

Cooley Secures Complete Dismissal of Merger Class Action for Senomyx

June 3, 2022

Cooley secured a complete and significant victory for its clients, the former directors and officers of Senomyx, by obtaining a dismissal of a class action challenging the 2018 acquisition of the company by Swiss fragrance house Firmenich. The San Diego-based Cooley team was led by Peter Adams, Barrett Anderson and Dylan Scott. The successful outcome earned the team a shout out as part of [Am Law's Litigator of the Week Runners-Up and Shout Outs list](#).

Background

Before the acquisition, Senomyx was a California-based public company that developed and commercialized novel flavor ingredients. Facing a liquidity crunch in early 2018, Senomyx publicly announced a review of strategic alternatives, including a possible sale. The company engaged in a comprehensive six-month strategic review process, which culminated in a merger agreement with Firmenich for the acquisition of Senomyx for \$73.5 million. The \$1.50 per-share transaction price represented a 43% premium over the company's pre-announcement stock price.

Despite overwhelming stockholder approval, with approximately 83% of outstanding shares tendered in favor of the deal, the plaintiff accused the Senomyx directors and officers of failing to "advocate for own stockholders." In addition, the complaint alleged that the board's financial adviser "abused its position of trust," and that the board orchestrated "a poorly disguised ruse to suppress the company's apparent value to make Firmenich's insufficient offer appear reasonable."

The Decision

On May 13, 2022, Vice Chancellor J. Travis Laster of the Court of Chancery of the State of Delaware heard oral argument on the Senomyx defendants' motion to dismiss the class action complaint. Anderson argued that the allegations failed to state a claim because Senomyx accurately disclosed all material facts, any alleged omissions were immaterial as a matter of law and, as a result, the *Corwin* doctrine applied and extinguished the plaintiff's claims. In addition, Anderson detailed the exhaustive, six-month-long, public strategic review process, demonstrating that the board fulfilled its fiduciary obligations in connection with the transaction.

Shortly after oral argument, Vice Chancellor Laster granted the defendants' motion to dismiss with prejudice, finding that *Corwin* applied to the deal and, in any event, the transaction process was sound.

The case is *Goldschmidt v. Poyhonen*, case no. 2021-0054-JTL, in the Delaware Court of Chancery.

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