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Case Name: [Bardy Diagnostics, Inc. v. Hill-Rom, Inc. et al.](#)
Case Conclusion: July 2021
Caption: Delaware Court of Chancery, Consol C.A. No. 2021-0175-JRS
Keywords: Material Adverse Effect; Similarly Situated Companies; Disproportional Effect
Industry: Healthcare
Professionals: [William Jeffers, CFA](#), [Joseph W. Thompson, CFA, ASA](#), and [Elise Scoles](#)

The Griffing Group was retained by Bardy Diagnostics, the seller in a \$500 million transaction, and its counsel, Wilson Sonsini, in an expedited trial in the Delaware Court of Chancery. Medical equipment provider Hillrom attempted to back out of its purchase of Bardy, claiming that a reduction in the Medicare reimbursement rate for Bardy's cardiac-monitoring technology qualified as a "Material Adverse Effect" (MAE) under the purchase agreement.

Bardy filed suit, seeking a court order to force Hillrom to close the transaction. Bardy argued that an MAE had not occurred because the risks associated with the Medicare reimbursement were previously known to Hillrom; the change in Medicare rates was specifically addressed in the purchase agreement; and that Hillrom hedged the effect of a reduction in the Medicare rates that would have resulted in lower earn-out payments. Furthermore, Bardy was not disproportionately affected by the change in the Medicare reimbursement rates, compared with similarly situated companies.

The Court relied on the expert testimony of William Jeffers, CFA in ruling that an MAE had not occurred and that Hillrom would have to complete the acquisition as originally agreed. Bill was assisted by Joseph Thompson, CFA, ASA and Elise Scoles.

Bardy's counsel was led by David Berger, Steven Guggenheim, Brad Sorrels, Andrew Cordo, Jessica Hartwell, Lindsay Faccenda Benjamin Potts, Nora Crawford, and Jeremy Gagas of Wilson Sonsini Goodrich & Rosati, P.C.