



**APPENDIX TO WRIT PETITION  
VOLUME IV  
PGS. 628-860**

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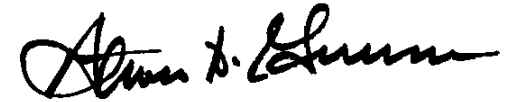
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CLERK OF THE COURT

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*James J. Cotter, Jr.*

DISTRICT COURT

CLARK COUNTY, NEVADA

JAMES J. COTTER, JR., individually and  
derivatively on behalf of Reading International,  
Inc.,

Plaintiff,

v.

MARGARET COTTER, ELLEN COTTER,  
GUY ADAMS, EDWARD KANE, DOUGLAS  
McEACHERN, WILLIAM GOULD, JUDY  
CODDING, MICHAEL WROTONIAK, and  
DOES 1 through 100, inclusive,

Defendants.

and

READING INTERNATIONAL, INC., a Nevada  
corporation;

Nominal Defendant.

T2 PARTNERS MANAGEMENT, LP, a  
Delaware limited partnership, doing business as  
KASE CAPITAL MANAGEMENT, et al.,

Plaintiffs,

vs.

MARGARET COTTER, ELLEN COTTER,  
GUY ADAMS, EDWARD KANE, DOUGLAS  
McEACHERN, WILLIAM GOULD, JUDY  
CODDING, MICHAEL WROTONIAK, CRAIG

CASE NO. A-15-719860-B  
DEPT. NO. XI

Coordinated with:

CASE NO. P-14-082942-E  
DEPT. NO. XI

CASE NO. A-16-735305-B  
DEPT. NO. XI

*Jointly administered*

**[PROPOSED] SECOND AMENDED  
VERIFIED COMPLAINT**

**[Business Court Requested: [EDCR 1.61]**

**[Exempt From Arbitration: declaratory  
relief requested; action in equity]**

3993 Howard Hughes Pkwy, Suite 600  
Las Vegas, NV 89169-5996

**Lewis Roca**  
**ROTHGERBER CHRISTIE**

1 TOMPKINS, and DOES 1 through 100,  
2 inclusive,  
3 Defendants.

4 and

5 READING INTERNATIONAL, INC., a  
6 Nevada corporation,  
7  
8 Nominal Defendant.

9 For his complaint herein, plaintiff James J. Cotter, Jr. hereby alleges the following:

10 **NATURE OF THE CASE**

11 1. This action arises from breaches of fiduciary duty by the individual defendants,  
12 each of whom is a member of the board of directors of Reading International, Inc. ("RDI" or the  
13 "Company"), a public company. In particular and without limitation, Edward Kane ("Kane"),  
14 Guy Adams ("Adams") and Douglas McEachern ("McEachern"), together with Ellen Cotter  
15 ("EC") and Margaret Cotter ("MC") (collectively, the "Interested Director Defendants"), acted to  
16 wrongfully seize control of RDI and to perpetuate that control, to protect and further their personal  
17 financial and other interests, in purposeful derogation of their fiduciary obligations as directors of  
18 RDI. In doing so, they have squandered if not appropriated corporate opportunities, wasted  
19 corporate assets and caused monetary and nonmonetary injury to RDI and its shareholders.

20 2. These director defendants first threatened James J. Cotter, Jr. ("JJC" or "Plaintiff")  
21 with termination as President and Chief Executive Officer ("CEO") of RDI if he failed to resolve  
22 trust and estate litigation with EC and MC on terms acceptable to the two of them and to cede  
23 control of RDI to them. They threatened to terminate JJC on less than forty-eight (48) hours'  
24 notice after EC belatedly provided a purposefully vague agenda for a supposed special meeting.  
25 When they understood that Plaintiff had acquiesced to their demand and had reached an agreement  
26 with EC and MC acceptable to the two of them, Kane, Adams and McEachern did not act on their  
27 termination threat.

28 3. Next, when JJC failed to consummate a resolution of the disputes with EC and MC,  
these director defendants acted on their threat and terminated JJC as President and CEO of RDI.

1 These director defendants acted without undertaking any semblance of a process to warrant  
2 making any decision regarding the status of JJC (or anyone) as President and CEO, and did so in  
3 the face of express admonitions by outside directors Timothy Storey (“Storey”) and William  
4 Gould (“Gould”) that the directors had failed to undertake any process that would warrant making  
5 any decision about the status of the President and CEO of RDI, much less the decision to remove  
6 JJC as President and CEO of RDI. Gould warned the others that, because they had undertaken no  
7 process to warrant even making such a decision, they all could be subject to liability. Storey  
8 called the lack of process a “kangaroo court,” and observed as to the non-Cotter directors that, “as  
9 directors we can’t just do what a shareholder [, meaning EC and MC,] asks.” Not only did these  
10 director defendants precipitously terminate JJC as President and CEO of RDI without undertaking  
11 any process and on purposefully inadequate notice, they pre-empted and aborted an ongoing and  
12 incomplete process that the five non-Cotter directors had put in place in March 2015.

13 4. Immediately following the termination of JJC as President and CEO of RDI, EC  
14 asserted that JJC’s executive employment agreement required him to resign from the RDI Board  
15 of Directors upon the termination of his employment as an executive. That assertion was  
16 erroneous. Gould, who drafted and negotiated that employment agreement, told the RDI Board  
17 and told EC and Craig Tompkins on a separate occasion that it did not require JJC to resign as a  
18 director. On or about June 15, 2016, EC on behalf of the Company sent JJC a letter reiterating the  
19 assertion that he was required to resign as a director upon the termination of his executive  
20 employment. On or about June 18, 2015, the Company issued a Form 8-K which, among other  
21 things, reiterated that assertion. EC took and caused these actions with the approval of if not active  
22 assistance of the other Interested Director Defendants.

23 5. Kane has a decade’s long *quasi*-familial relationship with EC and MC, who call  
24 him “Uncle Ed.” Adams is financially dependent on income from companies and deals that EC  
25 and MC control. What each of Kane, Adams and McEachern did was to choose sides in family  
26 disputes between EC and MC, on one hand, and JJC, on the other hand, which disputes included  
27 certain trust and estate litigation commenced by EC and MC against JJC following the September  
28 2014 passing of their father, James J. Cotter, Sr. (“JJC, Sr.”), particularly regarding voting control



1 of RDI, and included disputes about whether EC and MC would report to their “little brother,”  
2 who succeeded JJC, Sr. as CEO of RDI, or to anyone, as a practical matter.

3 6. EC and MC have at all times acted purposefully to protect and further their own  
4 personal financial and other interests to the detriment of RDI and all of its shareholders other than  
5 them. They regularly sought, and often received, money, benefits, titles, positions and/or  
6 promotions they would not have received but for their status as potential controlling shareholders,  
7 including EC being appointed and compensated as CEO in January 2016 and MC being appointed  
8 and compensated as Executive Vice President-Real Estate Management and Development-NYC  
9 (“EVP-RED-NYC”) in March 2016.

