



IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN RE GGP, INC. STOCKHOLDER
LITIGATION

No. 202, 2021

Court Below: Court of Chancery of the
State of Delaware

Cons. C.A. No. 2018-0267-JRS

APPELLANTS' REPLY BRIEF

WOLF POPPER LLP
Carl L. Stine
Adam J. Blander
Antoinette Adesanya
845 Third Avenue
New York, NY 10022
(212) 759-4600

PRICKETT JONES & ELLIOTT, P.A.
Michael Hanrahan (#941)
Ronald A. Brown Jr. (#2849)
J. Clayton Athey (#4378)
Marcus E. Montejo (#4890)
Samuel L. Closic (#5468)
1310 King Street
Wilmington, Delaware 19801
(302) 888-6500

LAW OFFICE OF FRANK DiPRIMA, P.A.
Frank P. DiPrima
3 Carriage Hill Drive
Morristown, New Jersey 07960
(973) 656-0251

*Co-Lead Counsel for
Plaintiffs-Below/Appellants*

LONG LAW, LLC
Brian D. Long (#4347)
3828 Kennett Pike, Suite 208
Wilmington, Delaware 19807
(302) 729-9100

STULL, STULL & BRODY
Aaron Brody
6 East 45th Street
New York, New York 10017
(212) 687-7230

Plaintiffs-Below/Appellants'
Executive Committee

Dated: September 24, 2021

TABLE OF CONTENTS

	<u>Page No.</u>
TABLE OF CITATIONS.....	ii
ARGUMENT ON REPLY	1
I. THE COURT OF CHANCERY ERRED IN DISMISSING PLAINTIFFS’ STATUTORY AND FIDUCIARY CLAIMS CONCERNING APPRAISAL RIGHTS	1
A. Defendants and the Court of Chancery Cannot Rewrite Delaware Appraisal Law	1
B. The Erroneous Finding That Special Dividends are Common.....	6
C. The Special Dividend Structure Eliminated Appraisal Rights for Most Stockholders	7
II. THE COURT OF CHANCERY MISINTERPRETED SECTION 262(D)(1) AND DELAWARE DISCLOSURE LAW	11
A. Defendants’ Disclosure Arguments Are Based on the Wrong Standard of Review and Their Improper Use of the Proxy.....	11
B. Defendants Were Required to Disclose What Appraisal Rights Were Available.....	12
C. Defendants 102(b)(7) Hail Mary Falls Incomplete.....	16
CONCLUSION	18

TABLE OF CITATIONS

	<u>Page No(s).</u>
CASES	
<i>In re GGP, Inc. Stockholder Litig.</i> , 2021 WL 2102326 (Del. Ch. May 25, 2021)	passim
<i>La. Mun. Police Emps. Ret. Sys. v. Crawford</i> , 918 A.2d 1172 (Del. Ch. 2007)	6, 7
<i>RBC Capital Markets, LLC v. Jervis</i> , 129 A.3d 816 (Del. 2015).....	11
<i>In re Santa Fe Pacific Corp. S'holder Litig.</i> , 669 A.2d 59 (Del. 1995).....	12
STATUTES	
8 <i>Del. C.</i> § 102(b)(7)(ii).....	16, 17
8 <i>Del. C.</i> § 262.....	passim

ARGUMENT ON REPLY

I. THE COURT OF CHANCERY ERRED IN DISMISSING PLAINTIFFS' STATUTORY AND FIDUCIARY CLAIMS CONCERNING APPRAISAL RIGHTS

A. Defendants and the Court of Chancery Cannot Rewrite Delaware Appraisal Law

Defendants admit the Court of Chancery ruled that in an appraisal proceeding under 8 *Del. C.* § 262 the Court could determine fair value “looking at the business as a going concern before payment of the Pre-Closing Dividend” and award a dissenting shareholder the difference between that and fair value and the sum of “the Pre-Closing Dividend and the merger consideration.”¹ First, that is not Delaware law.² Second, that is not what the Proxy’s³ appraisal notice told the GGP stockholders.⁴

Whether the Dividend was part of the Merger fundamentally affected what appraisal rights were available and the accuracy of the Proxy’s disclosure. Defendants now argue that it is irrelevant whether the Dividend was part of the Merger,⁵ but in the Proxy they repeatedly told the stockholders that the Dividend

¹ Appellees’ Answering Brief (“AAB”) at 2.

