STATE OF NORTH CAROLINA MECKLENBURG COUNTY	IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 24CV012798-590
BARINGS LLC, Plaintiff, v. IAN FOWLER, KELSEY TUCKER, and CORINTHIA GLOBAL MANAGEMENT LIMITED, Defendants.	**ORDER ON MOTIONS TO COMPEL AND MOTION TO RECONSIDER AND FOR LEAVE TO AMEND**

1. This order addresses three motions filed by Plaintiff Barings LLC: first, a motion to compel Defendant Corinthia Global Management Ltd. to produce certain documents withheld as privileged, (ECF No. 314); second, a motion to compel Corinthia to search for and produce documents dating back to October 2021, (ECF No. 234); and third, a motion to revisit the Court's February 2025 order on Defendants' motions to dismiss and for leave to amend the complaint, (ECF No. 210). Following full briefing and a hearing on 11 December 2025, the Court **DENIES** all three motions.

2. The Court assumes familiarity with the record and the parties' arguments. Interested readers may find factual and procedural background in previous orders. *See, e.g.*, *Barings LLC v. Fowler*, 2025 NCBC LEXIS 18, at *2–6 (N.C. Super. Ct. Feb. 13, 2025); *Barings LLC v. Fowler*, 2025 NCBC LEXIS 15, at *1–2 (N.C. Super. Ct. Feb. 13, 2025).

3. **Motion to Compel (Privilege).** The Court begins with Barings's motion to compel production of documents withheld as privileged. Barings did not seek relief

on this point until 27 October 2025, when it submitted a discovery-dispute summary under Business Court Rule 10.9. This was weeks after fact discovery had closed. To grant the requested relief would necessarily require reopening fact discovery. But this Court's rules are clear: "Absent extraordinary cause, a motion that seeks to extend the discovery period or to take discovery beyond the limits in the Case Management Order must be made before the discovery deadline." BCR 10.4(a); *see also Carmayer, LLC v. Koury Aviation, Inc.*, 2017 N.C. Super. LEXIS 383, at *6 (N.C. Super. Ct. Apr. 5, 2017) (stating the general rule that "for a motion to compel to be timely, it must be filed before the close of discovery"). Barings has not demonstrated extraordinary cause for its delay, and its request is untimely.

4. Barings argues that this motion is timely under a scheduling order in which the Court required the parties to "submit any and all remaining BCR 10.9 discovery disputes no later than 27 October 2025." (ECF No. 261 at ¶ 4.a.) The scheduling order was necessitated by a marked uptick in discovery disputes. As the order made clear, "the continued trickle of new disputes [was] impeding the Court's ability to hear and decide them," thus "preventing the case from moving forward." (ECF No. 261 at ¶ 2.) For that reason, the Court put the parties on notice that it would "not entertain" additional submissions after 27 October 2025. (ECF No. 261 at ¶¶ 3–4.) At no point did the Court state, explicitly or implicitly, that submissions before that date were exempt from the timeliness and other procedural requirements imposed by the Business Court Rules or previous Court orders.[1]

[1] It bears noting that not all disputes raised after the close of discovery are untimely. *See, e.g.*, *Al-Hassan v. Salloum*, 2021 NCBC LEXIS 62, at *4–5 (N.C. Super. Ct. July 2, 2021)

