

**COURT OF CHANCERY
OF THE
STATE OF DELAWARE**

DONALD F. PARSONS, JR.
VICE CHANCELLOR

New Castle County CourtHouse
500 N. King Street, Suite 11400
Wilmington, Delaware 19801-3734

Date Submitted: February 24, 2009

Date Decided: April 27, 2009

Mr. Courtland C. Pitts
1401 Maryland Avenue
Apartment A-3
Wilmington, DE 19805

Daniel F. McAllister, Esquire
City of Wilmington Law Department
City/County Building, 9th Floor
800 N. French Street
Wilmington, DE 19801-3537

Aaron R. Goldstein, Esquire
Department of Justice
Carvel State Office Building
820 N. French Street
Wilmington, DE 19801

Robert K. Beste, III, Esquire
Smith Katzenstein & Furlow LLP
800 Delaware Avenue, Suite 1000
P.O. Box 410
Wilmington, DE 19899

Michael P. Morton, Esquire
Michael P. Morton, P.A.
1203 N. Orange Street
Wilmington, DE 19801

Re: *Courtland Pitts v. City of Wilmington, et al.*,
Civil Action No. 4166-VCP

Dear Mr. Pitts and Counsel:

I have reviewed the briefs, letters, and other papers filed with respect to the various pending motions and considered the oral arguments presented on February 24, 2009. For the reasons set forth below and consistent with my ruling at the argument, I confirm my denial of Plaintiff's motion for a preliminary mandatory injunction and deny

the request for reargument on that motion reflected in Plaintiff's letter to the Court dated February 25, 2009. In addition, I grant the City of Wilmington's motion to dismiss, deny Justice of the Peace Court #13's motion to dismiss as moot, and deny Wilmington Housing Authority's motion to dismiss.

I. BACKGROUND

A. The Parties and Facts

Plaintiff, Courtland C. Pitts, is an individual residing in Wilmington, Delaware. He is proceeding *pro se*. There are five Defendants. Defendants Frederick S. Purnell, Sr., and Donna Starkey-Ford are employees of Defendant Wilmington Housing Authority (collectively "WHA"). The remaining two Defendants are the City of Wilmington and Delaware Justice of the Peace Court #13 ("JP 13").

Pitts has been a tenant at Colonial Courts Apartment Complex ("Colonial") since 2002.¹ In 2004 or 2005, Pitts began receiving Section 8 Housing Vouchers ("Vouchers") from WHA. The Complaint alleges that vandalism, loitering, drug dealing, and drug use occurred at Colonial, and Pitts brought that activity to the attention of WHA and the State of Delaware Department of Labor. Pitts avers that his complaints resulted in a hostile environment at Colonial, including assaults on him by other tenants and false imprisonment by a Colonial employee. Pitts summoned the police several times but they allegedly failed to provide adequate assistance. On one such occasion, the police actually

¹ Unless otherwise noted, the facts recited in this letter opinion are drawn from Pitts's Verified Complaint ("Complaint").

arrested Pitts for offensive touching. Pitts alleges he was falsely convicted of that offense in Justice of the Peace Court #20. Based on that conviction, WHA terminated Pitts's Vouchers. Pitts unsuccessfully appealed the WHA's termination of his Vouchers, and at the argument on the pending motions asserted that the appeal tribunal proceeded unfairly and was biased against him.

Pitts sought recourse for his various complaints through meeting with the Mayor of Wilmington, attending City Council Meetings, and addressing the WHA Board of Directors. Each of these officials or bodies called the police to remove Pitts from their premises claiming he was disruptive. Subsequently, Pitts protested that his civil rights had been violated in front of the Louis R. Redding City/County building. According to Pitts, the police response to his protests further denied him his First Amendment rights.²

On or about May 19, 2009, Colonial sued Pitts in JP 13. Pitts countersued alleging Colonial had breached its lease with him and WHA, violated the landlord and tenant code, and ignored Pitts's housing complaints. After a jury trial, JP 13 awarded Pitts \$13,161 and declared that his Vouchers should be reinstated. The Complaint in this action alleges JP 13 allowed Colonial to make an untimely appeal and, consequently, neither the Vouchers nor the \$13,161 have been delivered to Pitts. Before the argument on February 24, 2009, Pitts and Colonial reached a settlement agreement under which,

