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Case Number 468,2026

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN RE CLOUDFLARE, INC. STOCKHOLDERS LITIGATION	§	
	§	No. 468, 2026
	§	
	§	Court Below—Court of Chancery
	§	of the State of Delaware
	§	
	§	C.A. No. 2026-0772
	§	

Submitted: November 4, 2026
Decided: November 6, 2026

Before **LEGROW**, **GRIFFITHS**, and **ZURN**, Justices.

ORDER

After consideration of the notice of interlocutory appeal, the supplemental notice, the motion for expedited proceedings, opposition, and reply, it appears to the Court that:

(1) In June 2026, stockholders of Cloudflare, Inc. ("Plaintiffs," and appellees here) filed a class action against Cloudflare's controlling stockholders Matthew Prine and Michelle Zatlyn (the "Founders"), as well as other members of Cloudflare's board of directors (with the Founders, "Defendants," and appellants here). Plaintiffs challenged the proposed recapitalization of Cloudflare's existing dual-class capital structure, alleging that the transaction was unfair and designed to allow the Founders to liquidate large amounts of their stock while maintaining voting control of Cloudflare. They moved for a preliminary injunction. Defendants

invoked the safe harbor provisions of 8 *Del. C.* § 144, arguing that a special committee of independent directors (the "Special Committee") approved the recapitalization.

(2) After expedited discovery, briefing, and argument, on October 16, the Court of Chancery issued an opinion granting Plaintiffs' motion for a preliminary injunction (the "Preliminary Injunction Opinion").[1]

(3) Relevant to Defendants' interlocutory appeal, the court found Plaintiffs had a reasonable probability of success on the merits as to their argument that Section 144(b)(1) did not offer the recapitalization a safe harbor from equitable relief or a damages award. In particular, the court found that the preliminary injunction record made it reasonably probable Plaintiffs could show that the Special Committee did not approve the recapitalization in good faith under *Disney* and that the Special Committee acted with a "controlled mindset" by pursuing what the Founders wanted over what was best for Cloudflare and all its stockholders.[2]

(4) The court's conclusion that Section 144 likely did not offer a safe harbor for the recapitalization meant that Defendants would likely bear the burden of proving the recapitalization was entirely fair at trial. The court offered Defendants

[1] *In re Cloudflare, Inc. S'holders Litig.*, 2026 WL 3093369 (Del. Ch. Oct. 16, 2026).

[2] *Id.* at *50–54 (citing *In re Walt Disney Co. Deriv. Litig*, 906 A.2d 27, 67 (Del. 2006)).

the option of an initial trial limited to the applicability of Section 144 within approximately 90 days or a full trial to be held promptly.

(5) Defendants filed a timely application for certification of the Preliminary Injunction Opinion, seeking appellate review of "whether a 'controlled mindset' premised on controller influence can satisfy the individualized finding of bad faith as to otherwise independent, disinterested, and careful directors under the statute."[3] Plaintiffs opposed. The exchanges among the parties and the court also addressed expedition and how much of the case should go to trial. In that exchange, the court stated that a stay would be appropriate if this Court accepted the interlocutory appeal.[4] The court recommended certification as to certain issues.[5]

(6) Applications for interlocutory review are addressed to the sound discretion of this Court.[6] In the exercise of our discretion and giving due weight to the Court of Chancery's view, we conclude that the application for interlocutory review meets Rule 42(b)'s strict standards for certification. The Preliminary Injunction Opinion decided a substantial issue: gating and case-dispositive questions

[3] *In re Cloudflare, Inc. S'holders Litig.*, C.A. No. 2026-0772, D.I. 101 ¶ 4.

[4] *Id*. at D.I. 103.

[5] *In re Cloudflare, Inc. S'holders Litig.*, 2026 WL 3333685, at *22 (Del. Ch. Nov. 3, 2026).

[6] Supr. Ct. R. 42(d)(v).

of law relating to the merits of the case.[7] And those questions of law would be resolved for the first time in this State and present a question of statutory construction that has not been, but should be, settled by this Court in advance of an appeal from a final order.[8] The parties are not limited to the issues as framed by the Court of Chancery.

(7) With their interlocutory appeal, Defendants moved for expedited proceedings. Plaintiffs opposed expedition but agreed to the briefing schedule proposed by Defendants if this Court accepted the interlocutory appeal and granted expedition. Having accepted the interlocutory appeal and considered the parties' positions on expedition, the Court concludes that there is good cause for expedition.

NOW, THEREFORE, IT IS ORDERED that this interlocutory appeal is ACCEPTED. The motion for expedited proceedings is GRANTED with the following schedule:

(i) The opening brief and appendix shall be filed by November 18, 2026;

(ii) The answering brief and appendix shall be filed by December 9, 2026;

(iii) The reply brief shall be filed by December 16, 2026.

[7] Supr. Ct. R. 42(b)(i).

[8] Supr. Ct. R. 42(b)(iii)(A), (C), (G).

(iv) The Court will notify the parties when it has set a date and time for oral argument.

BY THE COURT:

/s/ N. Christopher Griffiths
Justice