



This litigation centers on the sale of properties located at 440 and 460 Rochambeau Avenue, Providence, Rhode Island (collectively, the Property). Newton Howard (Howard) engaged an auctioneer to auction the Property, which he owned, in February 2022. (Def.’s First Am. and Suppl. Countercl. and Third-Party Compl. (Dezube’s FAC) ¶ 14, Ex. 3.) In March 2022, Howard signed a Rhode Island Residential Purchase and Sales Agreement (P&S) in which he agreed to sell the Property to the highest bidder. (Dezube’s FAC ¶ 17, Ex. 5.) The same month, the auction commenced and Dezube was the high bidder at \$4,000,000. (Dezube’s FAC ¶¶ 23, 24, Ex. 5.) Dezube signed the same P&S that had been signed by Howard, but Howard refused to convey the Property; instead, he filed this action seeking a declaratory judgment that the P&S was unenforceable. (Dezube’s FAC ¶¶ 31, 39; Howard’s Verified Compl. ¶ 18.) Shortly thereafter, Dezube recorded with the City of Providence Recorder of Deeds a *lis pendens* asserting his interest in the Property pursuant to the P&S (the *Lis Pendens*). (Dezube’s FAC ¶ 46, Ex. 7 at 1-2.) Dezube also filed a counterclaim against Howard seeking specific performance of the P&S, declaratory relief, and damages. (Docket.) Around the same time, the auctioneer filed a demand for arbitration against Howard seeking damages for his breach of the auction agreement. (Dezube’s FAC ¶ 47, Ex. 8.)

In September 2022, Howard entered into a lease agreement with BCG as the nominal tenant of the Property (the Lease) that provided an initial term of two years and a purchase option in favor of Floe (the Option). (Dezube’s FAC ¶¶ 49-51, Ex. 9; Third-Party Defs.’ Am. Countercl. (Floe’s Am. Countercl.) ¶¶ 5, 7; Def.’s Answer to Am. Countercl. (Answer) ¶¶ 5, 7.) The Option purported to grant Floe the right to purchase the Property during the two-year term. *See* Dezube’s FAC Ex. 9 at ¶ 10; Floe’s Am. Countercl. ¶ 7, Ex. 1 at 4. The Option stated a purchase price of \$5,500,000 and specified: “[i]mmediately upon exercising the Purchase Option, [Floe] shall provide [Howard]

with a deposit of . . . \$550,000[.]” (Floe’s Am. Countercl. ¶ 11, Ex. 1 at 4; Answer ¶ 11; Dezube’s FAC ¶ 61, Ex. 10 at ¶ 3.) Floe’s right to exercise the Option was subject to the following litigation contingency (the Litigation Contingency):

“Optionee acknowledges that title to the Property is subject to pending litigation captioned *Howard v. Dezube*, C.A. No. KC-22-291 (Providence County Superior Court) (the “Litigation”). The parties agree that Optionor does not have to perform its obligations herein unless judgment enters in favor of Optionor. The parties agree that if a judgment enters against Landlord (Optionor), declaring that title to the Property should be transferred to the defendant in the Litigation, after Optionee has exercised this Option, then this Option shall be null and void.” (Floe’s Am. Countercl. ¶ 5, Ex. 1 at 7; Answer ¶ 5; Dezube’s FAC ¶ 63, Ex. 10 ¶ 20.)<sup>1</sup>

In August 2023, the arbitration between Howard and the auctioneer, which occurred in New York, culminated in a final award which concluded, *inter alia*, that Howard employed the auctioneer to market and sell the Property by auction. (Dezube’s FAC Ex. 12 at 1-2.) In October 2024, the United States District Court for the Southern District of New York confirmed the arbitration award. *Concierge Auctions, LLC v. Howard*, No. 24-CV-281 (VSB), 2024 WL 4546303, at \*3 (S.D.N.Y. Oct. 18, 2024).

In August 2024, Dezube filed his First Amended Complaint and Supplemental Counterclaim and Third Party Complaint against Howard, BCG, and Floe. (Docket.) Dezube’s Count IV sought a declaration that Dezube has superior rights to title and possession of the

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<sup>1</sup> The Lease contained a similar litigation contingency:

“Tenant acknowledges that title to the Property is subject to pending litigation captioned *Howard v. Dezube*, C.A. No. KC 22-291 . . . . The parties agree that either party may terminate this Lease prior to the end of the Term if a judgment enters against Landlord, declaring that title to the Property should be transferred to the defendant in the Litigation. Upon declaring this Lease terminated pursuant to this Section 11, this Lease shall be null and void.” (Dezube’s FAC Ex. 9 ¶ 11.)

