what the Rigmora LPs have been telling me. So yes, that is their position.

MS. TOMASCO: So at that juncture, then every payment is voided and every payment then has to be proved again. But I still say that that's like 15 steps removed from an actual conflict.

THE COURT: Okay.

MS. TOMASCO: And so on that basis, even if it was void, we then get to prove the debt, coming back to if we were in a hypothetical winding-up proceeding in the Cayman Islands, and on top of getting approval from this Court, we also had to defend ourselves there.

We all know that the fund was balance sheet solvent. And we also know that in the companies winding-up rules, which we've reproduced here, Order 16 which says, "Where a solvent proceeding is being wound up, the official liquidator shall pay the debts owing to its creditors in the ordinary course and in the currency of the obligation as if the company were still carrying on its business."

And a creditor can submit a proof of debt and that can be contested there. But there really is no doubt here that the general partner was fulfilling its fiduciary duty in pursuing the capital call against Rigmora. Moreover, it was successful. And under the plain language of the Limited Partnership Agreement, Rigmora is prohibited from asserting a breach of fiduciary duty.

Moreover, Rigmora doesn't get to pick and choose under the LPA the debts for which it is liable under Cayman Law, under the ELP Act 16(B) -- 16(2), sorry, 16(2). And under the Limited Partnership Agreement, it is liable for the debts incurred by the general partner in the conduct of the

partnership's business.

What I perceive here is that Rigmora would like to ignore that it cannot seek a breach of fiduciary duty claim against the general partner for pursuing the Chancery Court litigation. It is going to have to pay for the legal counsel that the general partner hired to do the general partner's duty under the limited partnership act.

And Paragraph 11 of Amendment 9 to the LPA, executed on December 22nd of 2017, which says specifically, "The partnership shall be responsible for all other reasonable expenses of the partnership, which partnership expenses shall be funded by capital contributions made by the holders of preferred units, including Subpart 7 professional fees, including legal expenses for the partnership."

And again, 16(2) of the ELP Act, "Any debt or obligation incurred by a general partner in the conduct of the business of an exempted limited partnership shall be a debt or obligation of the exempted limited partnership."

All that is to say that the issue with the $20 million is highly speculative. And as such, it is not an actual conflict of interest. It certainly hasn't diminished or reduced Quinn Emanuel's zealous advocacy on behalf of the limited partnership and its pursuit of a value-maximizing transaction in this case.

The cases that we cite in our reply, they are non-

existent or at best potential conflicts which the Court is not required to disqualify Quinn Emanuel. You have to find that there is an actual conflict of interest and those two cases are cited there, which is KLE Equipment, 672 B.R. 756, and Johnson, which is 312 B.R. 810. I know that the Court has lots of experience in this area.

I know that the Court has written a few of the very important decisions in this area. This is not an actual conflict. And I think that going back to the court's opinion in the Third Circuit, affirmance of that opinion in Boy Scouts of America, this is not about an opportunity for Rigmora to vindicate its complaints about the fact that Quinn Emanuel represented the limited partnership in pursuing its capital call. We can see that these expenses are definitely expenses of the limited partnership.

There's nothing that can be done at this point unless there is a winding-up in the Cayman Islands, which we think the Court has stayed in favor of restructuring proceedings before the Court. And on that basis, there is no valid basis to disqualify Quinn Emanuel from representing these Debtors.

I would also note that these cases were filed on December 9th. It is now some six months later. We have deferred our retention order being entered in favor of other things, including fighting against the dismissal of these

cases, including making sure that we were moving forward on a value-maximizing transaction with investors, in negotiating with all of the constituencies, including the Unsecured Creditors Committee. We have done nothing but work tirelessly for this case to proceed in a positive direction.

With that, if the Court has any questions, I'm happy to answer them. I believe the Unsecured Creditors Committee would like to be heard, as well.

THE COURT: Okay, thank you.

MR. DOUGHERTY: Good afternoon, Your Honor. For the record -- almost afternoon, Your Honor. For the record, Jack Dougherty of Cole Schotz, counsel to the Committee. We didn't file a pleading. The objection deadline expired like a day after the Committee was formed. But we just wanted to briefly make a statement.

The Committee supports the retention of Quinn Emanuel here. The Debtors are entitled to counsel of their choice. But importantly here, Quinn has been involved for, like we just heard, about six months now and is intimately familiar with these cases.

The Committee, of course, believes that the objection is meritless and importantly submits that the delay would be catastrophic to the progress of these cases, which has been and continues to be a continuing concern of the Committee. Thank you, Your Honor.