² Pitts's Addendum Resp., filed Jan. 8, 2009, at 1.

among other things, Pitts agreed to leave Colonial's apartment complex by March 15, 2009.³

B. Procedural History

Pitts filed his Complaint on November 17, 2008, and later filed certain responses and letters in reply to papers filed by various Defendants. Pitts claims WHA wrongfully revoked his Vouchers, and thus, moves for reinstatement. Pitts also seeks to have JP 13 execute the jury award delivered in *Colonial Court Associates, LP v. Pitts*⁴ and to enjoin the City of Wilmington from harassing and intimidating him. Pitts also effectively requested a mandatory preliminary injunction directing WHA to reinstate his Vouchers.

Defendants JP 13, the City of Wilmington, and WHA each filed motions to dismiss. All three motions seek to dismiss Pitts's Complaint for lack of subject matter jurisdiction under Court of Chancery Rule 12(b)(1) and failure to state a claim upon which relief can be granted under Rule 12(b)(6).

I heard argument on these motions to dismiss and on Pitts's motion for a preliminary injunction on February 24, 2009. After the argument, I denied the motion for a preliminary injunction and took the motions for summary judgment under advisement.

³ See Pitts's Letter, filed Feb. 13, 2009, at 1; Stip. of Dismissal, filed Feb. 23, 2009.

⁴ WHA's Br. in Supp. of Their Mot. to Dismiss and in Opp'n to Pl.'s Req. for an Inj. ("DOB") Ex. C, *Colonial Ct. Assocs., LP v. Pitts*, C.A. No. JP13-08-001239 (Del. J.P. May 23, 2008) (ORDER).

C. Parties' Contentions

Pitts seeks a preliminary injunction requiring WHA to reinstate his Vouchers on the ground that WHA unjustly terminated them. Pitts claims the initial termination of his Vouchers and the Department of Housing and Urban Development ("HUD") appeals board's refusal to reinstate them resulted from prejudice against him. Absent injunctive relief, Pitts contends he will suffer irreparable harm in that he will have to leave Colonial pursuant to the settlement agreement he made with Colonial and then will not be able to obtain substitute housing, because he has no Vouchers. Pitts also seeks money damages from WHA.

By letter dated February 25, 2009, Pitts effectively sought reargument on my oral ruling denying his application for a preliminary injunction as to WHA.

Pitts also seeks injunctive relief against JP 13 and the City of Wilmington, as well as money damages from the City. As to JP 13, Pitts seeks an order directing that court to reinstate his Vouchers. Finally, Pitts seeks an injunction against the City of Wilmington prohibiting it from harassing and intimidating him, and money damages based on past instances of such conduct.

Before Pitts settled with Colonial, JP 13 challenged the ripeness of Pitts's claim against it, because he had an adequate remedy at law.⁵ At that time, the issue of Pitts's Vouchers and the \$13,161 damages award were the subject of an appeal before a

⁵ JP 13's Mot. to Dismiss, filed Dec. 12, 2008, at 4.

Delaware Justice of the Peace three-judge panel, from which there was no statutory right to a further appeal. Rather, JP 13 contended the only way Pitts could obtain review of a decision of the three-judge panel was by a writ of certiorari in the Delaware Superior Court.⁶ In addition, JP 13 sought dismissal based on sovereign immunity.⁷

Based on the settlement between Pitts and Colonial, however, JP 13 now contends Pitts's claim is moot. It argues that Pitts cannot seek injunctive relief against a court in which he no longer has a pending action.