Property as to Howard and Floe. (Dezube's FAC ¶¶ 92-100.) In September 2024, counsel for Floe purported to exercise the Option on Floe's behalf via an e-mail sent to counsel for Howard. (Floe's Am. Countercl. ¶ 15, Ex. 1 at 1.) Dezube moved for summary judgment in October 2024.

In December 2024, Dezube and Howard filed and this Court entered a consent judgment (the Consent Judgment). (Docket.) The Consent Judgment entered final judgment for Dezube and against Howard on each Count of Howard's Complaint and also entered final judgment for Dezube and against Howard on Counts I-IV of Dezube's Amended Counterclaim. *See generally* Order, Dec. 17, 2024. Among other things, the Consent Judgment ordered that: the P&S was an enforceable contract requiring Howard to sell the Property to Dezube; Dezube is entitled to specific performance of the P&S; the Option is null and void; Howard waives any and all right to appeal from the Consent Judgment; and the "Consent Judgment constitutes a final judgment on the merits of the parties' claims for purposes of res judicata, collateral estoppel, issue preclusion, and claim preclusion." *Id.* ¶¶ 5, 13. On May 7, 2025, this Court granted partial summary judgment to Dezube on Count IV of his Amended Counterclaim and entered an order declaring that: "(i) per the Litigation Contingency provision in the Purchase Option, the Purchase Option is null and void as a result of the entry of the Consent Judgment between Dezube and Howard; and (ii) Dezube has superior rights to title and possession in the Property over Howard, BCG and Floe." Order, May 7, 2025.

Floe filed an Amended Counterclaim in May 2025, Count I of which seeks a declaratory judgment upholding Floe's rights to the Property under the Lease and Option. *See generally* Floe's Am. Countercl. Floe also alleges that Dezube tortiously interfered with Floe's contract rights and prospective business advantage (Counts IV and V), engaged in a civil conspiracy with Howard by entering the Consent Judgment (Count VI), and was unjustly enriched at Floe's expense (Count

VII).<sup>2</sup> *See generally id.* Dezube filed a motion for judgment on the pleadings, which this Court granted as to Counts I and VII of Floe’s Amended Counterclaim. Order, Nov. 19, 2025.

Regarding Count I of Floe’s Amended Counterclaim, this Court determined that Dezube’s right to own and possess the Property was superior as to Floe, Howard, and BCG under fundamental principles of property law. Specifically, the Court explained that Floe had constructive and actual notice of Dezube’s interest in the Property because of the *Lis Pendens* and the Litigation Contingency. (Docket, Decision Nov. 17, 2025 at 18.) As such, Floe was not a bona fide purchaser; therefore, his rights to the Property were subordinate to Dezube’s because Dezube had equitable title to the Property following his execution of the P&S of March 2022. *Id.* Further, the Court explained that the Consent Judgment activated the Litigation Contingency, the latter of which binds Floe:

“Howard and Floe executed the Litigation Contingency, making Floe’s rights under the Option contingent upon a judgment entering in favor of Howard and not Dezube. By operation of the Consent Judgment, which is essentially a contract requiring Howard to specifically perform the P&S and convey the Property to Dezube, a judgment will never enter in favor of Howard.” *Id.* at 15-16.

This Court denied Dezube’s motion for judgment on the pleadings with respect to Counts IV, V, and VI. *Id.* at 19-21. It reasoned that, assuming the truth of Floe’s allegations, he could prove a set of facts demonstrating that Dezube’s act of entering the Consent Judgment, which had the effect of confirming Dezube’s rights under the P&S, was done with legal malice. *Id.*

Dezube now asks this Court to enter partial final judgment under Rule 54(b) of the Superior Court Rules of Civil Procedure as to Dezube and Floe’s respective declaratory judgment counts: Count IV of Dezube’s First Amended and Supplemental Counterclaim and Count I of Floe’s

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<sup>2</sup> The counts in Floe’s Amended Counterclaim are misnumbered. The Court numbers them sequentially.

Amended Counterclaim. This Court held a hearing on that motion on February 6, 2026. After the hearing, the Court requested supplemental briefing regarding Floe’s argument that yet-untaken discovery will inform the legal issues that this Court adjudicated in its orders granting Dezube judgment on the pleadings as to Floe’s Count I and summary judgment as to Dezube’s Count IV. The Court received and thoroughly considered those supplemental memoranda.

The matter is ripe for decision.

## II

### Standard of Review

Rule 54(b) states, in relevant part:

“When more than one (1) claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third party claim, or when multiple parties are involved, the court may direct the entry of a final judgment as to one (1) or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment.” Super. R. Civ. P. 54(b).