THE COURT: Thank you. Ms. Labovitz.

MS. LABOVITZ: Your Honor, this is a first for me. In almost 30 years, I don't believe I've ever objected to a professional retention. And in fact, no small part of the work that I've done as a member of the bankruptcy bar has been to advise and defend other professionals in terms of their retentions, including representing McKinsey in the less than 13 retention disputes in connection with McKinsey's litigation with Jay Alix.

Your Honor, as I said earlier, I'm not going to attempt to instruct Your Honor on the requirements of Section 327 or the requirements for disinterestedness of professionals. But I do think a few comments are warranted with respect to the narrow objection that the Rigmora LPs are pursuing. We do not think that this objection requires you to make any decision as to the likelihood of recovery of the $20 million under Cayman law.

I think Your Honor has read the Chancery Court decision many, many times as have I, trying to catch up on all of this and understand the moving parts. And I think Your Honor is aware that the Chancery Court deferred to the Cayman Court on issues that are of Cayman law, including specifically that the GP had asked the Chancery Court to exculpate the GP for its breach and to address issues related to that.

And the Chancery Court didn't rule on that one way or another, explicitly saying that the Cayman Court would have to decide the question. I think that is indicative of the fact that neither Justice McCormick nor this Court is the proper court to weigh in on the question of whether the $20 million clawback would in fact occur.

We agree and understand that, based on Your Honor's lift stay ruling as of a couple of weeks ago, we don't know whether a winding-up proceeding in the Cayman Islands will continue or will not continue after the appointment of JOLs, which may or may not be appointed. However, we do not think this claim is merely hypothetical.

As Ms. Tomasco has noted, if a winding-up is in fact ordered, it will be retroactive to the date of the winding-up petition, and all payments that were made during the period between the petition and the order will be presumptively void and subject to review. That's not hypothetical. That's a real issue. And so, we're left with the fact that this claim exists.

THE COURT: It exists, but it's multiple steps down the line.

MS. LABOVITZ: I understand, Your Honor. And --

THE COURT: And so what case should I look to that says that multiple steps down the line means there's an actual conflict?

MS. LABOVITZ: By analogy, Pillowtex, Your Honor.

THE COURT: Well, Pillowtex --

MS. TOMASCO: It wasn't actually --

THE COURT: It wasn't -- yeah, Pillowtex was a preference claim, payment within the 90 days. We know that there is a preference claim that can be asserted.

MS. LABOVITZ: And here we know that there is a claim that can be asserted. And under a Pillowtex analysis, leaving aside that case, Your Honor, but thinking of the Pillowtex principle that we as professionals conduct ourselves under and need to conduct ourselves under, the question is not, are preferences likely to be pursued in this Chapter 11 case?

We cannot, as professionals, stand before you and say, Your Honor, you should ignore the fact that we received a payment within the preference period because this is going to be a full kick-pay case, because we have a 363 sale that is going to be noticed, and the current purchase agreement says that preference claims will not be pursued.

That's not the standard that applies to professionals in this Court. We don't get to parse that question of how likely it is that the claim against the law firm would be pursued. The U.S. Trustee doesn't let us do that. And so that's really the reason I rise. And as I said, Your Honor will make the decision that you make

regarding that. But to me, this is an important issue for that reason.

And coming back to the principles underlying professional retentions, which I did have occasion to go into great detail about in the course of the McKinsey representation that I mentioned. Your Honor, the reason we have these standards for retention of professionals is to remove any doubt as to how professionals in a bankruptcy case who have extreme power are conducting themselves and what their reasoning is for giving the advice that they do.

So I'll just note that and then, Your Honor, address the point that both Ms. Tomasco and the Creditors Committee have made that these cases began in December. We're here now in April on the retention application. I think it would be unseemly to allow a pocket veto of an objection to a retention.

I am very sympathetic to the fact that as Debtors' counsel --

THE COURT: No, if --

MS. LABOVITZ: -- if you've gotten all this way down the line, it could be very painful not to be retained. I am typically a debtor's lawyer, Your Honor. I understand that. But I don't think that as a matter of precedent or principle, we can allow that to be a rationale to approve a retention.

THE COURT: No, I agree with that. I dealt with it in franchise. If there's an actual conflict, there's an actual conflict. And if it disrupts the case, it disrupts the case. So I don't think that is a basis. I think I have to determine whether there's an actual conflict or not.

And I understand you're relying most heavily, and by analogy, on Pillowtex, which I'd like a response to.