WHA also focused its motion to dismiss on Pitts's pursuit of injunctive relief in regard to the JP 13 proceedings that since have concluded. First, WHA denied that this Court had subject matter jurisdiction over that aspect of Pitts's claims for essentially the same reasons JP 13 did. In addition, WHA asserted JP 13 could not bind it by any judgment or order because WHA was not a party to the action in JP 13. WHA further argued Pitts had failed to identify any common law or statutory right to the Vouchers, and therefore had not stated a claim upon which relief could be granted. Finally, WHA asserted that Pitts had not met his burden for a preliminary mandatory injunction.

The City of Wilmington contends that equitable relief is not available for the wrongs Pitts alleges and that he failed to state any other basis for subject matter

⁶ *Id.*

⁷ *Id.* at 7-8.

jurisdiction in this Court.⁸ The City asserts that, even assuming for purposes of argument that Pitts was denied access to the City/County building on January 29, 2008 following a disruptive incident, he later was allowed to re-enter the building provided he was not disruptive.⁹ Indeed, Pitts has since entered the City/County building and protested in front of the building without incident.¹⁰ Lastly, the City argues that Pitts has failed to state a claim against it for injunctive relief, because the City has the power to restrict individuals from its buildings for the purposes of executing its powers.¹¹

II. ANALYSIS

A. Motion for a Preliminary Injunction

“A preliminary injunction may be granted where the movants demonstrate: (1) a reasonable probability of success on the merits at a final hearing; (2) an imminent threat of irreparable injury; and (3) a balance of the equities that tips in favor of issuance of the requested relief.”¹²

⁸ City of Wilmington’s Mot. to Dismiss, filed Dec. 16, 2008, at 2.

⁹ *Id.* Ex. 3. In evaluating a motion to dismiss for lack of subject matter jurisdiction, the Court can consider matters outside the Complaint. *See infra* notes 23, 29, 30, and accompanying text.

¹⁰ *Id.* at 3.

¹¹ *Id.*

¹² *Nutzz.com v. Vertrue, Inc.*, 2005 WL 1653974, at *6 (Del. Ch. July 6, 2005) (internal citations omitted).

Where, as here, the moving party seeks a mandatory preliminary injunction, however, it must demonstrate that it is “entitled to judgment as a matter of law on the merits of [its] claim, not just a reasonable likelihood of success on the merits as is generally required for a preliminary injunction.”¹³ “This Court has utilized the higher mandatory injunction standard where, instead of seeking to preserve the status quo as interim relief, Petitioners, as a practical matter, seek the very relief that they would hope to receive in a final decision on the merits.”¹⁴

Pitts has not shown a reasonable likelihood of success on the merits of his claim for reinstatement of his Vouchers, let alone entitlement to such relief as a matter of law. Pitts relies primarily on the verdict of the jury in the trial in the Justice of the Peace Court in which the jury determined that Pitts’s status with Section 8 should be reinstated, which would entitle him to once again receive Vouchers from WHA.¹⁵ WHA, however, was not a party to the litigation in JP 13. Thus, the jury’s verdict could not bind WHA under principles of issue or claim preclusion. Further, because JP 13 concluded that it had no jurisdiction to enjoin WHA to reinstate Pitts’s Vouchers, no judgment was ever entered granting that relief, even though the jury recommended it.

¹³ *Alpha Builders, Inc. v. Sullivan*, 2004 WL 2694917, at *3 (Del. Ch. Nov. 5, 2004) (internal quotation marks omitted).

¹⁴ *Id.*

¹⁵ *See* DOB Ex. C.

In addition, Pitts called Wilmington Police Officer Gilbert Howell as a witness at the hearing before this Court. Officer Howell testified that he had appeared on Pitts's behalf at a hearing before representatives of the WHA and presented evidence to the effect that the circumstances which led to Pitts's conviction for offensive touching did not warrant revocation of his Voucher. Yet, Officer Howell also admitted that, in his view, Pitts's conduct at the WHA hearing itself might have contributed to WHA's decision not to reinstate his Vouchers. Thus, Pitts has not shown a reasonable likelihood of success on the merits of his claim for reinstatement of the Vouchers. At a minimum, material issues of fact exist as to whether WHA revoked Pitts's Vouchers unfairly or discriminatorily and whether reinstatement is appropriate. In the preliminary injunction context, the Court of Chancery is "far less disposed to act upon disputed facts than on the far more familiar footing of disputed questions of law."¹⁶ Because Pitts seeks a mandatory injunction directing reinstatement of the Vouchers and, therefore, bears the higher burden of showing entitlement to that relief as a matter of law, the existence of unresolved material issues of fact precludes him from meeting that burden.