10 7. Since wrongfully seizing control of RDI, each of the Interested Director Defendants  
11 also have engaged in a systematic misuse of the corporate machinery of RDI. They have done so  
12 to preserve and perpetuate their control of RDI. They also have acted to further their own  
13 financial and other interests. Since joining the RDI Board of Directors, defendants Judy Coddling  
14 (“Coddling”) and Michael Wrotniak (“Wrotniak”) also have acted to protect and advance the  
15 personal interests of EC and MC, and their own as well. All such complained of actions were in  
16 derogation of these defendants’ fiduciary duties to RDI and its shareholders.

17 8. The Interested Director Defendants effectively eliminated Plaintiff, Storey and  
18 Gould as functioning members of RDI’s Board of Directors by, among other things, a purported  
19 executive committee of RDI’s Board of Directors. The executive committee (“EC Committee”)  
20 was populated by EC, MC, Kane and Adams. The EC Committee purportedly possesses the full  
21 authority of RDI’s full Board of Directors. Gould has acquiesced to if not cooperated with the  
22 ongoing self-dealing of these five defendants, who forced Storey to “retire” as a director and  
23 added to the Board unqualified persons loyal to EC and MC by virtue of pre-existing personal  
24 friendships, namely, Coddling and Wrotniak.

25 9. EC with the approval if not assistance of other director defendants has withheld and  
26 manipulated board agendas and meetings, including by belatedly providing a vague agenda for the  
27 May 21, 2015 supposed special meeting, and has withheld and manipulated minutes of Board of  
28

1 Directors meetings, including the supposed meetings of May 21 and 29 and June 12, 2015. They  
2 did so in an effort to conceal their fiduciary breaches and avoid liability for such breaches.

3 10. On or about September 17, 2015, EC and MC acted to exercise a supposed option  
4 claimed held by the estate of JJC, Sr. (the "Estate"), of which they are executors, to acquire  
5 100,000 shares of RDI Class B voting stock. On or about September 21, 2015, Kane and Adams,  
6 as directors and as members of the Compensation Committee, authorized the request of EC and  
7 MC that the Estate be allowed to exercise that supposed option. In doing so, Kane and Adams  
8 breached their fiduciary duties, including for the reasons alleged herein.

9 11. EC on or about October 5, 2015 proposed adding Coddington, a close and long-  
10 standing friend of the mother of the Cotters, Mary Cotter, with whom EC lives, to RDI's Board of  
11 Directors. Without performing or causing competent, basic due diligence, Kane, Adams and  
12 McEachern agreed. So did Gould, though he had learned of Coddington only days prior. Coddington  
13 has no expertise in either of RDI's principal business segments, cinema operations and real estate  
14 development, and has no public company corporate governance expertise. Plaintiff is informed  
15 and believes that Coddington was selected because she is expected to be loyal to EC and MC.

16 12. EC and MC determined that Storey would not be nominated to stand for reelection  
17 as a director at the 2015 ASM, which had been set for November 10, 2015. Plaintiff is informed  
18 and believes that this decision was made in part because Storey had insisted that the RDI Board of  
19 Directors act to protect and further the interests of all shareholders, not just EC and MC. Kane,  
20 Adams and McEachern, purporting to act as a one time special nominating committee, agreed to  
21 and implemented the decision of EC and MC to not nominate Storey to stand for reelection as a  
22 director at the 2015 ASM. Adams and/or McEachern pressured Storey to "retire." The supposed  
23 nominating committee, acting at the direction and request of EC and MC, then selected Wrotniak  
24 to replace Storey. Wrotniak does not have expertise in either of RDI's principal business  
25 segments, cinema operations and real estate development, and has no public company corporate  
26 governance experience. Wrotniak's wife is a long-time, close personal friend of MC. Plaintiff is  
27 informed and believes that Wrotniak was chosen because MC and EC expect him to be loyal to  
28 them.

1           13.     As an integral part of their scheme to seize control of RDI and to perpetuate their  
2 control of RDI to further their personal financial and other interests, EC and MC systematically  
3 failed to make timely and accurate disclosures and SEC filings they were required to make, and  
4 systematically made materially misleading if not inaccurate disclosures, including as alleged  
5 herein. EC and MC, with the active assistance or at least knowing acquiescence of Kane, Adams,  
6 McEachern and Gould, as well as Coddington and Wrotniak after they became RDI directors, also  
7 caused the Company to make materially misleading if not inaccurate disclosures, including in the  
8 Proxy Statements issued by the Company in connection with the 2015 Annual Shareholders  
9 Meeting and the 2016 Annual Shareholders Meeting, and in Form 8-Ks issued regarding the  
10 matters alleged herein, including as alleged herein.

11           14.     Promptly following the termination of JJC as President and CEO, EC was  
12 appointed interim CEO. EC selected Korn Ferry as the outside search firm the Company would  
13 use to conduct the search for a permanent CEO. A stated rationale for that selection was that Korn  
14 Ferry would employ a proprietary candidate evaluation process to evaluate the finalists. The three  
15 finalists each were to be interviewed by the full board of directors. EC appointed MC, McEachern  
16 and Gould as members of the CEO search committee. Members of the search committee and  
17 certain executives selected by EC and MC provided input to Korn Ferry, which prepared a  
18 document listing specifications which were used to identify CEO candidates. Months later, just  
19 prior to initial interviews of CEO candidates, EC allegedly announced that she was a candidate to  
20 be President and CEO and resigned from the search committee, for which she had acted as  
21 chairperson. McEachern and Gould allowed MC to remain on the committee and proceeded with  
22 candidate interviews. After interviewing EC, however, they agreed with MC to abort the search  
23 process and agreed to have Korn Ferry not perform the proprietary candidate evaluations of  
24 finalists it had been engaged to perform and not to present the three finalist candidates to the full  
25 board to be interviewed. MC, McEachern and Gould presented EC to the full Board of Directors  
26 as the choice for CEO, which the individual director defendants approved with little if any  
27 deliberation, after having not participated in nor been kept apprised of CEO search activities for  
28 months prior.

1           15.     On or about March 10, 2016, MC was appointed EVP-RED-NYC. In that position,  
2 MC became the senior executive at RDI responsible for the development of its valuable New York  
3 City properties often referred to as Union Square and Cinemas 1, 2 & 3 (the "NYC Properties").  
4 However, MC has no real estate development experience. She is demonstrably unqualified to hold  
5 that senior executive position. As EVP-RED-NYC, MC was awarded a compensation package  
6 that includes a base salary of \$350,000 and a short-term incentive target bonus of \$105,000 (30%  
7 of her base salary), and was granted a long-term incentive of a stock option for 19,921 shares of  
8 Class A Common Stock and 4,184 restricted stock units under the Company's 2010 Stock  
9 Incentive Plan. Additionally, the Compensation Committee, consisting of Adams, Kane and  
10 Coddling, and the Audit and Conflicts Committee, comprised of Kane, McEachern and Wrotniak,  
11 in or about March 2016 each approved so-called "additional consulting fee compensation" of  
12 \$200,000 to MC. In effect, MC was given a \$200,000 gift. The Compensation Committee also  
13 recommended and the RDI Board of Directors (meaning all of the individual director defendants)  
14 also approved payment of \$50,000 to Adams for what subsequently was described as  
15 "extraordinary services provided to the Company and devotion of time in providing such  
16 services." These after-the-fact payments in effect were gifts.