MS. LABOVITZ: Okay. And just one note that Mr. Shamah passed me. He noted correctly, in Pillowtex, Jones Day offered to refund the payments that had been --

THE COURT: Yeah, it doesn't work, as I recall.

MS. LABOVITZ: Yeah, it doesn't work. That's exactly the point. It's not about whether it's hypothetical, I think, is the issue. So with that, I'll sit, Your Honor, and with great respect defer to whatever you rule.

THE COURT: Thank you.

MS. TOMASCO: Your Honor, familiar with Pillowtex, that's the reason why we put in the entire payment history which, of course, we did in our application. And people can evaluate whether or not there's preference exposure or not. But the plain fact of the matter is Quinn Emanuel didn't receive a preference in this case.

And to the extent that there was an Article 99 issue, it applies to every single creditor professional in this case, not just Quinn Emanuel. And it's also

hypothetical. So we have everybody being retained but Quinn Emanuel, and the only reason why Quinn Emanuel isn't being retained is because of this theoretical issue in the Cayman Islands. If there were to be a winding-up, all of those transactions would be void, including the payment to Quinn Emanuel to pursue the Rigmora claim.

And, of course, I beg to differ. If there were a case in -- a Pillowtex situation, and the case was undeniably solvent, you can't prove a preference because you have to have -- in order to have a preference, you not only had to have received payment within 90 days pre-petition, but you also have to show, the Trustee's obligation is to show that it enabled you to receive more than you would have received in a Chapter 7 liquidation. And so Pillowtex doesn't apply here because the case is undeniably solvent.

THE COURT: Well, I think the reference was to Pillowtex by analogy, not pursuing the preference claim itself. So that's what I hear the argument to be. So why is that by analogy not applicable here?

MS. TOMASCO: It's by analogy not applicable here because we are not in a winding-up. The Court has stayed the winding-up. You said specifically there will not be a winding-up. The conflict is assessed as of the petition date. And as of the petition date, there was not a winding-up. The potential for there being an actual liability that

Quinn Emanuel has to pay is seven steps removed from where we are today. And so it's not by analogy.

And by the way, had Pillowtex been undeniably solvent, there would not be a potential preference claim, period, because solvency is determined as of the date of the petition. So by analogy, solvency matters for Pillowtex, as well. Pillowtex was not solvent. So the preference liability was extant. It was not hypothetical, theoretical, or contingent.

And here, not only do we not have any actual, like we have to pay money to the Caymans if there were a winding-up because it was a solvent estate and it was a legitimate claim, that's true of every single creditor in this case. In other words, we are not distinct. Unlike a --

THE COURT: So in other words, if other counsel came in, they would have the same conflict?

MS. TOMASCO: They would, absolutely. Anybody who gets paid anything, everybody in this side of the courtroom is going to have a problem if there is a winding-up petition in the Caymans because they will have to give back all their payments. So it's not even possible to go down that road.

We could retain somebody today. The Debtor could pay them a retainer. That retainer would be subject to clawback, period. They wouldn't have the additional benefit of fulfilling the general partner's fiduciary role to sue to

collect on the capital call. But their claim would be legitimate because their contract is legitimate and their work is legitimate. And to the extent it's not legitimate, this Court is going to determine that.

That's where I really sort of like, we can analogize all we want to, but let's talk about what happened in Pillowtex. Obviously, you get a preference. It's substantial. You offer to pay it back. There's a lot of situations in which that has been dealt with since then, including a number of different things.

I've dealt with them as debtor's counsel when a partner did something they shouldn't have done. I filed the case and find out about it. We've all been there. We've all found solutions around Pillowtex. But in the Cayman Islands, everybody has received a preference. Every single person has received a preference that's clawbackable, right? Everybody from the point that you filed the winding-up petition until the winding-up order.

99 could not be more clear. It says those transactions are void. Not voidable. Not an if. Everybody's transactions are void. If, but only if, the winding-up petition is actually granted. And of course, that has not happened, and the Court has said that the actual winding-up is staying.

As of this date, neither Quinn Emanuel nor any

other professional in this room nor any other creditor of these cases has the obligation to pay back money because the winding-up order hasn't been entered and it is still stayed. And even if there had been a winding-up petition granted, winding-up order entered, the solvency matters in the Caymans just like it matters here.

It would have obviated the result in Pillowtex. And I know that's speculation on my part, but you don't have the element of a preference if you can't prove the Chapter 7 test. And in the Caymans, even though you have void payments, if they are otherwise provable debts and the estate is solvent, they still get paid. And so while there may be a theoretical basis on which to say, well, you're going to pay it and then you get it back, but that's true of every single person in this case.