² Appellants’ Second Corrected Opening Brief (“AOB”) at 21-31.

³ Capitalized terms have the meanings set forth in the AOB.

⁴ AOB at 36-39.

⁵ AAB at 3, 5, 6. Defendants’ similar assertions that the step-transaction doctrine is irrelevant (AAB at 3, 6, 18) only underscores that the Court of Chancery’s opinion

was not part of the Merger.⁶ Under Delaware law, determining that the Dividend was part of the Merger controls whether appraisal fair value would be based on how GGP stood prior to the Dividend or on what GGP had become after the huge Dividend and related debt.⁷ As Defendants admit, Section 262(a) requires a determination of fair value “at the effective time of the Merger.”⁸ If the Dividend was part of the Merger, then the fair value determination would be based on GGP as it stood pre-Dividend but if, as the Proxy said, the Dividend was separate from the Merger, then fair value would be determined post-Dividend.⁹ Whether the Dividend was part of the Merger was not just “potentially relevant in a hypothetical appraisal proceeding.”¹⁰ It was actually and materially important to GGP stockholders in determining what appraisal rights they had and whether appraisal was worth pursuing.¹¹ Stockholders did not just need to know they “had appraisal rights in the first instance,”¹² they needed to know what those rights were.

never addressed that doctrine which also establishes the Dividend was plainly part of the Merger. AOB 3-4, 11, 17, 23-24.

⁶ AOB at 37-40.

⁷ *Id.* at 5-7, 21-24.

⁸ AAB at 5, 14-15.

⁹ AOB at 6, 22-23.

¹⁰ AAB at 5, 18.

¹¹ AOB at 7-8, 36-39.

¹² AAB at 5-6.

Defendants and the Court of Chancery say that “Section 262 does not address how parties may or may not structure a merger.”¹³ However, Section 262(b) requires that appraisal rights “shall be available ... in a merger.”¹⁴ The statute contains dozens of references to the “merger,” including “the effective date of the merger,”¹⁵ “agreement of merger,”¹⁶ and “vo[ting] on the merger.”¹⁷ Consequently, what constitutes “the merger” is fundamentally important to appraisal rights under Section 262.

Whether GGP was required to pay the Dividend to “all eligible stockholders whether or not they sought appraisal” is not the question.¹⁸ As the court below admitted, stockholders seeking appraisal have to “forego all merger consideration.”¹⁹ Thus, a stockholder who accepted the Dividend would have difficulty arguing that the Dividend was part of the merger consideration.

The court below said a stockholder seeking appraisal “could argue” that the fair value determination should include the Dividend and that “the Pre-Closing

¹³ *Id.* at 15 (citing *In re GGP, Inc. Stockholder Litig.*, 2021 WL 2102326, at *31 (Del. Ch. May 25, 2021)).

¹⁴ 8 *Del. C.* § 262(b).

¹⁵ *Id.* §§ (a),(d)(1)-(2), (e), (h).

¹⁶ *Id.* §§ (b)(1)-(2).

¹⁷ *Id.* § (d)(1).

¹⁸ AAB at 15-16.

¹⁹ *GGP*, 2021 WL 2102326, at *32; AAB at 6-7, 24.