17           16.     On or about May 31, 2016, third parties unrelated to the Cotters made an  
18 unsolicited all cash offer to purchase all of the outstanding stock of RDI at a purchase price of \$17  
19 per share. That was approximately thirty-three percent (33%) in excess of the prices at which RDI  
20 stock was trading at the time. None of the individual director defendants engaged independent  
21 counsel or a financial advisor to advise them with respect to the offer. Nor did they undertake any  
22 other independent actions to make an informed, good faith determination of how to respond to the  
23 unsolicited offer. Instead, they deferred to EC, who allowed the response date in the offer to pass  
24 and who subsequently reported to the full Board of Directors orally that internal management had  
25 generated a supposed valuation of the Company, which valuation pegged the value of the  
26 company at well in excess of both the price at which RDI stock traded and the above market price  
27 the third parties offered to buy all outstanding RDI stock. The individual director defendants  
28 agreed that the offer was inadequate and agreed to not pursue the offer.

**PARTIES**

17. Plaintiff James J. Cotter, Jr. (JJC) is and at all times relevant hereto was a shareholder of RDI. JJC also has been a director of RDI since on or about March 21, 2002. Involved in RDI management since mid-2005, JJC was appointed Vice Chairman of the RDI board of directors in 2007 and President of RDI on or about June 1, 2013. He was appointed CEO by the RDI Board on or about August 7, 2014, immediately after JJC, Sr. resigned from that position. He is the son of the late James J. Cotter, Sr. (JJC, Sr.) and the brother of defendants MC and EC. JJC presently owns 770,186 shares of RDI Class A non-voting stock and options to acquire another 50,000 shares of RDI Class A non-voting stock, and is co-trustee and beneficiary of the James J. Cotter Living Trust, dated August 1, 2000, as amended (the "Trust"), which owns 2,115,539 shares of RDI Class A (non-voting) stock and 1,123,888 shares of RDI Class B (voting) stock. The Trust became irrevocable upon the passing of JJC, Sr. on September 13, 2014.

18. Defendant Margaret Cotter (MC) is and at all times relevant hereto was a director of RDI. MC is engaged in trust and estate litigation against JJC, by which she seeks, among other things, to invalidate a trust document as part of an overall effort by MC and EC to, among other things, procure control of RDI Class B stock sufficient to elect RDI's directors. MC became a director of RDI on or about September 27, 2002. MC is the owner and President of OBI, LLC, a company that provides theater management services to live theaters indirectly owned by RDI through Liberty Theatres, of which MC is President. Commencing in or before the Fall of 2014, MC sought to become an employee of RDI. In particular, MC sought to be the senior person at RDI responsible for development of highly valuable real estate in New York City owned directly or indirectly by RDI, *i.e.*, the NYC Properties. MC opposed the hiring of a senior executive experienced in real estate development. EC with the approval and active assistance of the other individual defendants on or about March 10, 2016, made MC EVP-RE-NYC. As such MC is the senior person at RDI directly responsible for development of the NYC Properties. MC had and has no real estate development experience.

19. Defendant Ellen Cotter (EC) is and at all times relevant hereto was a director of RDI. EC is engaged in trust and estate litigation against JJC, by which she seeks, among other

1 things, to invalidate a trust document as part of an overall effort by MC and EC to, among other  
2 things, procure control of RDI Class B voting stock sufficient to elect RDI's directors. She  
3 became a director of RDI on or about March 13, 2013. EC was a senior executive at RDI  
4 responsible for the day-to-day operations of its domestic cinema operations. EC was appointed  
5 interim CEO on or about June 12, 2015 and was appointed CEO in January 2016.

6 20. Defendant Edward Kane (Kane) is and at all times relevant hereto was an outside  
7 director of RDI. Kane has been a director of RDI since approximately October 15, 2009. By  
8 Kane's own admission, he was made a director of RDI because he was a friend of JJC, Sr., the  
9 now deceased father of JJC, EC and MC. By Kane's own admission, he neither had nor has skills  
10 or expertise to add value as a director of RDI, except possibly with respect to certain tax matters.  
11 Kane has sided with EC and MC in their family disputes with Plaintiff, launching vicious *ad*  
12 *hominem* attacks against those such as Gould who have expressed unfavorable opinions relating to  
13 either or both MC and EC, and lecturing JJC about how he (Kane) is implementing Corleone  
14 ("Godfather") style family justice in dealing with JJC. Nevertheless, Kane has acknowledged that  
15 JJC is the person most qualified to be CEO of RDI. Kane sold all of the RDI options he then  
16 owned on or about May 27, 2014.

17 21. Defendant Guy Adams (Adams) is and at all times relevant hereto was an outside  
18 director of RDI. Adams became a director of RDI on or about January 14, 2014. Almost all of  
19 Adams' recurring income is paid to him by Cotter family businesses over which EC and MC  
20 exercise control. For that reason, among others, Adams is financially dependent on EC and MC.  
21 For those reasons and others, including that Adams has a financial interest in assets controlled  
22 directly or indirectly by EC and/or MC, Adams was and is not a disinterested director for the  
23 purposes of any decision to terminate JJC as President and CEO of RDI or any other decision of  
24 interest to EC and/or MC, including matters relating to their compensation. Adams sold all of the  
25 RDI options he then owned on or about March 26, 2015. He was paid \$50,000 for reported  
26 "extraordinary services provided to the Company and devotion in time in providing such services"  
27 in or about March 2016, and had been granted options only a few months earlier. Until he  
28 resigned in or about May 2016, Adams was at all relevant times a member of the RDI Board of

1 Directors Compensation Committee.

2 22. Defendant Douglas McEachern (McEachern) is and at all times relevant hereto was  
3 an outside director of RDI. McEachern became a director of RDI on or about May 17, 2012.  
4 McEachern acted to protect and preserve his personal interests, and chose the side of EC and MC  
5 in their family disputes with JJC, including by agreeing as an RDI director to threaten and to  
6 terminate JJC as President and CEO of RDI, and thereafter by misusing his position as a director  
7 to protect and further the personal interests of EC and MC, as well as his own, purposefully acting  
8 in ways he knew were detrimental to RDI and its public shareholders, including by pressuring  
9 Storey to resign from RDI's Board of Directors.

10 23. Defendant William Gould (Gould) is and at all times relevant hereto was an outside  
11 director of RDI. Gould was appointed a director on or about October 15, 2004. Gould approved  
12 minutes for the board meetings at which the subject was the termination of JJC as President and  
13 CEO, which minutes Gould knew to contain inaccuracies. Gould failed to cause the Company to  
14 correct the materially misleading if not inaccurate Form 8-K filed on or about June 18, 2015.  
15 Gould effectively abdicated his responsibilities as a director, including by acceding to the EC  
16 Committee, agreeing to the appointment of unqualified persons to the RDI board following  
17 effectively no deliberation by him and by participating in the CEO search, which was aborted if  
18 not manipulated.