5. The Court therefore denies this motion to compel as untimely.

6. **Motion to Compel (Pre-2023 Documents).** In its second motion to compel, Barings seeks to obtain a broad set of documents from the period between 1 October 2021 and 1 December 2022. This request is disproportionate to the needs of the case. Barings set the initial parameters of discovery by asking Corinthia to search for and produce documents going back to 1 March 2023 (a date roughly one year before this case began). Why Barings chose that date range is unclear. Now, at the tail-end of discovery, Barings wants to push back the date range by more than a year, massively expanding the scope of its document requests. "The date range for document production is something that should be resolved much sooner than that." *Kadrey v. Meta Platforms, Inc.*, 2024 U.S. Dist. LEXIS 214267, at *11 (N.D. Cal. Nov. 25, 2024). The Court sees no reason to force Corinthia to incur the burden and expense of redoing its document search, collection, and production at this late stage. As one federal court aptly put it, "[a] fire drill in the last month of fact discovery concerning a foundational issue that could have been raised much sooner is not proportional to the needs of the case." *Id.*; *see also Tumlin v. Tuggle Duggins P.A.*, 2018 NCBC LEXIS 51, at *32 (N.C. Super. Ct. May 22, 2018) (noting that courts can and should limit discovery based on proportionality considerations under N.C. R. Civ. P. 26(b)(1a)).

7. Accordingly, the Court denies this motion to compel.

(quashing subpoena served after the close of discovery); *Bauk v. Piedmont Cheerwine Bottling Co.*, 2020 NCBC LEXIS 8, at *11–15 (N.C. Super. Ct. Jan. 21, 2020) (denying request to modify protective order).

8. **Motion to Reconsider and for Leave to Amend.** At an earlier stage, Defendants Ian Fowler and Kelsey Tucker moved to dismiss all claims against them. The Court granted their motions in part, dismissing claims for breach of contract, tortious interference with contract, misappropriation of trade secrets, and unfair or deceptive trade practices under section 75-1.1. For each claim, the allegations concerning Fowler and Tucker were conclusory at best. Noting that "Barings has already amended its complaint and has thus had the chance to cure these pleading deficiencies," the Court dismissed the claims with prejudice. *Barings LLC v. Fowler*, 2025 NCBC LEXIS 18, at *23 n.5 (N.C. Super. Ct. Feb. 13, 2025). Barings now asks the Court to reconsider this decision, rescind the dismissal with prejudice (and instead dismiss without prejudice), and grant leave for Barings to amend its complaint and reassert the dismissed claims.[2] (ECF No. 210.)

9. Courts have discretion to reconsider interlocutory orders before the entry of final judgment. *See* N.C. R. Civ. P. 54(b). But "[m]otions to reconsider rarely succeed because the grounds that merit reconsideration rarely exist." *Gvest Real Est., LLC v. JS Real Est. Invs., LLC*, 2024 NCBC LEXIS 42, at *3 (N.C. Super. Ct. Mar. 7, 2024). "A party must point to a true game changer: 'new evidence,' a 'change in the controlling law,' or 'the need to correct a clear error or prevent manifest injustice.' " *Id.* at *4 (quoting *Bohn v. Black*, 2018 NCBC LEXIS 50, at *7 (N.C. Super. Ct. May 16, 2018)).

[2] After the completion of briefing, Barings entered into a stipulation with Tucker and Corinthia concerning this motion. As part of the stipulation, Barings has withdrawn its request to revive claims against Tucker. (ECF No. 331.)

10. Here, Barings's arguments for reconsideration are as meritless as they are extraordinary, and the Court stands by its decision.

11. Dismissal of the claims at issue was proper. One of the most basic principles of notice pleading is that conclusory allegations are insufficient to state a claim for relief. *See, e.g.*, *Estate of Vaughn v. Pike Elec., LLC*, 230 N.C. App. 485, 493 (2013). As the Court observed in its earlier order, the amended complaint fails that test, alleging only in conclusory fashion that Fowler and Tucker committed breach of contract, tortious interference, trade-secret misappropriation, and unfair trade practices. Barings does not even attempt to argue otherwise.

12. Dismissal with prejudice was also proper. Trial courts have broad discretion to dismiss claims with or without prejudice. *See First Fed. Bank v. Aldridge*, 230 N.C. App. 187, 191 (2013). The Court had good reason to dismiss with prejudice because Barings had already amended its pleading to try to cure the defects that Defendants had identified in their motions to dismiss the original complaint. Having had two "bites at the apple to plead sufficient facts," Barings did not deserve a third. *Action Learning Assocs., LLC v. Kenan-Flagler Bus. Sch. Exec. Educ. LLC*, 2025 NCBC LEXIS 79, at *38 (N.C. Super. Ct. July 2, 2025); *see also Plasman v. Decca Furniture USA, Inc.*, 2016 NCBC LEXIS 80, at *14 (N.C. Super. Ct. Oct. 21, 2016) (dismissing claims with prejudice "[a]fter having afforded Plaintiff the opportunity to re-plead his claims").

