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## Delaware Court Finds that Directors' Membership at Same Golf Club Is Not Disabling or Suspicious

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On November 17, 2023, the Delaware Court of Chancery in *Teamsters Local 443 Health Services & Insurance Plan v. Chou* granted a motion to dismiss by the defendant corporation's single-member special litigation committee ("SLC").

The derivative case stemmed from allegations that the directors at AmeriSourceBergen Corporation breached their fiduciary duty of oversight by failing to curtail safety violations at one of the company's pharmacies, which had resulted in hundreds of millions of dollars in criminal and civil penalties. The company's board appointed an independent director appointed after the derivative action was filed to serve on an SLC and review whether the derivative litigation was in the company's best interest. Following an extensive investigation, the SLC concluded that continued pursuit of plaintiffs' claims would not be in the company's interests and that the directors had not breached their oversight duties. The SLC then moved to dismiss the derivative claims.

In granting the SLC's motion to dismiss, the court rejected plaintiffs' argument that the single SLC member had lacked independence based on his connections to one of the company's directors through their membership at the same golf club, finding that even under the increased scrutiny associated with single-member SLCs, the connections were not disabling or suspicious.

The court's holding highlights that limited personal relationships, without more, generally will be insufficient to render directors not independent.

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