19 24. Defendant Judy Coddling (Coddling) at all times relevant hereto was and is an  
20 outside director of RDI. Coddling became a director of RDI on or about October 5, 2015.  
21 Coddling supposedly was elected to fill a board seat that had been vacant since August 2014.  
22 Coddling has never served as the director of a public company and possesses no personal  
23 experience in either of RDI's principal businesses, real estate development and cinemas. Plaintiff  
24 is informed and believes that Coddling was selected by EC and added to the RDI Board of  
25 Directors because of Coddling's long-standing personal relationship with Mary Cotter, with whom  
26 EC now lives. Coddling as a director of RDI has acted to advance and protect the personal interests  
27 of EC and MC, to the detriment of other RDI shareholders, including by voting to make EC CEO  
28 after the CEO search process was aborted, by voting to make MC EVP-RED-NYC, by voting to

1 provide MC with what amounted to a \$200,000 gift, and by her acts and omissions in response to  
2 an offer by a third-party to purchase all of the stock of RDI at a cash price above which it trades in  
3 the open market.

4 25. Defendant Michael Wrotniak (Wrotniak) at all times relevant hereto was and is an  
5 outside director of RDI. Wrotniak became a director of RDI on or about October 12, 2015.  
6 Wrotniak was elected to fill a board seat that had been vacated by the supposed retirement of  
7 former RDI director Tim Storey on October 11, 2015, which so-called retirement in fact was  
8 precipitated by EC and MC, with the supposed special nominating committee giving Storey the  
9 choice of resigning and receiving a severance package or simply not being nominated to stand for  
10 reelection. Wrotniak has never served as a director of a public company and possesses no  
11 expertise in either of RDI's principal businesses, real estate development and cinemas. Plaintiff is  
12 informed and believes that Wrotniak was added to the RDI Board of Directors because of  
13 Wrotniak's wife's long-standing close personal relationship with MC. Wrotniak as a director of  
14 RDI has acted to advance and protect the personal interests of EC and MC, to the detriment of  
15 other RDI shareholders, including by voting to make MC EVP-RED-NYC, by voting to provide  
16 MC with what amounted to a \$200,000 gift, by voting to make EC CEO after the CEO search  
17 process was aborted, and by his acts and omissions in response to an offer by a third-party to  
18 purchase all of the stock of RDI at a price above which it trades in the open market.

19 26. Nominal defendant Reading International, Inc. (RDI) is a Nevada corporation and  
20 is, according to its public filings with the United States Securities and Exchange Commission (the  
21 "SEC"), an internationally diversified company principally focused on the development,  
22 ownership and operation of entertainment and real estate assets in the United States, Australia and  
23 New Zealand. The Company operates in two business segments, namely, cinema exhibition,  
24 through approximately 58 multiplex cinemas, and real estate, including real estate development  
25 and the rental of retail, commercial and live theater assets. The Company manages world-wide  
26 cinemas in the United States, Australia and New Zealand. RDI has two classes of stock, Class A  
27 stock held by the investing public, which stock exercises no voting rights, and Class B stock,  
28 which is the sole voting stock with respect to the election of directors. An overwhelming majority



1 (approximately eighty percent (80%)) of the Class A stock is legally and/or beneficially owned by  
2 shareholders unrelated to JJC, EC and MC. Approximately seventy percent (70%) of the Class B  
3 stock is subject to disputes and pending trust and estate litigation in California between EC and  
4 MC, on the one hand, and JJC, on the other hand, and a probate action in Nevada. Of the Class B  
5 stock, approximately forty-four percent (44%) is held in the name of the Trust. RDI is named only  
6 as a nominal defendant in this derivative action.

7 27. The true names and capacities, whether individual, corporate, associate or  
8 otherwise, of Defendants named and identified herein as Does 1 through 100, inclusive, are  
9 currently unknown to Plaintiff. Plaintiff, therefore, sues said Defendants by such fictitious names  
10 and will amend his Complaint to show their true names and capacities upon ascertaining the same.  
11 Upon information and belief, each of the Defendants sued herein as Doe has some responsibility  
12 for the damages arising as a result of the matters herein alleged.

### 13 **ALLEGATIONS COMMON TO ALL CLAIMS**

#### 14 **General Background**

15 28. Since approximately 2000, and until he resigned as Chairman and CEO of RDI on  
16 or about August 7, 2014, James J. Cotter, Sr. (JJC, Sr.) was the CEO and Chairman of the Board  
17 of Directors of RDI. Additionally, JJC, Sr. (according to RDI filings with the SEC, among other  
18 things) through the Trust controlled approximately seventy percent (70%) of the Class B voting  
19 stock of RDI. As such, JJC, Sr. unilaterally selected and elected the board of directors.

20 29. For all intents and purposes, JJC, Sr. ran the Company as he saw fit, without  
21 meaningful oversight or input from the board of directors. According to Kane, JJC, Sr. "did not  
22 seek directors that could add significant value but sought out friends to fill out the 'independent'  
23 member requirements." Kane himself acted as if his job as a director was to protect and further  
24 the interests of his life-long friend and benefactor, JJC, Sr., not to protect and further the interests  
25 of RDI and its shareholders. With the passing of JJC, Sr., Kane also acknowledged that it was  
26 "time to change this approach and appoint individuals that could offer solid advice and counsel,  
27 such as some NYC real estate people and/or NYC people with political know-how that we might  
28 need if we are to develop our valuable assets there."

1           30. Recognizing JJC, Sr.'s control of the Company, the board asked that he provide  
2 them with a succession plan. He did so in or about December 2006, and the RDI board  
3 implemented it. The succession plan was to have JJC assume JJC, Sr.'s position when JJC, Sr.  
4 retired or passed, as the case may be.

5           31. Since 2005, JJC was involved in most RDI executive management meetings and  
6 privy to most significant internal senior management memos. JJC was appointed Vice Chairman  
7 of the RDI board in 2007. The RDI board appointed JJC President of RDI on or about June 1,  
8 2013, which responsibilities he filled without objection by the RDI board of directors.

9           32. On or about September 13, 2014, JJC, Sr. passed. Soon thereafter, trust and estate  
10 litigation was commenced by his daughters, MC and EC, against JJC, which litigation involved  
11 the issue of whether MC or JJC, or both, would serve as trustees of the voting trust that controlled  
12 or would control the RDI voting stock previously controlled by JJC, Sr., among other things.

13           33. As President and CEO of RDI, JJC alienated his sisters because he acted to protect  
14 and further the interests of RDI and all of its shareholders, repeatedly rebuffing the efforts of MC  
15 and EC to advance their own interests, as well as efforts by Kane and others to protect and further  
16 the interests of MC and EC, as well as their own interests, all to the detriment of the Company and  
17 its other shareholders. For example, JJC questioned and/or rejected purported expenses EC and  
18 MC sought to have RDI pay. In one instance, EC attempted to charge RDI for an expensive  
19 Thanksgiving dinner with her mother, sister and sister's children, which effort Plaintiff rejected.  
20 In another instance, MC sought to charge RDI for certain expenses of her father's funeral.