As to the element of irreparable harm, Pitts has shown that he may suffer imminent harm, but not that it is irreparable. Pursuant to the settlement with Colonial,

¹⁶ 1 Donald J. Wolfe, Jr. & Michael A. Pittenger, *Corporate and Commercial Practice in the Delaware Court of Chancery* §10-2[b], at 10-12 (Supp. 2008).

Pitts agreed to move out of Colonial's apartment complex by March 15, 2009.¹⁷ Pitts's showing of imminent homelessness is undercut significantly by his decision to trigger that situation himself through the settlement. The record is sparse on the alternatives available to Pitts, and he may have a difficult time arranging for housing. He has not shown, however, that no reasonable housing alternatives are available to him during the period from now until the final adjudication of his claims relating to the Vouchers. Pitts also did not establish that if the preliminary mandatory injunction was denied, he would lose his ability to pursue Vouchers.

Pitts likewise has not demonstrated that the balance of equities tips in his favor. In that regard, Pitts must show that the "harm, discounted by its likelihood, is greater than harm to any other person that the granting of the relief would occasion, discounted by [the] probability of its occurring."¹⁸ Pitts has not carried this burden as the equities appear neutral.

I summarized these grounds for denying Pitts's motion for preliminary injunction at the argument on February 24, 2009. By letter dated February 25, 2009, Pitts objected to that ruling. Treating Pitts's letter as a motion for reargument, I deny that motion, as well. To obtain reargument the moving party must show that the "Court's decision was

¹⁷ Pitts's Letter, filed Feb. 13, 2009, at 1.

¹⁸ *Crown Books Corp. v. Bookstop, Inc.*, 1990 WL 26166, at *7 (Del. Ch. Feb. 28, 1990) (citing *Ivanhoe Partners v. Newmont Mining*, 535 A.2d 1334 (Del. 1987)).

predicated upon a misunderstanding of a material fact or a misapplication of the law”¹⁹ such that “the outcome of the decision would be affected.”²⁰ Nothing in Pitts’s February 25 letter indicates that the Court misunderstood any material fact or misapplied the law in denying his request for a preliminary injunction.

B. Defendants’ Motions to Dismiss Pursuant to Rules 12(b)(1) and 12(b)(6)

Pitts’s claim against JP 13 has settled, and that aspect of his Complaint has been dismissed. Consequently, JP 13’s motion to dismiss is moot. Because the remaining Defendants’ motions are based on Rules 12(b)(1) and 12(b)(6), I next briefly review the standards applicable to such motions.

1. Rule 12(b)(1)

The Court of Chancery will dismiss an action under Rule 12(b)(1) “if it appears from the record that the Court does not have subject matter jurisdiction over the claim.”²¹ The plaintiff “bears the burden of establishing this Court’s jurisdiction, and where the

¹⁹ *Fisk Ventures, LLC v. Segal*, 2008 WL 2721743, at *1 (Del. Ch. July 3, 2008) (quoting *Forsyth v. ESC Fund Mgmt. Co. (U.S.), Inc.*, 2007 WL 3262205, at *1 (Del. Ch. Oct. 31, 2007)); *Deloitte & Touche USA LLP v. Lamela*, 2006 WL 345007, at *2 (Del. Ch. Feb. 7, 2006).

²⁰ *Deloitte & Touche*, 2006 WL 345007, at *2 (quoting *Bernstein v. TractManager, Inc.*, 953 A.2d 1003, 1014 (Del. Ch. 2007)).