And I don't think that they -- even if you had joint liquidators in the Cayman Islands, I don't think they'd want to go after everybody in this case and get all their money back. Every single creditor, every single -- all of the money that's gone out of these estates, all of the funding that the Court has approved, that's all subject to clawback, including the $4 million that's gone to Rigmora for their taxes that they don't have to pay.

THE COURT: Thank you.

Ms. Labovitz, I have a question.

MS. LABOVITZ: Yes, Your Honor.

THE COURT: Let's say I were to disqualify Quinn Emanuel and somebody else would get retained, another law firm would get retained. Why aren't they in the same position as Quinn Emanuel? They haven't received anything in the past, but let's say two months from now I approve fees and they get paid, or just pursuant to the monthly ordinary payment of professionals order, they get paid. How are they not in the same position?

MS. LABOVITZ: It's the right question to ask, Your Honor. I think a couple of points. The first is something I hadn't expected to bring up today but I will, which is that we really think it would be appropriate for there to be a protocol between this Court and the Cayman Court to allow for discussion of exactly those items.

Ms. Tomasco is correct in saying that payments are presumptively void, but that doesn't mean that they will be voided. And I think a path forward to address that issue would be for the two courts to coordinate on exactly the question of payment of administrative expenses of the Chapter 11 case. So that is my initial answer.

And then regarding, I think I will also just note, I have been trying to steer clear of the details of the $20 million payment and whether and how it would be treated in the Cayman Islands, because I do believe that's for Justice

Asif to decide. But I will note that the $20 million that was paid during the winding-up proceeding may be viewed with specific and distinct perspective by Justice Asif, because it was used to pay the GP's fees for that proceeding.

Again, Justice McCormick has determined that the propriety of all of that is something for Justice Asif to decide. And while we don't know what's in Justice Asif's mind, he has made comments in certain statements that have been critical of certain actions of this particular law firm.

And Your Honor, I am trying to answer your question without going deep into that long history, which is not very familiar to me. And also, I frankly am trying to be conciliatory and friendly today in this courtroom. But I believe that the $20 million payment might attract particular scrutiny in the Cayman Court.

THE COURT: Thank you.

MS. TOMASCO: This was not part of their objection to Quinn Emanuel's retention. Their objection to Quinn Emanuel's retention was that we received a $20 million payment that under Cayman law might be clawed back under Article 99 of the Companies Act. I'm not prepared to talk about any other things that happened before Judge Asif.

And we are here under 11 U.S.C. 327 of the United States Bankruptcy Code. And the question is whether or not there is an actual conflict of interest with respect to a

speculative clawback in the Cayman Islands which, in my estimation, will never occur.

THE COURT: Okay, thank you. I appreciate the argument. It was not specifically made in the papers in the fashion that it's been made today. I am going to go back and read Pillowtex because I think that is -- well, first of all, that's the case that the Rigmora LPs believe is most analogous to this situation.

I think we all understand the general principles. If there is an actual conflict, then I cannot approve the retention. If there's a -- if there's not one or there's only the potential, then I have some discretion. And in an actual conflict, I cannot consider delay. I cannot consider -- I don't defer to the Debtors' choice. But if it's not an actual, again, I have discretion and the Debtors are generally entitled to their counsel of choice, like any party in any litigation in any court.

And so I need to read Pillowtex and think of it this way and look at the provisions that have been cited to me. And I'm going to take the time to do that, given that really I looked for the references last night in the papers to the $20 million. I think that they're in a couple of footnotes and not really discussed.

So I appreciate that the issues were narrowed so that I don't have to address the other issues, but this

wasn't the focus of the briefing and I'm going to go back and look at the case. But the parameters, fortunate or not, I've had to address on several occasions in various different contexts. So I'll approach it the same way and we'll see where this falls.

MS. GOOD: Thank you, Your Honor.

Circling back to the uncontested items on our agenda, I think there are four of those and I don't believe we have revised forms of order for any of those. Would it be helpful if I handed you a copy of the amended agenda?

THE COURT: I'm looking at the second amended.

MS. GOOD: Yes.

THE COURT: Is that it?

MS. GOOD: Yes.

THE COURT: Okay, then I have that.

So the first matter was adjourned.

MS. GOOD: Yeah. So we'd be looking first at Item Number 4. That was a motion for entry of an order authorizing the filing of certain of the Portfolio Company 2015.3 reports under seal. There were no objections to that, and we did file a certificate of no objection.

THE COURT: Okay, I'm sure I'll grant that. We'll take a look at that.