13. Again, Barings does not argue that the decision to dismiss with prejudice was an abuse of discretion or clear error. Rather, it asserts that it has uncovered new

evidence during discovery that supports the dismissed claims. Even if that is true, it is beside the point. Barings chose to plead and replead facially defective claims. Its failure to cure its pleading defects earned a dismissal with prejudice, thus closing the door to yet another attempt to cure. This was a final decision, not a tentative decision pending completion of discovery. Were it otherwise, courts would have little to no discretion to dismiss claims with prejudice while discovery is ongoing.

14. Barings also contends that denying its request to revive its claims will result in manifest injustice. That is simply not true. Pleadings shape the litigation, putting the parties on notice of the disputed issues and illuminating their risk exposure. The plaintiff must give a short and plain statement of what it intends to prove, with sufficient detail to make out a valid claim for relief. *See* N.C. R. Civ. P. 8(a)(1). When the opposing party identifies apparent defects, the plaintiff usually has some leeway to try to cure them. But no plaintiff is entitled to endless do-overs. To allow a third or fourth attempt to cure defective claims as a matter of course would multiply motion practice, increase costs, and introduce uncertainty about the scope of litigation. A dismissal with prejudice constitutes a ruling on the merits, which brings finality and allows parties to litigate the remaining claims and issues with certainty. That is not manifest injustice; rather, it serves the interest of justice.

15. This result is one that Barings could have avoided. At the hearing on Defendants' motions to dismiss, Barings all but abandoned the claims at issue. Though Barings maintained that Fowler and Tucker were liable for conspiring with Corinthia, it could not point to any allegation in the amended complaint that would

provide a basis to hold them liable for their own individual actions. It was Barings's decision—and only Barings's decision—to maintain and defend these facially defective claims all the way to the hearing, leaving Fowler and Tucker little choice but to seek their dismissal twice at great expense. The present state of play is the direct result of Barings's overreaching.

16. Barings appears to suggest that the Court should grant leave to amend under Rule 15(a) even if reconsideration is denied. But dismissal with prejudice acts as a ruling on the merits. Having granted Fowler's and Tucker's motions to dismiss the claims at issue with prejudice, the Court is "no longer empowered to grant plaintiff leave to amend under Rule 15(a)" to reassert these claims. *Johnson v. Bollinger*, 86 N.C. App. 1, 7–8 (1987); *see also Hoots v. Pryor*, 106 N.C. App. 397, 404 (1992).

17. Along with its request to revive the dismissed claims, Barings seeks to add factual allegations related to claims that were not dismissed. The proposed second amended complaint contains around 200 new and revised paragraphs. At no point does Barings delineate which of the revisions relate to live claims and which relate to dismissed claims, and the Court is not inclined to guess. Moreover, the nature and volume of the proposed amendments would surely reshape this case to a significant extent right at the close of discovery. Barings's excuses for waiting so long to seek leave to amend are not compelling. "When viewed in relation to the progress of the lawsuit, this delay is unreasonable." *Water.io LTD. v. Sealed Air Corp.*, 2025 NCBC

LEXIS 164, at *4 (N.C. Super. Ct. Nov. 24, 2025) (citation and quotation marks omitted).

18. The Court denies the motion to reconsider and for leave to amend.

19. **Conclusion.** For these reasons, the Court **DENIES** Barings's motions.

SO ORDERED, this the 29th day of January, 2026.

/s/ Adam M. Conrad
Adam M. Conrad
Special Superior Court Judge
for Complex Business Cases