Thus, this Court’s discretion under Rule 54(b) is guided by a two-part inquiry. First, the Court must determine whether this action “‘involve[s] either multiple parties or multiple claims and whether the . . . court’s disposition adjudicated one or more but fewer than all of the claims before it.’” *Cathay Cathay, Inc. v. Vindalu, LLC*, 136 A.3d 1113, 1118-19 (R.I. 2016) (quoting *Metro Properties, Inc. v. National Union Fire Insurance Co. of Pittsburgh, PA*, 934 A.2d 204, 207 (R.I. 2007)). Second, the Court must determine whether “‘there [is] no just reason to delay entry of final judgment’” on the adjudicated claims. *Astro-Med, Inc. v. R. Moroz, Ltd.*, 811 A.2d 1154, 1157 (R.I. 2002). In making this second determination, this Court “‘must take into account judicial administrative interests as well as the equities involved,’” and should “‘consider any ‘transactional relationship between a remaining unadjudicated claim and a claim that has been disposed of,’ as

well as the possibility of overlapping appeals, and uneconomic use of judicial resources.” *Metro Properties, Inc.*, 934 A.2d at 207-08 (quoting *Astro-Med, Inc.*, 811 A.2d at 1156-57).

“[B]y limiting entry of final judgment under Rule 54(b) to those instances in which a hearing justice finds ‘no just reason for delay,’ [the Rhode Island Supreme Court] is spared ‘from having to keep relearning the facts of a case on successive appeals.’” *Astro-Med, Inc.*, 811 A.2d at 1156 (quoting *Jack Walters & Sons Corp. v. Morton Building, Inc.*, 737 F.2d 698, 702 (7th Cir. 1984)). “‘However, some claims may involve sufficiently distinct matters so that withholding judgment will serve no useful purpose and may countenance delay which is productive of hardship and even denial of justice.’” *Id.* (quoting 1 Kent, *Rhode Island Civil Practice* § 54.3 at 400 (1969)).

### III

#### Analysis

##### A

#### **Whether the Court Adjudicated One or More but Fewer than All Claims**

Floe does not argue that the first prong of the Rule 54(b) inquiry is unsatisfied. “Adjudication requires the final, deliberate resolution of a dispute.” *Cathay, Inc.*, 136 A.3d at 1119. This Court adjudicated the declaratory judgment claims when it granted partial summary judgment to Dezube on Count IV of his Amended Counterclaim and judgment on the pleadings to Dezube as to Count I of Floe’s Amended Counterclaim because those decisions finally resolved the parties’ competing claims regarding their rights in the Property. Several claims in this case remain adjudicated, including Floe’s claims that Dezube tortiously interfered with Floe’s contract rights and prospective business advantage and engaged in a civil conspiracy with Howard by entering the Consent Judgment. *See* Hr’g Tr. 4:19-5:2, Feb. 6, 2026. Accordingly, the Court finds that it has adjudicated some, but not all, of the claims in this case.

## B

### Whether There is no Just Reason for Delay

The dispositive issue is whether there is no just reason to delay entry of partial final judgment as to the adjudicated claims. Dezube argues that none of Floe's unadjudicated claims concern the parties' adjudicated claims to title and possession of the Property because the issues are distinct: This Court's priority analysis determined the adjudicated claims, whereas Floe's unadjudicated claims turn on whether Dezube and Howard acted with legal malice when they entered the Consent Judgment and what damages, if any, Floe suffered thereby. *Id.* at 3:7-15, 5:8-6:4; Dezube's Mot. for Entry of Partial Final J. Under Rule 54(b) at 5. Thus, in Dezube's view, entering partial final judgment on the adjudicated claims does not raise "the spectre of overlapping appeals and the attendant possibility of an uneconomical use of judicial resources." *Astro-Med, Inc.*, 811 A.2d at 1157 (quoting *Westinghouse Broadcasting Co. v. Dial Media, Inc.*, 122 R.I. 571, 578, 410 A.2d 986, 990 (1980)).

Floe's principal objection is that the adjudicated title and possession rulings arise from the same transactional nucleus as Floe's unadjudicated claims. Suppl. Mem. in Supp. of Obj. to Dezube's Mot. for Entry of Partial Final J. (Floe's Suppl. Mem.) 2. In his view, the unadjudicated counts will require this Court and potentially the Rhode Island Supreme Court to revisit (a) the scope and effect of the Lease and Option; (b) the effect and timing of equitable title under the P&S; and (c) whether Dezube and Howard's conduct in obtaining and implementing the Consent Judgment was wrongful vis-à-vis Floe. *Id.* at 4. He also argues that Dezube's request for entry of final judgment should be denied because yet-untaken discovery might affect this Court's prior rulings that Dezube's rights to the Property are superior as to Howard and Floe. *Id.* at 3-4. Specifically, Floe asserts that if future discovery establishes that Howard and Dezube entered the

Consent Judgment with legal malice, the doctrine of unclean hands would require that this Court amend its prior rulings. *Id.* at 4-5.