Dividend plus the closing consideration undervalued the dissenting stockholder's shares" and seek "an appraisal award that reflected the difference between what she had received in the Pre-Closing Dividend and the adjudicated fair value of her shares."²⁰ However, the Court of Chancery did not indicate it would accept such an argument, and Defendants might very well argue to the contrary. More importantly, Section 262 requires a determination of the fair value of the shares at the effective time of the merger, not whether a "Pre-Closing Dividend plus the closing consideration undervalued the dissenting stockholder's shares." The Court is required by Section 262(h) to "determine the fair value of the shares exclusive of any element of value arising from the accomplishment or expectation of the merger."²¹ The appraisal statute does not provide for "an appraisal award that reflected the difference between what she had received in the Pre-Closing Dividend and the adjudicated fair value of her shares." Labelling the Dividend as a "relevant factor"²² does not permit the Court of Chancery to rewrite the appraisal statute so it can make a different determination and provide a different type of appraisal award using a different standard.

²⁰ *GGP*, 2021 WL 2102326, at *32. *See also* AAB at 3, 16-17.

²¹ 8 *Del. C.* § 262(h).

²² *GGP*, 2021 WL 2102326, at *31. *See also* AAB at 2, 17, 20.

Defendants claim the Court of Chancery never reached the issues of whether the Dividend was part of the Merger and whether in an appraisal proceeding the value of the Company prior to the Dividend could be considered.²³ These issues were central to Plaintiffs' claim that Defendants denied GGP stockholders their statutorily mandated appraisal rights and failed to describe accurately and fully the available appraisal rights. Determining those legal issues would not be an "advisory opinion,"²⁴ because a judicial determination of those issues was necessary to a proper discussion and resolution of whether Plaintiffs stated a claim. Defendants' admission that the court below did not consider these key legal issues demonstrates that the Court of Chancery had no basis for deciding as a matter of law that Plaintiffs had no claims relating to appraisal. The parties' difference of opinion on whether and how the Court of Chancery ruled on these fundamental issues illustrates how confusing and inconsistent the opinion below is.²⁵

Defendants argue that appraisal relates to shares, not merger consideration.²⁶ In fact, what is considered merger consideration is critical to appraisal rights. Under Section 262(b)(2), the consideration paid in the merger determines whether there are

²³ AAB at 17-18, 19-20.

²⁴ *Id.* at 18-19.

²⁵ AOB at 1-2, 5-7.

²⁶ AAB at 6, 23.

appraisal rights available.²⁷ The court below and Defendants also say that *Crawford* only held that the special dividend in that case triggered appraisal rights.²⁸ However, *Crawford* held that the special dividend triggered appraisal rights because it was merger consideration.²⁹ Under *Crawford*, GGP's 98.5% Dividend must be considered part of the merger consideration and part of the Merger that was subject to appraisal rights.

B. The Erroneous Finding That Special Dividends are Common

Defendants rely on the Court of Chancery's factual finding identifying three companies who issued special dividends in connection with a merger as establishing that special dividends are common in mergers.³⁰ First, as the Court of Chancery recognized, the facts on a motion to dismiss are limited to the allegations in the Complaint,³¹ which does not allege that special dividends are common. Second, the court below acknowledged that Defendants provided no support for their factual

²⁷ 8 Del. C. § 262(b); *La. Mun. Police Emps. Ret. Sys. v. Crawford*, 918 A.2d 1172, 1191-92 (Del. Ch. 2007).

²⁸ *GGP*, 2021 WL 2102326, at *31; AAB at 18-19.

²⁹ *Crawford*, 918 A.2d at 1191-92 (finding that special dividend "is fundamentally cash consideration" in the merger; defendants' public disclosures warned that "the special dividend might be treated as merger consideration"; and "the label 'special dividend' is simply cash consideration dressed up in a none-too-convincing disguise").

³⁰ AAB at 15.