²¹ *AFSCME Locals 1102 & 320 v. City of Wilm.*, 858 A.2d 962, 965 (Del. Ch. 2004) (internal citation omitted).

plaintiff's jurisdictional allegations are challenged through the introduction of material extrinsic to the pleadings, he must support those allegations with competent proof."²²

This Court is one of limited jurisdiction.²³ The Court of Chancery can acquire subject matter jurisdiction over a case in three ways: (1) the invocation of an equitable right;²⁴ (2) a request for an equitable remedy when there is no adequate remedy at law;²⁵ or (3) a statutory delegation of subject matter jurisdiction.²⁶ This Court "will not exercise subject matter jurisdiction 'where a complete remedy otherwise exists but where plaintiff

²² *Yancey v. Nat'l Trust Co.*, 1993 WL 155492, at *6 (Del. Ch. May 7, 1993) (internal citation omitted).

²³ The issue of subject matter jurisdiction is so crucial that it may be raised at any time before final judgment. *See Appoquinimink Educ. Ass'n v. Appoquinimink Sch. Dist.*, 2003 WL 1794963, at *3 n.24 (Del. Ch. Mar. 31, 2003).

²⁴ *See* 10 *Del. C.* § 341 ("The Court of Chancery shall have jurisdiction to hear and determine all matters and causes in equity."); *Christiana Town Ctr. LLC v. New Castle County*, 2003 WL 21314499, at *3 (Del. Ch. June 6, 2003) ("Equitable rights are rights that have traditionally not been recognized at common law. The most common example of equitable rights in this court are fiduciary rights and duties that arise in the context of trusts, corporations, other forms of business organizations, guardianships, and the administration of estates."); *Azurix Corp. v. Synagro Techs., Inc.*, 2000 WL 193117, at *2 (Del. Ch. Feb. 3, 2000).

²⁵ 10 *Del. C.* § 342 ("The Court of Chancery shall not have jurisdiction to determine any matter wherein sufficient remedy may be had by common law, or statute, before any other court or jurisdiction of this State."); *Christiana Town Ctr.*, 2003 WL 21314499, at *3 ("Equitable remedies . . . may be applied even where the right sued on is essentially legal in nature, but with respect to which the available remedy at law is not fully sufficient to protect or redress the resulting injury under the circumstances.") (internal quotation marks omitted).

²⁶ *See Candlewood Timber Group, LLC v. Pan Am. Energy, LLC*, 859 A.2d 989, 997 (Del. 2004).

has prayed for some type of traditional equitable relief as a kind of formulaic ‘open sesame’ to the Court of Chancery.’”²⁷

The party seeking a court’s intervention bears the burden of establishing the court’s subject matter jurisdiction,²⁸ and the court may consider evidence outside the pleadings in resolving that issue.²⁹ Further, “[i]n deciding whether or not equitable jurisdiction exists, the Court must look beyond the remedies nominally being sought, and focus upon the allegations of the complaint in light of what the plaintiff really seeks to gain by bringing his or her claim.”³⁰ In other words, “the court must address the nature of the wrong alleged and the available remedy to determine whether a legal, as opposed to an equitable remedy, is available and sufficiently adequate.”³¹

²⁷ *Christiana Town Ctr.*, 2003 WL 21314499, at *3 (quoting *IBM Corp. v. Comdisco, Inc.*, 602 A.2d 74, 78 (Del. Ch. 1991)).

²⁸ *Maloney-Refaie v. Bridge at Sch., Inc.*, 2008 WL 2679792, at *7 (Del. Ch. July 9, 2008) (quoting *Ropp v. King*, 2007 WL 2198771, at *2 (Del. Ch. July 25, 2007)).

²⁹ Ct. Ch. R. 12(b)(1); *Sloan v. Segal*, 2008 WL 81513, at *6 (Del. Ch. Jan. 3, 2008) (citing *Simon v. Navellier Series Fund*, 2000 WL 1597890, at *5 (Del. Ch. Oct. 19, 2000)); see also *Maloney-Refaie*, 2008 WL 2679792, at *7 (citing *NAMA Holdings, LLC v. Related World Mkt. Ctr., LLC*, 922 A.2d 417, 429 n.15 (Del. Ch. 2007)).