21           34. JJC insisted that RDI employ an executive with experience in real estate  
22 development to be the senior person at RDI overseeing RDI's domestic real estate development  
23 business, including the NYC Properties. MC resisted. MC wanted to be employed by RDI and to  
24 secure lucrative compensation and/or benefits she otherwise would not receive. MC wanted to be  
25 the senior person at RDI responsible for development of the NYC Properties. However, she is  
26 unqualified to do so. MC has no real estate development experience.

27           35. Frustrated by Plaintiff's refusal as President and CEO to accede to their demands  
28 for titles, positions, promotions, employment contracts and money from RDI, and with MC in

1 jeopardy of losing her lucrative consulting arrangement to manage live theater operations due to  
2 the Orpheum Theatre debacle described herein, MC and EC agreed to act together and acted to  
3 protect and advance their personal interests by seizing and acting to perpetuate control of RDI. To  
4 that end, EC secured the agreement of defendants Kane, Adams and McEachern to choose sides in  
5 their family dispute with JJC.

6 36. Kane, Adams and McEachern threatened Plaintiff with termination unless he  
7 resolved his disputes with EC and MC on terms dictated by the two of them. When they  
8 understood that Plaintiff had acquiesced, they relented. When they learned that he had not  
9 acquiesced, they fired Plaintiff as President and CEO of RDI and thereafter acted to perpetuate  
10 their control of RDI.

11 **EC and MC Act To Further Their Own Interests; Kane Assists and Does Too**

12 37. Soon after JJC, Sr. passed, EC sought an employment agreement and a promotion.  
13 Plaintiff is informed and believes that EC did so in part because she was fearful that JJC, acting to  
14 protect and further the interests of the Company, would fire her, notwithstanding the fact that he  
15 had never expressed any intention of doing so. Soon after JJC, Sr. passed, EC also sought a raise.  
16 The claimed impetus for the requested raise was to qualify for a loan on a Laguna Beach,  
17 California condominium.

18 38. Kane, who has a decade's long quasi-familial relationship with each of MC and  
19 EC, who call him "Uncle Ed," acted to ensure that EC would obtain the loan she sought, described  
20 above. To that end, Kane, purporting to act as chairman of the RDI Compensation Committee,  
21 signed a letter on RDI letterhead to EC's lender that represented that the Committee "anticipate[d]  
22 a total cash compensation increase of no less than 20%" for EC "effective no later than January 1,  
23 2015." Despite JJC pointing out that sending such a letter to EC's bank was inappropriate, EC  
24 executed the letter on behalf of Kane.

25 39. Also, in October 2014, Kane prompted the RDI board to provide EC a "bonus" of  
26 \$50,000, on account of a supposed error by the Company in connection with the issuance of RDI  
27 stock options EC had exercised in 2013. No other similarly situated RDI executive received such  
28 a "bonus," which was tantamount to a gift or other unearned compensation given to EC from the

1 coffers of RDI. With EC as interim CEO and now CEO, the Company, EC and McEachern have  
2 taken the opposite position with JJC.

3 40. Separately, commencing shortly after JJC, Sr.'s death on September 13, 2014,  
4 Kane began pressing Plaintiff as President and CEO to recommend to the RDI board, and thereby  
5 effectively approve, increases in directors' fees and consideration paid to Kane and other outside  
6 board members. Kane and the other outside directors were successful in increasing their  
7 compensation, including by way of supposed one-time and/or special fee awards, including as  
8 alleged herein.

9 **MC And EC Bring Cotter Family Disputes To RDI**

10 41. Notwithstanding the fact that Plaintiff had been President of RDI since 2013,  
11 notwithstanding the fact that JJC, Sr. and the RDI board had implemented a succession plan  
12 pursuant to which Plaintiff would succeed JJC, Sr. as CEO of RDI after substantial preparation,  
13 and notwithstanding that JJC, Sr.'s testamentary disposition memorialized to EC and MC his  
14 intention that JJC serve as President of RDI, MC and EC resisted and sought to avoid reporting to  
15 JJC. For example, EC in October 2014 sought to have EC and MC report to an executive  
16 committee, not Plaintiff as CEO. Later, when Plaintiff as CEO of RDI sought to engage in  
17 substantive communications with MC about the live theater business for which she was  
18 responsible, MC refused to have substantive communications with Plaintiff about such matters.

19 42. The non-Cotter board members, faced with the personal disputes MC and EC had  
20 with JJC, including the pending trust and estate litigation, took steps to protect and enhance their  
21 personal interests. The RDI board of directors on January 15, 2015 determined to purchase a  
22 directors and officers insurance policy (which it never had before) with a limit of \$10 million. At  
23 the time, they also determined that stock option grants to individual directors made previously  
24 would vest immediately and further determined that January 15, 2015 would be the date on which  
25 to establish the stock price for option purposes.

26 43. In a private session of the non-Cotter directors on January 15, 2015, they discussed  
27 and agreed upon a course of action put forth by EC and MC which initially was proposed to be the  
28 first two paragraphs quoted below, but after discussion became all three. They resolved and

1 approved, with Plaintiff, EC and MC abstaining, as follows:

2 “The CEO [JJC,] cannot terminate the employment of Ellen Cotter unless  
3 a majority of the independent directors concur with the CEO’s recommendation to  
4 terminate Ellen Cotter;

5 The CEO [JJC,] cannot terminate the existing Theater Management  
6 Agreement of Ms. Margaret Cotter unless a majority of the independent directors  
7 concurs with the CEO’s recommendations to terminate such Theater Management  
8 Agreement; and

9 The CEO [JJC,] cannot be terminated without the approval of the  
10 majority of the independent directors.”

11 **JJC Succeeds As President And CEO; MC And EC Continue To Object**

12 44. Plaintiff’s work as CEO was recognized as successful by the stock market. RDI  
13 stock was trading at \$8.17 per share when Plaintiff became CEO but, by approximately the end of  
14 2014, had traded as high as \$13.26 per share and, in the Spring of 2015, traded at over \$14.45 per  
15 share.

16 45. One analyst described the successes of JJC as President and CEO as follows:

17 **Management Catalysts**

18 RDI has historically suffered from a control discount. The dual class  
19 structure created a situation where the Cotter family owned approx. 30%  
20 of outstanding shares, but 70% of class B voting stock. James Cotter Sr.,  
21 the longtime CEO, made little effort to promote the company and was  
22 slow to monetize assets and unlock the value even though he did acquire  
23 assets smartly and did a good job of operating the business. Over the past  
24 two years, asset monetization has moved ahead and seems to be a sign of  
25 things to come. In early August, James Cotter, Sr., resigned from serving  
26 as the Company’s Chairman and CEO and recently passed away. Cotter’s  
27 son Jim has taken over the CEO position. We think that Jim has already  
28 been a positive influence in terms of value realization during the last year.  
We believe that Jim was instrumental in pushing not only the sales of  
important Australian assets, but also the share buyback. He is also seeking  
other ways to increase value (e.g. considering ways to further monetize the  
Angelika brand). We expect the stock will move much closer to fair value  
once definitive announcements are made around the New York City assets  
and other smaller asset monetization announcements in the next 12  
months. The two New York assets discussed have appreciated  
significantly in recent years and are a part of the value here. It is also  
worth noting that RDI also owns other valuable, underutilized real estate  
(including Minetta Lane Theater, Orpheum Theater, Royal George in  
Chicago, etc.) that could ultimately be redeveloped and create incremental  
value for shareholders.