³¹ *GGP*, 2021 WL 2102326, at *11.

contention that special dividends are common.³² Third, the Court of Chancery improperly did its own factual research to come up with only three instances where a special dividend was paid in a merger.³³ Like Defendants, the court below is limited to allegations of the Complaint. It is not the lower court's function to do independent factual research, including on the internet, to identify examples of special dividends. Fourth, that the lower court could only find merger-related special dividends in three of the thousands upon thousands of mergers before or after *Crawford*, which was decided in 2007, proves that special dividends are not common. Fifth, as Plaintiffs' opening brief showed, none of the three special dividends the Vice Chancellor "identified" (and even the special dividend "sweetener" in *Crawford*) is remotely comparable to paying 98.5% of the merger consideration as a special dividend.³⁴

C. The Special Dividend Structure Eliminated Appraisal Rights for Most Stockholders

The effects of paying 98.5% of the merger consideration as a Dividend while limiting the appraisal proceeding to the 1.5% merger consideration were not "speculative."³⁵ Those effects are simple mathematics, which Defendants cannot

³² *Id.* at *31.

³³ *Id.*

³⁴ AOB 18-19.

³⁵ AAB at 21, 32 & n.106.

dispute.³⁶ Defendants cannot deny that very few GGP stockholders owned enough shares to meet the *de minimis* thresholds of 8 *Del. C.* § 262(g).³⁷ Reducing “the consideration provided in the merger” by 98.5% correspondingly reduces the likelihood that stockholders seeking appraisal could meet the \$1 million threshold of Section 262(g). For example, if the merger consideration is \$100 per share, it would require 10,000 appraisal shares to reach \$1 million in merger consideration; if 98.5% of the consideration is paid as a dividend and the merger consideration dropped to \$1.50 per share, nearly 667,000 shares would need to seek appraisal to meet the \$1 million threshold.

Defendants’ speculation that small holders holding an aggregate of 3.2 million shares could seek appraisal is patently unrealistic. A holder of 5,000 shares would not consider it likely that 641 holders of the same number of shares would seek appraisal. Furthermore, even if the § 262(g) criteria were initially satisfied, GGP

³⁶ AOB at 24-27.

³⁷ *Id.* at 25-26. Defendants’ contention (AAB at 20) that this argument was waived because it was not raised below is without merit. The central focus of Plaintiffs’ arguments below was that the small cash merger consideration effectively eliminated appraisal rights. *See GGP*, 2021 WL 2102326, at *30 & nn.306-07. Moreover, the argument is fairly raised in response to Defendants’ Supplemental Brief below, which Plaintiffs did not get an opportunity to respond to below, and the Court of Chancery’s ruling that the structure had no effect on appraisal rights. *Id.* at *31-32.

could just settle with enough appraisal seekers to drive the appraisal class below the threshold.³⁸

Given that Brookfield repeatedly tried to impose an appraisal rights closing condition,³⁹ it is reasonably conceivable and a fair inference that the Dividend was a manipulative way to limit exposure to appraisal rights. Defendants admit the Dividend was the equivalent of an appraisal pre-payment under Section 262(h) to limit the accrual of pre-judgment interest.⁴⁰ This admission just reinforces that the Dividend was really part of the merger consideration. Indeed, Defendants say a dissenting stockholder could argue that the Court of Chancery should consider both the Dividend and the cash merger consideration in determining whether Section 262(g)'s requirement that "the value of the consideration provided in the merger" is greater than \$1 million.⁴¹ Defendants structured the transaction to exclude the Dividend from the "merger consideration," but now claim the Dividend might have been part of the merger consideration after all.

³⁸ Defendants double-down on their improper reliance on facts outside the complaint by repeating their incomplete contentions concerning appraisal demands they purportedly received. AAB at 23 n.59. Defendants' sketchy partial disclosure actually confirms that they successfully drove stockholders away from appraisal and suggests they settled some appraisal demands to ensure no appraisal action could be maintained. AOB at 26-27 & nn.85-86.

³⁹ A100-102 [Proxy at 72-74].

⁴⁰ AAB at 24.

⁴¹ *Id.* at 22 n.58.