³⁰ *Candlewood Timber Group*, 859 A.2d at 997. See also *Diebold Computer Leasing, Inc. v. Commercial Credit Corp.*, 267 A.2d 586, 588 (Del. 1970).

³¹ *IMO Indus., Inc. v. Sierra Int’l, Inc.*, 2001 WL 1192201, at *2 (Del. Ch. Oct. 1, 2001).

Further, “[t]he Court of Chancery . . . routinely decides controversies that encompass both equitable and legal claims.”³² “[I]f a controversy is vested with equitable features which would support Chancery jurisdiction of at least part of the controversy, then the Chancellor *has discretion* to resolve the remaining portions of the controversy as well.”³³ “Once the Court determines that equitable relief is warranted, even if subsequent events moot all equitable causes of action or if the court ultimately determines that equitable relief is not warranted, the court retains the power to decide the legal features of the claim pursuant to the cleanup doctrine.”³⁴

2. Rule 12(b)(6)

A court should deny a motion to dismiss pursuant to Rule 12(b)(6) “unless it can be determined with reasonable certainty that the plaintiff could not prevail on any set of facts reasonably inferable” from the pleadings.³⁵ The court must assume the truthfulness of the well-pleaded allegations in the complaint and must afford the party opposing the

³² *Nicastro v. Rudegeair*, 2007 WL 4054757, at *2 (Del. Ch. Nov. 13, 2007) (citing *Wolfe & Pittenger* § 2-4 (supp. 2006) (“It is not at all unusual for cases properly within the subject matter jurisdiction of the Court of Chancery to involve both legal and equitable claims.”)).

³³ *Getty Ref. & Mktg. Co. v. Park Oil, Inc.*, 385 A.2d 147, 149 (Del. Ch. 1978) (emphasis added).

³⁴ *Prestancia Mgmt. Group v. Va. Heritage Found., II LLC*, 2005 WL 1364616, at *11 (Del. Ch. May 27, 2005) (internal quotation marks omitted) (quoting *Beal Bank SSB v. Lucks*, 2000 WL 710194, at *2 (Del. Ch. May 23, 2000)).

³⁵ *Superwire.com, Inc. v. Hampton*, 805 A.2d 904, 908 (Del. Ch. 2002) (citing *Solomon v. Pathe Commc’ns Corp.*, 672 A.2d 35, 38 (Del. 1996)).

motion “the benefit of all reasonable inferences.”³⁶ “What this effectively means is that the court must consider the various factual permutations reasonably possible within the framework of the plaintiff’s allegations and conclude whether any one conceivable set of facts could possibly merit granting [the] plaintiff relief. If so, the claim cannot be dismissed.”³⁷ Mere conclusions, however, are not accepted as true absent specific allegations of fact which support them.³⁸

3. WHA’s Motion to Dismiss

WHA has moved to dismiss under both Rules 12(b)(1) and 12(b)(6). As to WHA’s challenge to subject matter jurisdiction, it has not shown a defect in Pitts’s claimed jurisdiction. WHA did not address Pitts’s claim that his Vouchers were wrongfully revoked in its brief or at oral argument. Rather, WHA focused on Pitts’s claim for injunctive relief regarding the now resolved action in JP 13. WHA is correct that it cannot be bound by an action to which it was not a party. WHA has not identified any impediment, however, to Pitts pursuing injunctive relief in a separate action, such as this. Furthermore, WHA has not shown that Pitts has an adequate remedy at law for his claim to obtain reinstatement of his Vouchers. Thus, WHA’s motion to dismiss pursuant to Court of Chancery Rule 12(b)(1) is denied.

³⁶ *Id.*

³⁷ *In re New Valley Corp. Deriv. Litig.*, 2001 WL 50212, at *4 (Del. Ch. Jan. 11, 2001).

³⁸ *Solomon*, 672 A.2d at 38.

WHA also has not shown that Pitts failed to state a claim upon which relief can be granted. WHA argued Pitts failed to identify any common law or statutory right to Section 8 Housing Vouchers. In response, Pitts contends his Vouchers were taken away unjustly and pretextually. Viewing the facts in the light most favorable to Pitts, it is conceivable WHA acted improperly in terminating Pitts's Vouchers. WHA's motion to dismiss pursuant to Rule 12(b)(6) is therefore denied.