46. After meeting JJC in person in October 2014, one large stockholder commented, “I

1 came away from our meeting with a firm view that you care about shareholders and that both you  
2 and us will be nicely rewarded over time...I intend to remain a long-term partner. I am confident  
3 that if you continue to buy back stock and the investment community begins to believe that you, as  
4 a leader, will act in the best interests of shareholders, the stock price will be considerably higher.”  
5 The stock price did move considerably higher.

6 47. On June 1, 2013, when JJC was appointed President of RDI, the stock price was  
7 only \$6.08 per share. By May 31, 2015, The Street Ratings upgraded their recommendation of  
8 RDI to a “buy” or “purchase.” On June 4, 2015, RDI Class A stock traded in the public  
9 marketplace as high as \$14.45 per share.

10 48. MC and EC objected to Plaintiff’s on-going, successful efforts as President and  
11 CEO of RDI which, though in the best interests of all RDI shareholders, including the public non-  
12 Cotter family shareholders, were viewed by MC and EC as not in their personal interests. MC and  
13 EC have preferred that the price at which RDI Class A stock traded be artificially depressed and  
14 preferred that the conduct of the Board and senior management not be scrutinized.

15 49. By their actions and statements, including but not limited to their demands for  
16 additional compensation and employment agreements, MC and EC made clear that their personal  
17 interests were paramount, and that they would act to protect and further their personal interests, to  
18 the detriment of the interests of RDI and its other shareholders.

19 **JJC Complies With Board Processes, MC And EC Prompt The Termination of Such**  
20 **Processes**

21 50. In March 2015, the non-Cotter directors appointed director Storey to function as  
22 their representative or ombudsman to work with JJC as CEO, including by acting as a facilitator  
23 with EC and MC.

24 51. On behalf of the non-Cotter directors, one or both of Gould and Storey advised MC  
25 and EC and Plaintiff that the process the non-Cotter directors had put in place, involving director  
26 Storey as ombudsman, would continue through June 2015, at which time an assessment would be  
27 made of the situation, including in particular the extent to which each of the three of them had  
28 cooperated in the process and had undertaken to improve their working relationships and to

1 sustain improved working relationships.

2 52. From that point forward, Plaintiff worked with director Storey in the manner Storey  
3 on behalf of the non-Cotter directors had requested. However, MC and EC did not, including as  
4 otherwise averred herein, including by refusing to do certain things requested by Plaintiff, which  
5 Storey had agreed were in the best interests of RDI. They also complained to Kane about Storey.

6 53. Although MC for months had refused to have substantive discussions with Plaintiff  
7 about the live theater business operations for which she was responsible, and for months had failed  
8 and refused to produce even the most rudimentary of business plans, she nevertheless pushed to be  
9 provided an employment agreement with RDI. For example, on May 4, 2015, by which time the  
10 Orpheum theater debacle had come to light, and by which time she had provided no business plan  
11 whatsoever, she emailed Plaintiff, stating "any idea when this employment agreement of mine that  
12 you have been working on for months will be presented?"

13 **The Outside Directors Demand and Receive Money and Stock Options**

14 54. In the same time frame, the non-Cotter directors were seeking additional  
15 compensation. In particular, Kane pushed Plaintiff to provide all non-Cotter directors other than  
16 director Storey an extra \$25,000 for the first six months of 2015, with the understanding "that at  
17 year-end we will be asking for an additional payment."

18 55. With respect to director Storey, who resides in New Zealand and had taken no  
19 fewer than a half dozen trips to Los Angeles in furtherance of his role as the representative or  
20 ombudsman of the non-Cotter directors in interfacing with Plaintiff, on the one hand, and MC and  
21 EC, respectively, on the other hand, Kane's proposal was that Storey receive an additional \$75,000  
22 for the first six months of 2015, in recognition of the ongoing time and effort Storey was  
23 expending as the representative or ombudsman for the non-Cotter directors.

24 56. Plaintiff advised Kane that he had some reservations about the additional  
25 compensation Kane proposed providing to the non-Cotter directors.

26 **MC's Orpheum Theatre Debacle Puts Her In Jeopardy**

27 57. RDI's Proxy Statement filed with the SEC in connection with the annual meeting  
28 of RDI stockholders that occurred in 2014 described MC's role in relevant part as "the President

1 of Liberty Theatres, the subsidiary through which we own our live theaters. [MC] manages the  
2 real estate which houses each of four live theaters [including the one which is the principle source  
3 of revenue, the Orpheum Theatre,] [and as such] secures leases, manages tenancies, oversees  
4 maintenance and regulatory compliance on the properties. . . .”

5 58. MC’s diligence and candor, or lack of one or both, were called into question by her  
6 handling of the relationship with the Stomp Producers. The Stomp Producers, the tenant at the  
7 RDI owned Orpheum Theatre and the source of a majority of RDI’s live theater revenues, gave,  
8 notice on April 23, 2015 of termination of the lease for cause.

9 59. MC had been aware of the alleged issues raised by the Stomp Producers for  
10 months. In particular, by email and correspondence dated February 6, 2015, the Stomp producers  
11 wrote to MC and complained “about the maintenance and upkeep of the Orpheum Theatre.” They  
12 further stated in their February 6, 2015 letter to MC as follows:

13 “Nothing in this letter is new to you as we and our employees have been in almost  
14 constant contact about recurring problems at the theater, but there is now an  
15 urgent need to attend to this matter on an immediate and comprehensive, rather  
than piecemeal, bases . . . .”

16 60. Prior to receipt of the April 27, 2015 notice of termination, MC failed to disclose  
17 the February 6, 2015 letter or the substance of it or that the Stomp Producers told MC on April 9,  
18 2015 that they were going to vacate the theater or even the situation with the Stomp Producers  
19 generally to Plaintiff, to the Company’s General Counsel or to any outside member of the RDI  
20 board of directors. In doing so, she breached her fiduciary obligations as a director.

21 61. Upon learning of the Stomp Producer’s notice to terminate, director Gould stated an  
22 assessment to the effect that MC’s handling of the situation (independent of the merits or lack of  
23 merits of the claims of the Stomp Producers), including not notifying anyone about the risk that the  
24 Company could lose a material portion of its live theater business income, could be grounds for  
25 termination.

#### 26 **Kane Chooses Sides in a Family Dispute**

27 62. Responding to complaints by EC and MC about Storey, Kane concluded that JJC  
28 had allowed Storey to come between him and his sisters. Kane chose the sisters’ side in their



1 disputes with JJC. Kane communicated privately with Adams about terminating JJC as President  
2 and CEO of RDI.