Defendants' argument that stockholders would not be discouraged by the costs of seeking appraisal even though the potential recovery would be limited. They claim a stockholder would have a large "war chest" from the Dividend.⁴² This is financial nonsense. First, for small stockholders, the so-called Dividend war chest would be tiny. Second, no rational stockholder would risk a significant part of the 98.5% consideration received in the Dividend in the hope of increasing the 1.5% (\$0.312 per share) received as merger consideration. Third, no lawyer is going to pursue, on a contingent basis, appraisal claims when the merger consideration is \$0.312 per share. For both stockholders and lawyers, even recovering double or triple the \$0.312 merger consideration would be unprofitable.

The Court of Chancery committed legal error in dismissing Plaintiffs' appraisal-related claims because it is reasonably conceivable that after discovery and trial Plaintiffs will be able to prove that the Dividend was part of the merger consideration, that Defendants violated Section 262 and that Defendants deliberately sought to limit if not eviscerate appraisal rights through inequitable manipulation of GGP's corporate machinery.

⁴² *Id.* at 22-24.

II. THE COURT OF CHANCERY MISINTERPRETED SECTION 262(d)(1) AND DELAWARE DISCLOSURE LAW

A. Defendants' Disclosure Arguments Are Based on the Wrong Standard of Review and Their Improper Use of the Proxy

Defendants correctly acknowledged that whether Plaintiffs have stated a claim that the notice of appraisal rights did not comply with 8 *Del. C.* § 262(d)(1) is an issue of law this Court reviews *de novo*.⁴³ However, quoting *RBC Capital Markets, LLC v. Jervis*, 129 A.3d 816, 857-58 (Del. 2015), Defendants assert that “the findings of the trial judge” concerning the adequacy of disclosures must be affirmed if they “are sufficiently supported by the record and are the product of an orderly and logical deductive process.”⁴⁴ *Jervis*, however, was a post-trial opinion based on the Court of Chancery’s evaluation of a trial record. Here, the Court of Chancery granted a motion to dismiss. There was no “record” and there could be no judicial evaluation of a trial record. The “record” is limited to the allegations of the Complaint and the issue is whether the Court of Chancery correctly applied the reasonable conceivability standard to Plaintiffs’ appraisal related disclosure claims. Thus, Defendants’ reliance on the Proxy’s “24-page description of the Background of the Transaction, a 14-page summary of the financial analyses performed by the Special Committee’s bankers, and management’s financial projections” is

⁴³ AAB at 25.

⁴⁴ *Id.* at 25-26.

improper.⁴⁵ Those portions of the Proxy do not concern the disclosure of appraisal rights, and Defendants ask the Court to assume the truth of the statements therein.⁴⁶ Simply because Plaintiffs alleged disclosure violations related to appraisal rights does not open the door to wholesale use of the contents of the Proxy relating to other matters.⁴⁷ The Court of Chancery’s dismissal of the appraisal disclosure claim should be reversed because the Court did not make any determination that there was no conceivable set of facts Plaintiffs might prove establishing that the disclosure regarding appraisal rights was misleading or incomplete. Indeed, the Court of Chancery admitted the Proxy disclosures were not “clearly drafted” and that “the stockholders may have been better served by more precise disclosure.”⁴⁸ Given those admissions and the motion to dismiss standard, it was legal error to dismiss the appraisal disclosure claims.

B. Defendants Were Required to Disclose What Appraisal Rights Were Available

Defendants claim the only appraisal disclosure they were required to make was four words: “appraisal rights are available.”⁴⁹ Again, that is not Delaware law

⁴⁵ *Id.* at 26-27.

⁴⁶ *In re Santa Fe Pacific Corp. S’holder Litig.*, 669 A.2d 59, 69 (Del. 1995).

⁴⁷ *Id.* at 70.

⁴⁸ *GGP*, 2021 WL 2102326, at *33.

⁴⁹ AAB at 3, 6, 26.

– notice of appraisal rights includes disclosing accurately and completely what appraisal rights are available.⁵⁰ Section 262(d)(1) requires notice of the appraisal rights to which the stockholders are legally entitled.