4. The City of Wilmington's Motion to Dismiss

The City of Wilmington seeks dismissal of Pitts's claims against it for lack of subject matter jurisdiction. First, the City contends Pitts's claim for injunctive relief is moot. The Complaint seeks to enjoin the City from excluding Pitts from the Louis R. Redding City/County Building. The City has represented that Pitts is now, and, at least recently, has been, allowed to enter City of Wilmington buildings provided he is not disruptive. Based on the City's representations and the lack of any allegations or evidence to the contrary,³⁹ I grant the motion to dismiss Pitts's claim for injunctive relief as moot.⁴⁰

³⁹ In this regard, I have considered the evidence outside the Complaint offered by the City. As previously discussed, such evidence may be considered on a motion under Rule 12(b)(1). To the extent the evidence also relates to the City's motion under Rule 12(b)(6), I have treated that part of the City's motion as one for summary judgment.

⁴⁰ "According to the *mootness* doctrine, although there may have been a justiciable controversy at the time the litigation was commenced, the action will be dismissed if that controversy ceases to exist." *GMC v. New Castle County*, 701 A.2d 819, 823 (Del. 1997).

The only other claim Pitts has asserted against the City is for money damages based on its alleged violation of his constitutional rights. In particular, Pitts claims that his conversations with the Mayor of Wilmington, City Council, and WHA Board of Directors, and protests in front of the City/County Building, caused City officials to harass and intimidate him, and bar him from the City/County Building. Effectively, Pitts contends City officials denied him his First Amendment right to freedom of speech and retaliated against him for exercising that right. This aspect of Pitts's claim, however, is substantially unrelated to his remaining claims for injunctive relief against WHA. The Court of Chancery, having acquired jurisdiction over some part of this controversy, may decide to determine the entire controversy for any of several reasons, including "to resolve a factual issue which must be determined in the proceedings; to avoid multiplicity of suits; to promote judicial efficiency; to do full justice; to avoid great expense; to afford complete relief in one action; and to overcome insufficient modes of procedure at law."⁴¹ "Of great importance is whether the facts involved in the equitable counts and in the legal counts are so intertwined as to make it undesirable or impossible to sever them."⁴²

Pitts's claim for money damages against the City is not so closely intertwined with the equitable counts remaining in his Complaint that it would be undesirable or impossible to sever them. The damages claim focuses on actions that took place in the

⁴¹ *Getty Ref. & Mktg. Co. v. Park Oil, Inc.*, 385 A.2d 147, 150 (internal citations omitted).

⁴² *Id.*

past regarding his efforts to communicate his views in and around the City/County Building. In contrast, Pitts's remaining claim for injunctive relief pertains to his ongoing efforts to secure access to Section 8 housing. Thus, I decline to exercise jurisdiction over the damages claim against the City under the cleanup doctrine,⁴³ and grant the City's motion to dismiss pursuant to Rule 12(b)(1).

III. CONCLUSION

For the foregoing reasons, I reaffirm my denial of Pitts's motion for a preliminary mandatory injunction and also deny his motion for reargument. Further, I grant the City of Wilmington's motion to dismiss pursuant to Court of Chancery Rule 12(b)(1), deny JP 13's motion to dismiss as moot, and deny WHA's motion to dismiss pursuant to Rules 12(b)(1) and 12(b)(6).

IT IS SO ORDERED.

Sincerely,

/s/Donald F. Parsons, Jr.

Vice Chancellor

⁴³ If a court ultimately were to find that the City violated Pitts's rights by denying him access to the City/County Building, an award of monetary damages would constitute adequate relief. In that circumstance the City presumably would conform its future conduct to the rulings of the court without the need for an injunction. *Cf. Christiana Town Ctr., LLC v. New Castle County*, 2003 WL 21314499, at *4 n.19 (Del. Ch. June 6, 2003).