3 63. Kane's quasi-familial relationship and visceral support of MC and EC has been  
4 evidenced by, among other things, stunning *ad hominem* invectives directed at directors Gould and  
5 Storey, as well as by rants to JJC about "The Godfather" and the Corleone family from that series  
6 of movies, even including a suggestion that termination of JJC would be analogous to the murder  
7 of someone disrespecting a Corleone family member.

8 **Adams Is Beholden To MC And EC**

9 64. In or about 2007 or 2008 (according to Adams' own sworn testimony in a recent  
10 divorce proceeding), Adams' business of an activist investor, by which he invested monies he  
11 raised privately, failed after he lost approximately seventy percent (70%) of the monies invested  
12 with him. Since that time, Adams has been unsuccessful in reviving that business and, for all  
13 intents and purposes, has been unemployed. He has described it as a "sabbatical."

14 65. EC secured Adams' agreement to serve as interim CEO of RDI after termination of  
15 JJC. Holding that position would be of value to Adams in terms of any additional compensation  
16 he would receive.

17 66. On or about July 10, 2013, Adams entered into an agreement whereby Adams was  
18 to receive, among other things, cash compensation of \$1,000 per week from JC Farm Management  
19 Inc. ("JC Farm"), a private company JJC, Sr. owned, as well as carried interests in certain real  
20 estate projects, including one by the name of Shadow View. Adams has been paid and continues  
21 to be paid the \$1,000 per week. Together with his income from RDI, those monies are the monies  
22 Adams needs and uses to pay for his day-to-day expenses. Adams also received the carried  
23 interests. The value of Adams' carried interests in those real estate projects including Shadow  
24 View, including whether it will be monetized and the extent to which it will be monetized for the  
25 benefit of Adams, like JC Farm, is contended by MC and EC to be the controlled by the estate of  
26 JJC, Sr., of which MC and EC presently are the executors.

27 67. Based on information provided by Adams in sworn statements in a recent divorce  
28 proceeding, the \$1000 per month together with other amounts paid to him by Cotter entities over

1 which EC and MC exercise control or claim to exercise control amounted to over half (50%) of  
2 Adam's (claimed approximate \$90,000) income in 2013, at a minimum, and possibly amounted to  
3 over eighty percent (80%) of that income.

4 68. Thus, Adams is financially dependent on MC and EC. Practically, Adams has little  
5 choice if any but to accommodate and advance the personal interests of MC and EC, including by  
6 helping them seize, consolidate and perpetuate control of RDI, including as alleged herein.

7 69. For such reasons, Adams was and is not independent generally, and was and is  
8 neither independent nor disinterested with respect to matters involving the Cotters, including the  
9 disputes between MC and EC, on one hand, and JJC on the other, the decision whether to fire JJC,  
10 and compensation and employment decisions regarding EC and MC.

11 70. In or about March 26, 2015, Adams sold all RDI options he then had, including  
12 options he had been granted only a few months earlier. He apparently failed to disclose that he  
13 owned RDI options in his divorce proceedings.

14 71. After Adams' financial dependence on income from Cotter-controlled companies  
15 was disclosed in this action, director defendant Gould acknowledged that Adams was not  
16 independent for purposes of decisions regarding compensation of any of the Cotters, and Adams,  
17 on or about May 14, 2016 resigned from the RDI Board of Directors Compensation Committee.

18 **Defendants Other Than Gould Threaten Plaintiff With Termination If He Fails to Resolve**  
19 **Disputes With EC and MC on Terms Dictated By Them**

20 72. On Tuesday, May 19, 2015, EC distributed a purported agenda for an RDI board of  
21 directors meeting scheduled for Thursday, May 21, 2015. The first action item on the agenda was  
22 entitled "Status of President and CEO[.]" which in fact was the agenda item to raise an issue  
23 previously never discussed at an RDI Board of Directors meeting, namely, termination of JJC as  
24 President and CEO of RDI. EC purposefully had not previously distributed the agenda earlier. EC  
25 purposefully chose the phraseology "status of President and CEO." She did both to conceal the  
26 fact that the meeting was specially called to concern the termination of JJC as President and CEO.  
27 The agenda was untimely and deficient.

28 73. Prior to May 19, 2015, each of Adams, Kane and McEachern communicated to EC

1 and/or between or among themselves their respective agreement to vote as RDI directors to  
2 terminate JJC as President and CEO of RDI.

3 74. In the face of objections by directors Gould and/or Storey that the non-Cotter  
4 directors had not undertaken an appropriate process to make any decision regarding whether or not  
5 to terminate the President and CEO of RDI, and a request that the non-Cotter directors meet before  
6 the scheduled May 21 meeting, Kane provided a visceral response to the effect that the outside  
7 directors did not need to meet, acknowledging the agreement to vote and admitting that even the  
8 pretense of process would not be undertaken because “the die is cast.”

9 75. EC and Adams previously had hired counsel ostensibly representing RDI, Akin  
10 Gump, and had that counsel attend the May 21 board meeting at which the first and only item  
11 discussed was termination of JJC as President and CEO.

12 76. Faced with a clear record that the non-Cotter directors had failed to undertake any  
13 process, much less an appropriate process, to make a decision regarding whether to terminate JJC  
14 as President and CEO, Adams sought to have a discussion about a later item on the agenda that  
15 arguably related to JJC’s performance. Gould objected. JJC recognized that Adams, Kane and  
16 McEachern appeared to have previously determined to vote to terminate him, and that the non-  
17 Cotter directors previously had put in place a process (described above) that was to play out  
18 through the end of June, at least. Because that process had not been completed, any vote by any of  
19 the non-Cotter directors to terminate JJC as President and CEO was in derogation of, and pre-  
20 empted, their own process. No substantive discussion of the later agenda items, or of JJC’s  
21 performance, occurred.

22 77. The supposed May 21, 2015 special meeting was concluded, with no termination  
23 vote having been taken.

24 78. On Wednesday, May 27, 2015, Texas attorney Harry Susman, one of the lawyers  
25 representing MC and EC in the trust and estate litigation, transmitted to Adam Streisand, an  
26 attorney representing JJC in the trust and estate litigation, a document outlining terms to which JJC  
27 was required to agree to avoid the threatened termination as President and CEO of RDI. The  
28 proposal was communicated as effectively a “take-it or leave-it” proposal and was accompanied by

1 a deadline of 9:00 a.m. on Friday, May 29 to accept the proposal.

2 79. Also on May 27, 2015, EC emailed RDI directors claiming "that the board meeting  
3 held last Thursday was adjourned, to reconvene this Friday, May 29, 2015. The board meeting  
4 will begin at **11:00 a.m. at our Los Angeles office.**"

5 80. By the foregoing actions, among others, MC and EC made clear that accepting their  
6 take-it or leave-it proposal, which would have resolved matters in dispute in the trust and estate  
7 litigation and dispute about control of RDI, was what JJC had to do to avoid being fired as  
8 President and CEO of RDI.