Defendants say that Delaware law did not require them to disclose “how the Pre-Closing Dividend might be treated in any contested appraisal proceeding.”⁵¹ Delaware law, however, required disclosure of whether the Dividend would be considered part of the Merger.⁵² Defendants repeatedly told the stockholders any appraisal proceeding would be limited to the Merger and exclude the Dividend.⁵³ Indeed, while incorrectly asserting that Section 262 does not reference “merger consideration,”⁵⁴ Defendants admit that the Court of Chancery found that the Proxy told the stockholders that by seeking appraisal “they would forego the cash merger consideration.”⁵⁵

Plaintiffs pointed out that the Proxy said appraisal rights were limited to the Merger and excluded the Dividend and that an appraisal would determine whether

⁵⁰ AOB at 34-36.

⁵¹ AAB at 3, 29.

⁵² AOB at 37-42.

⁵³ *Id.* at 36-39.

⁵⁴ *See* 8 *Del. C.* § 262(g)(“the consideration provided in the merger”).

⁵⁵ AAB at 6-7 (citing *GGP*, 2021 WL 2102326, at *32).

fair value was greater than, the same or less than the \$0.312 merger consideration.⁵⁶

Defendants respond that “[t]he Proxy said no such thing.”⁵⁷ Perhaps they should read their own Proxy, which states:

- “appraisal rights solely in connection with the merger;”⁵⁸
- stockholders perfecting appraisal rights “shall not receive the [per share] merger consideration;”⁵⁹
- appraisal is “in lieu of the per share merger consideration;”⁶⁰
- appraisal value may be “greater than, the same as or less than the per share merger consideration.”⁶¹

Indeed, Defendants admit that the Court of Chancery’s opinion acknowledges that the Proxy (i) said appraisal would be “in lieu of the per share merger consideration,” (ii) told stockholders that their options were “(a) accept the post-dividend payment or (b) forfeit that payment and demand appraisal” and (iii) advised that the appraisal award could be more than, less than or the same as the merger consideration.⁶²

⁵⁶ AOB at 36.

⁵⁷ AAB at 28.

⁵⁸ A43 [Proxy at 15].

⁵⁹ *Id.*

⁶⁰ A60, A363 [Proxy at 32, 335].

⁶¹ A60, A363, A366 [Proxy at 32, 335, 338].

⁶² AAB at 26-28 (citing and quoting *GGP*, 2021 WL 2102326, at *32).

Defendants’ protests that they should not have to disclose their views considering the scope of an appraisal proceeding⁶³ ignores that they made partial disclosure of their view that appraisal would be limited to the Merger, would be in lieu of the merger consideration, and would determine whether fair value was more or less than, or the same as, the merger consideration. They gave their “subjective views” of how the Pre-Closing Dividend would be treated in an appraisal:⁶⁴ appraisal would be limited solely to the merger and focus on the merger consideration; the Dividend would be excluded. Defendants voluntarily went down the “slippery slope” of telling stockholders what would be considered in an appraisal – the merger and merger consideration.⁶⁵ Defendants’ after-the-fact arguments that the Dividend would have been considered in an appraisal⁶⁶ only contradicts what they expressly told the stockholders in the Proxy.

The Proxy only encouraged stockholders to seek legal advice concerning “the complexity of the procedures for exercising and perfecting the right to seek appraisal,” not on the scope of the appraisal determination.⁶⁷ Contrary to the Court of Chancery’s incorrect and unsupported finding, the Proxy did not urge

⁶³ *Id.* at 28-30.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ AAB at 16-17.