A transactional relationship does not exist between adjudicated and unadjudicated claims where the factual and legal issues are sufficiently distinct. *Coro, Inc. v. R. N. Koch, Inc.*, 112 R.I. 371, 379-80, 310 A.2d 622, 626-27 (1973); *Astro-Med, Inc.*, 811 A.2d at 1157 (explaining that entry of final judgment would not promote a waste of judicial resources where an adjudicated and unadjudicated claim were factually and legally distinct). In *Coro, Inc.*, the Supreme Court held that the trial justice did not abuse her discretion in determining that there was no just reason to delay entry of partial final judgment. *Coro, Inc.*, 112 R.I. at 377-78, 310 A.2d at 626. There, a corporation sued several defendants, including one Nadler, and alleged that Nadler and others had conspired to undermine the corporation's business prospects by divulging trade secrets. *Id.* at 373, 310 A.2d at 623. Nadler denied those allegations and counterclaimed that the corporation owed him an unpaid bonus which he earned as a former employee. *Id.* The trial justice granted Nadler partial summary judgment on his counterclaim and entered partial final judgment on that claim. *Id.* at 375, 310 A.2d at 624-25.

On appeal from the entry of partial final judgment under Rule 54(b), the corporation argued that the trial justice erred because the claims were intertwined: If the corporation succeeded on its claims against Nadler, then Nadler would owe it an amount greater than it owed Nadler. *Id.* at 379, 310 A.2d at 626. The Court disagreed and explained that Nadler's counterclaim was "sufficiently distinct from [the corporation's] claim against Nadler as to warrant affirmative action under Rule 54(b)." *Id.* at 379, 310 A.2d at 626. The Court reiterated with approval the trial justice's finding that "Nadler had earned the money and was entitled to it[.]" *Id.* at 380, 310 A.2d at 627.

In this case, the Court finds that the factual and legal issues implicated in the adjudicated and unadjudicated claims are sufficiently distinct such that there is no “‘spectre of overlapping appeals and the attendant possibility of an uneconomical use of judicial resources.’” *Astro-Med, Inc.*, 811 A.2d at 1157 (quoting *Westinghouse Broadcasting Co.*, 122 R.I. at 578, 410 A.2d at 990). Similar to Nadler in *Coro, Inc.*, Dezube earned the Property and is entitled to it, regardless of what might happen next. This Court explained in its decision granting in part Dezube’s motion for judgment on the pleadings that Floe’s rights to the Property were subordinate to Dezube’s because (1) Howard and Dezube executed the P&S in March 2022 and (2) the Consent Judgment activated the Litigation Contingency. (Docket, Decision Nov. 17, 2025 at 15-18.) Floe has not identified any factual or legal issues relevant to his unadjudicated claims such that the Supreme Court might deal with overlapping appeals. This Court’s interpretation of the Lease and the Option and conclusion that Dezube acquired equitable title under the P&S of March 2022 are irrelevant to the adjudication of Floe’s remaining claims for conspiracy, tortious interference with contract, and tortious interference with business advantage. Floe correctly notes that it is relevant to his unadjudicated claims whether Dezube and Howard obtained the Consent Judgment with legal malice. *Id.* at 20-21. But the resolution of that issue has no bearing on this Court’s prior adjudication of Dezube’s ownership because his superior ownership stems originally from the valid and enforceable P&S between him and Howard. *Id.* Indeed, even if the Consent Judgment was somehow invalidated, Dezube still retains superior rights to the Property by virtue of the P&S. *Id.* at 18-19.

Moreover, Floe’s view that yet-untaken discovery will reveal legal malice is speculative. There is no evidence before the Court indicating that Dezube engaged in improper conduct. Of course, the Court acknowledges that acquiring such evidence is the point of discovery.

Nonetheless, in this Court’s judgment, it would be especially inequitable to withhold entry of final judgment on adjudicated claims that are factually and legally distinct from unadjudicated claims where the unadjudicated claims are, at present, mere allegations.

