IN THE SUPREME COURT OF THE STATE OF NEVADA

PARAMETRIC SOUND CORPORATION, TB HOLDINGS, INC., KENNETH POTASHNER; ELWOOD NORRIS; SETH PUTTERMAN; ROBERT KAPLAN; ANDREW WOLFE; and JAMES HONORE,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT, in and for the County of Clark, State of Nevada, and THE ELIZABETH GONZALEZ, District Judge,

Respondents,

and

VITIE RAKAUSKAS, individually and on behalf of all others similarly situated, and Intervening Plaintiffs RAYMOND BOYTIM and GRANT OAKES,

Real parties in interest.

No. 66689

District Court No. A-13-686890-B
Dept. No. XI

Electronically Filed
May 23 2017 11:15 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

NOTICE OF SUPPLEMENTAL AUTHORITY BY REAL PARTIES IN INTEREST

ROBBINS GELLER RUDMAN & DOWD LLP
RANDALL J. BARON
A. RICK ATWOOD, JR.
DAVID T. WISSBROECKER
DAVID A. KNOTTS
655 West Broadway, Suite 1900
San Diego, CA 92101-8498
Telephone: 619/231-1058

THE O'MARA LAW FIRM, P.C.
DAVID C. O'MARA
Nevada Bar No. 8599
311 East Liberty Street
Reno, NV 89501
Telephone: 775/323-1321

SAXENA WHITE P.A.
JOSEPH E. WHITE, III
JONATHAN M. STEIN
2424 North Federal Highway, Suite 257
Boca Raton, FL 33431
Telephone: 561/394-3399

Attorneys for Real Parties in Interest

1267695_2

Docket 66689 Document 2017-17231

Pursuant to NRAP 31(e), Real Parties In Interest ("Plaintiffs") hereby submit this Notice of Supplemental Authority regarding *Fuchs v. Wren Holdings, LLC*, 129 A.3d 882 (Del. 2015) (attached hereto as "Exhibit A"). *Fuchs* sheds further insight into the following issues:

> [T]he parties should address whether share dilution claims can be brought directly or derivatively. If direct suits are sometimes permissible, the analysis should consider what conditions are necessary to allow a direct suit based on dilution.

See Sept. 3, 2015 Order.

While researching these issues in response to Defendants' recent submission of additional authority, Plaintiffs noticed that the Delaware Supreme Court affirmed *Nine Sys. Corp. S'holders Litig.*, No. 3940-VCN, 2014 WL 4383127 (Del. Ch. Sept. 4, 2014) on December 11, 2015, about two months after Plaintiffs filed their Supplemental Brief in this matter. *See Fuchs*, 129 A.3d 882.

In *Nine Sys.*, the Court of Chancery held that "the logic and reasoning of *Carsanaro* . . . are compelling" and that, after a dilutive share issuance, "Plaintiffs may also establish [direct] standing by proving that a majority of the Board was conflicted – here, meaning interested or not independent – when it approved and implemented" the subject transaction. 2014 WL 4383127, at *29 (citing *Carsanaro v. Bloodhound Techs., Inc.*, 65 A.3d 618, 658 (Del. Ch. 2013)). The parties debated the viability of this rule in earlier briefing. *See* Plaintiffs' Answering Brief pp. 10-19, 36-38; Plaintiffs' Supplemental Brief pp. 19-20, 25-26; *cf.* Defendants' Supplemental Brief pp. 27-31.

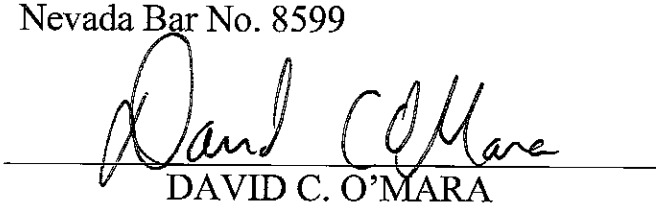
The Delaware Supreme Court affirmed this rule by holding that, "[a]fter careful review, we conclude that the Court of Chancery made no error of law, made no determination of fact not supported by the record, and committed no abuse of discretion." *Fuchs*, 129 A.3d at 882. Thus, Plaintiffs direct the Court to Plaintiffs'

Answering Brief at pages 10-19, 36-38, and Plaintiffs' Supplemental Brief at pages 19-20, 25-26. *Cf.* Defendants' Supplemental Brief pp. 27-31.

DATED: May 22, 2017

Respectfully submitted,

THE O'MARA LAW FIRM, P.C.
DAVID C. O'MARA
Nevada Bar No. 8599



DAVID C. O'MARA

311 East Liberty Street
Reno, NV 89501
Telephone: 775/323-1321
775/323-4082 (fax)

ROBBINS GELLER RUDMAN
& DOWD LLP
RANDALL J. BARON
A. RICK ATWOOD, JR.
DAVID T. WISSBROECKER
DAVID A. KNOTTS
655 West Broadway, Suite 1900
San Diego, CA 92101-8498
Telephone: 619/231-1058
619/231-7423 (fax)

SAXENA WHITE P.A.
JOSEPH E. WHITE, III
JONATHAN M. STEIN
2424 North Federal Highway, Suite 257
Boca Raton, FL 33431
Telephone: 561/394-3399
561/394-3382 (fax)

Attorneys for Real Parties in Interest

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On May 22, 2017 I caused to be served a true and correct copy of the Response of Real Parties in Interest to Petitioners Notice of Supplemental Authority by the method indicated:

X Depositing in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, following ordinary business practices (Judge Gonzalez Only)

_____ Personal Delivery

_____ Certified Mail with Return Receipt Requested

_X_ Electronically through the Court's ECF system

addressed as follows:

Honorable Elizabeth Gonzalez
Eighth Judicial District Court
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155

DATED: May 22, 2017

BRYAN SNYDER

1266682_2