⁶⁷ A60 [Proxy at 32].

stockholders to get legal advice on “whether to exercise their appraisal rights” but only on how to exercise appraisal rights; such advice would not “necessarily [] have entailed evaluating the role of the Pre-Closing Dividend on a hypothetical appraisal proceeding.”⁶⁸ The cases Defendants cite as showing “Delaware law does not require corporations to provide legal advice” did not involve statutorily required disclosure concerning appraisal rights or situations where fiduciaries made partial disclosures about the scope of an appraisal proceeding.⁶⁹

C. Defendants 102(b)(7) Hail Mary Falls Incomplete

Perhaps recognizing that their scheme to eviscerate appraisal rights and convince stockholders to eschew appraisal through misleading and incomplete partial disclosures might not be sustained on appeal, Defendants claim their disclosure failures were exculpated breaches of the duty of care.⁷⁰ They admit the Court of Chancery did not reach this issue. They make a naked assertion that Plaintiffs only pleaded duty of care claims, but do not back that up with citations to the Complaint.⁷¹ They do not address the statutory disclosure requirement of

⁶⁸ *GGP*, 2021 WL 2102326, at *32.

⁶⁹ AAB at 28-29 & nn.74-75.

⁷⁰ *Id.* at 32-33.

⁷¹ In contrast, Plaintiffs show specifically where the Complaint alleges facts supporting claims of disloyalty, bad faith, intentional misconduct and knowing violation of law. AOB at 32 & nn.104-05, 107.

Section 262(d)(1), which cannot be exculpated.⁷² This Court should not attempt to determine the complex issues regarding purported exculpation based on little more than a page of cursory argument in an answering brief.

⁷² 8 *Del. C.* § 102(b)(7)(ii).

CONCLUSION

For the reasons spelled out in Plaintiffs' briefs, this Court should reverse the Court of Chancery's dismissal of Plaintiffs' statutory and fiduciary claims relating to appraisal and remand the case to the court below for discovery and trial on those claims.

Dated: September 24, 2021

WOLF POPPER LLP
Carl L. Stine
Adam J. Blander
Antoinette Adesanya
845 Third Avenue
New York, New York 10022
(212) 759-4600

LONG LAW, LLC
Brian D. Long (#4347)
3828 Kennett Pike, Suite 208
Wilmington, Delaware 19807
(302) 729-9100

STULL, STULL & BRODY
Aaron Brody
6 East 45th Street
New York, New York 10017
(212) 687-7230

Plaintiffs-Below/Appellants'
Executive Committee

PRICKETT JONES & ELLIOTT, P.A.

By: /s/ Michael Hanrahan

Michael Hanrahan (#941)
Ronald A. Brown Jr. (#2849)
J. Clayton Athey (#4378)
Marcus E. Montejo (#4890)
Samuel L. Closic (#5468)
1310 King Street
Wilmington, Delaware 19801
(302) 888-6500

LAW OFFICE OF FRANK DiPRIMA, P.A.
Frank P. DiPrima
3 Carriage Hill Drive
Morristown, New Jersey 07960
(973) 656-0251

Co-Lead Counsel for
Plaintiffs-Below/Appellants

CERTIFICATE OF SERVICE

I, Michael Hanrahan, hereby certify on this 24th day of September, 2021, that I caused a copy of Appellants' Reply Brief to be served by eFiling via File & ServeXpress upon the following counsel of record:

Peter J. Walsh, Jr., Esquire
Berton W. Ashman, Jr., Esquire
Jaclyn C. Levy, Esquire
POTTER ANDERSON & CORROON LLP
Hercules Plaza, 6th Floor
1313 North Market Street
Wilmington, Delaware 19801

David J. Teklits, Esquire
Thomas P. Will, Esquire
MORRIS, NICHOLS, ARSHT
& TUNNELL LLP
1201 North Market Street
Wilmington, Delaware 19801

Brian D. Long, Esquire
LONG LAW, LLC
3828 Kennett Pike, Suite 208
Wilmington, Delaware 19807

Raymond J. DiCamillo, Esquire
Jonathan M. Kaplowitz, Esquire
Susan M. Hannigan, Esquire
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 North King Street
Wilmington, Delaware 19801

Kevin G. Abrams, Esquire
John M. Seaman, Esquire
Matthew L. Miller, Esquire
ABRAMS & BAYLISS LLP
20 Montchanin Road, Suite 200
Wilmington, Delaware 19807

/s/ Michael Hanrahan

Michael Hanrahan (#941)