Floe relies on *Hogan v. Consolidated Rail Corp.*, 961 F.2d 1021 (2d Cir. 1992), but that reliance is misplaced. In *Hogan*, the Second Circuit held that the district court abused its discretion in entering partial final judgment under the federal Rule 54(b). *Hogan*, 961 F.2d at 1025. *Hogan* involved a wrongful death action brought by a surviving spouse against three defendant corporations on the theory that all defendants negligently caused the death. *Id.* at 1023. The district court granted summary judgment to one defendant railway company after concluding that no evidence would support a finding of negligence against it. *Id.* The court then directed the entry of final judgment as to the railway company because “if . . . it is determined that this [c]ourt’s . . . summary judgment was incorrectly granted, a complete new trial would have to be held . . . this [c]ourt deems that the correctness *vel non* of its . . . summary judgment should be determined prior to trial.” *Id.* at 1024.

Although the Second Circuit “sympathized[d] with the district court’s desire to avoid a retrial,” it explained that the interrelationship of adjudicated and unadjudicated claims is a reason for *not* granting Rule 54(b) certification, not a reason for granting it. *Id.* at 1026. It specifically reasoned that further discovery could bring to light evidence sufficient to warrant submitting claims against the railway company to the jury. *Id.* “In sum . . . the district court’s preference to have pretrial appellate review of its assessment of the sufficiency of the evidence to support a claim is an improper basis for entry of an immediate partial final judgment.” *Id.*

This case is unlike *Hogan*. As the Second Circuit observed, the adjudicated and unadjudicated claims in that case were interrelated. *Id.* But here, no discovery regarding legal

malice can undermine Dezube's rights to the Property because that issue would not alter this Court's conclusions regarding the effect of the P&S. Accordingly, Floe's argument under *Hogan* is unavailing.

Further, the doctrine of unclean hands does not preclude the entry of partial final judgment on the declaratory counts. "[T]he doctrine of unclean hands 'becomes operative only when a complainant must depend on his own improper conduct to establish his rights against the other parties to the suit.'" *Rodrigues v. Santos*, 466 A.2d 306, 311 (R.I. 1983) (quoting *School Committee of Pawtucket v. Pawtucket Teachers Alliance, Local No. 930*, 101 R.I. 243, 257, 221 A.2d 806, 815 (1966)) (alterations omitted). Even assuming that future discovery reveals that Dezube engaged in "improper conduct" by entering the Consent Judgment, Dezube need not rely exclusively on the Consent Judgment to establish his rights to the Property. As this Court has explained, Dezube's superior rights to the Property stem originally and independently from the P&S. Thus, no discovery could demonstrate that Dezube dirtied his hands in acquiring the right he now asserts. *See id.* (citing Dobbs, *Handbook on the Law of Remedies* 46 (1973)).

Lastly, the Court finds that the equities involved weigh in favor of entering final judgment on the adjudicated counts and that delaying entry of final judgment would prejudice Dezube. It is uncontested that Floe is living in the Property notwithstanding this Court's conclusions that he has no ownership interest in it. *See Hr'g Tr.* at 26:14-27:1, Feb. 6, 2026. As noted, Floe's remaining claims have no bearing on the parties' ownership rights, which Dezube has been litigating—first against Howard and then against Floe—since April 2022. (Docket, Decision Nov. 17, 2025 at 2-6.) Counsel for Floe concedes that the discovery Floe now seeks could have been taken during the past several years of litigation. (*Hr'g Tr.* at 19:8-14, Feb. 6, 2026.) Dezube's eviction action in the district court is stayed pending resolution of this case. *Id.* at 9:7-15; 29:8-13; 6CA-2025-10204,

Order, Nov. 7, 2025. This Court’s resolution of the declaratory claims conclusively establishes Dezube’s rights to the Property and extinguishes Floe’s competing claims. Accordingly, “the unadjudicated claim[s] in the instant matter, concerning [damages and legal malice], [are] uncomplicated, and the litigation thereof does not present a just reason for delay.” *See Metro Properties, Inc.*, 934 A.2d at 208.

#### **IV**

#### **Conclusion**

Thus, Dezube’s motion for entry of partial final judgment as to Count IV of Dezube’s First Amended and Supplemental Counterclaim and Count I of Floe’s Amended Counterclaim is **GRANTED**. Counsel shall submit the appropriate order for entry.



**RHODE ISLAND SUPERIOR COURT**

*Decision Addendum Sheet*

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**TITLE OF CASE:** **Howard v. Dezube v. The Boston Capital Group, Inc.**

**CASE NO:** **KC-2022-0291**

**COURT:** **Kent County Superior Court**

**DATE DECISION FILED:** **April 6, 2026**

**JUSTICE/MAGISTRATE:** **Silverstein, J.**

**ATTORNEYS:**

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**For Intervenor:** **Sean J. Clough, Esq.; Lisa M. Kresge, Esq.**