MS. GOOD: Then the next would be Item Number 5. This was B. Riley's retention application. There was a

limited objection by the Rigmora Entities that was withdrawn as part of the supplemental statement that was filed yesterday. There have not been any revisions to that form of order. So unless Your Honor had questions, we could upload the form of order that was filed with the application.

THE COURT: I do not. I reviewed it and now that the objection has been withdrawn, I will sign it.

MS. GOOD: Thank you, Your Honor. And then we have Item Number 8, which was the Debtors' motion for an extension of the exclusive periods. There was an objection by the Rigmora Entities based on the supplemental statement yesterday and their reservation of rights to file a motion to terminate exclusivity or object to further extensions. That is uncontested. So I believe the form of order that was attached to the motion, we could upload unless Your Honor had any questions.

THE COURT: Since I took it out of my notebook, I must not have had a problem with it. I will sign it. All right.

MS. GOOD: Thank you, Your Honor. And then the last item on the agenda, and I understand that we have on an uncontested basis today is Item Number 9. That's actually Rigmora's motion to file certain exemptions to a declaration of Ms. Selden under seal. I think the items that are sought to be sealed are the Debtors.

So I know it's their motion, but if there were questions about the items that were to be sealed, I would be happy to answer that. I don't think we have any objections.

Those were certain emails with potential investors, and just to respect the process, we were keeping all those names confidential until those parties make a decision. And if they decide to be part of the bidding process, then obviously that would be a different issue.

THE COURT: Okay. I haven't looked at that, but based on your representation, I don't have any problems with that. I will grant that.

MS. GOOD: Okay. Thank you, Your Honor. We will upload all of those orders. And then I think as part of our discussions earlier, we had talked about adjourning certain other items to the clarification motion to a date two weeks out, if Your Honor has availability. And then the exit procedures motion we were discussing having that heard after June 1st. And we can certainly reach out to your chambers or --

THE COURT: I'll have -- I don't have my calendar. I'll have Ms. Johnson come out, and let's see if we can find a date that's agreeable.

Thank you. Good staff always knows what you're doing. Well, you are in luck, because I had contested matters that week that have been pushed. So I could hear you

on the 13th of May for the motion to whatever you filed last night. It's two weeks?

MS. LABOVITZ: Your Honor, I'm due to be before Judge Beyer in Charlotte that day.

THE COURT: Okay. How about the 15th?

MS. LABOVITZ: I think I'll be back by then, Your Honor.

THE COURT: Okay. Does the 15th in the morning work?

UNIDENTIFIED SPEAKER: Yes.

THE COURT: Okay. Let's say the 15th. I think that works for me. The 15th at 10.

MS. GOOD: Okay.

THE COURT: And I'm going to double check that. But I think it works. If it doesn't, we will get back to you immediately and come up with another date. I think it will.

MS. GOOD: All right. Thank you, Your Honor. And then I think we'd be looking at the first week of June.

THE COURT: And this is for the procedures?

MS. GOOD: Correct. We might also need to use that as an omnibus date for other motions.

THE COURT: How about the 3rd of June. Does that work for y'all or no?

MS. LABOVITZ: Your Honor, Ms. Selden may have a conflict that week.

MS. SELDEN: And I was so immersed in my calendar that I missed the date. What --

THE COURT: The 3rd? June 3rd?

MS. SELDEN: That is a miraculous date. That is the one date in June that I think I can make it.

THE COURT: Okay.

MS. SELDEN: You landed on the bingo. That works for me.

THE COURT: Okay. So let's say June 3rd at 10.

MS. GOOD: All right. Thank you, Your Honor.

MS. LABOVITZ: Your Honor, if I may, just to clarify, objection deadline for -- well, Mr. Shamah had asked for -- and I don't now know what I'm clarifying because we have already objected to the procedure.

MR. SHAMAH: Right. But I meant approaching to clarify our objection that we have.

MS. LABOVITZ: Yeah, right, for the motion for reconsideration, could we file our objection seven days prior to the hearing?

THE COURT: That's okay with me.

MS. GOOD: Yeah, that's fine.

THE COURT: Okay.

MS. GOOD: That would be May 8th.

THE COURT: Okay, anything else?

MS. GOOD: I think that concludes everything

today, Your Honor. Thank you again for the time today and your patience earlier.

THE COURT: Thank you. We're adjourned.

(Proceedings concluded at 12:26 p.m.)

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter to the best of my knowledge and ability.

/s/ Dipti Patel April 29, 2026

Dipti Patel, CET-997

Certified Court Transcriptionist

For Reliable

Exhibit L

[Filed Separately]