9 81. Also on May 28, 2015, approximately one day after EC and MC's lawyer  
10 transmitted the "take-it or leave-it" proposal and one day before the RDI board was to meet, Kane  
11 told JJC to accept the take-it or leave-it offer to "end all of the litigation and ill feelings." Among  
12 other things, by email on May 28, 2015, Kane stated as follow to JJC:

13 "I have not seen the [take it or leave it settlement] proposal. I understand  
14 that it would leave you with your title, which is very important to you and  
15 which you told me was essential to any settlement . . . if it is take-it or  
16 leave-it, then I STRONGLY ADVISE YOU TO TAKE IT, . . . if we can  
end all of the litigation and ill feelings, -- and their offer to keep you as  
CEO as a major concession -- . . ."

17 82. On Friday, May 29, before the supposed RDI special board of directors meeting  
18 commenced, EC and MC met with JJC and told him that the document that had been conveyed by  
19 attorney Susman on their behalf two days earlier was a take-it or leave-it offer and that, if JJC did  
20 not accept it, the RDI board would terminate him as President and CEO. JJC attempted to discuss  
21 proposed changes with them, to which EC and MC responded that they would accept no changes.  
22 They repeated that if JJC did not accept the agreement as proposed, JJC would be terminated as  
23 President and CEO of RDI.

24 83. Director Gould shortly thereafter came to JJC's office and said that the majority of  
25 the non-Cotter board members (meaning Adams, Kane and McEachern) were prepared to vote to  
26 terminate him and that the supposed board meeting was about to commence.

27 84. JJC entered the conference room where the supposed special meeting was to occur.  
28 The supposed meeting was commenced and Adams made a motion to terminate JJC as President

1 and CEO. JJC observed that Adams was not independent or disinterested, pointing out that a  
2 substantial portion of his income came from Cotter entities controlled by EC and MC, as  
3 evidenced by sworn testimony Adams had given in his then-recent divorce proceeding. JJC  
4 invited Adams to prove otherwise, to which Adams responded that he did not have to do so. One  
5 or more of the non-Cotter directors inquired of Adams' financial relationship to Cotter entities, but  
6 Adams declined to provide substantive responses.

7 85. Director Gould opined that it was not the role of the RDI board of directors to  
8 intercede in the personal disputes between EC and MC, on the one hand, and JJC, on the other  
9 hand, nor to tip the balance of power in those disputes. He further observed that the board should  
10 not intercede in personal disputes or attempt at a minimum to maintain the status quo until the  
11 courts resolved the trust and estate litigation, and added that he thought JJC had done a good job.

12 86. Kane offered more personal invective directed to JJC, including comments to the  
13 effect that he thought that JJC had "\*\*\*\*ed Margaret over with the changes . . . made to the estate"  
14 and that JJC "does not have people skills especially with his two sisters . . ."

15 87. The five outside directors asked JJC to leave the conference room so that they could  
16 talk with EC and MC. Next, JJC was advised that the supposed RDI board meeting would be  
17 adjourned until at or about 6:00 p.m. that evening. JJC was told that he had until the supposed  
18 meeting reconvened that evening to strike a deal with EC and MC, failing which he would be  
19 terminated as President and CEO of RDI when the supposed meeting reconvened.

20 88. The supposed meeting reconvened at or about 6:00 p.m. on Friday, May 29, 2015,  
21 at which time EC reported that she and MC had reached an agreement in principal with JJC. EC  
22 read to the RDI Board of Directors portions of the document attorney Susman had transmitted to  
23 attorney Streisand on May 27, 2015, including one that provided for an executive committee of the  
24 Board of Directors which, she indicated, would be comprised of EC, MC, JJC and Adams, who  
25 would be Chairman. EC concluded that, while no definitive agreement had been reached, EC and  
26 MC would have one of their lawyers provide documentation to counsel for JJC. Ed Kane offered  
27 congratulations and commented favorably about Plaintiff remaining CEO. No termination vote  
28 was taken. The supposed special meeting concluded.

1           89.    On Wednesday, June 3, 2015, attorney Susman on behalf of EC and MC  
2 transmitted a new document to JJC's trust and estate attorney Streisand. The document contained  
3 new terms previously not discussed, much less agreed, by the parties.

4           90.    On Friday, June 5, 2015, attorney Susman left a message for attorney Streisand, the  
5 sum and substance of which was that he (Susman) was awaiting word that JJC had agreed to all of  
6 the terms in the document. By that message, attorney Susman implied that the document was a  
7 "take-it or leave-it" proposal.

8           91.    On June 8, 2015, JJC advised EC and MC that he could not accept their take-it or  
9 leave-it document. MC responded that she would advise the RDI board of directors, referencing  
10 the threat to have JJC terminated as President and CEO of RDI if he failed to reach a global  
11 agreement (including of all trust and estate litigation matters) satisfactory to EC and MC.

12           92.    On June 9, 2015, in furtherance of important ongoing RDI business, JJC asked for a  
13 response from MC with respect to a senior executive candidate to oversee RDI's United States real  
14 estate, including development of the NYC Properties, which candidate had been endorsed by  
15 senior executives at RDI. MC consistently resisted employing such a person because hiring such a  
16 person would preclude her from being the senior person at RDI responsible for overseeing  
17 development of the NYC Properties. In response to JJC's email, she called him and said, among  
18 other things, "you were supposed to be terminated but for a global settlement . . . bye . . . bye."

19           93.    On Wednesday afternoon, June 10, 2015, EC transmitted an email to all RDI board  
20 members (and RDI's general counsel) stating, among other things, that "we would like to  
21 reconvene the Meeting that was adjourned on Friday, May 29<sup>th</sup>, at approximately 6:15 p.m. (Los  
22 Angeles time.) We would like to reconvene this Meeting telephonically *Friday, June 12 at 11:00*  
23 *a.m. (Los Angeles time)* . . ." The email purported to further "confirm [] our meeting of the Board  
24 of Directors on Thursday, June 18<sup>th</sup> . . . We will be distributing Agenda and Board package for this  
25 Meeting at the end of this week . . ."

26           94.    On Friday, June 12, 2015, a supposed RDI special board of directors meeting was  
27 convened. Following through on their prior threat to terminate JJC if he did not resolve all  
28 disputes with EC and MC on terms satisfactory to the two of them, Adams, Kane and McEachern

1 each voted to terminate JJC, after McEachern made one last effort to pressure JJC, inviting him to  
2 resign rather than be terminated. Storey and Gould voted against terminating JJC as President and  
3 CEO. EC was elected interim CEO with the expressed intention of immediately initiating a search  
4 for a new President and CEO.

5 95. Additionally, and notwithstanding the fact that both directors and senior executive  
6 officers at RDI had agreed that the Company needed to hire an executive with actual real estate  
7 development experience to advise the Company with respect to the NYC Properties, and  
8 notwithstanding the fact that at least one candidate acceptable to all but MC had been identified,  
9 neither that candidate nor any other person was offered the position to oversee RDI's United States  
10 real estate. That is because EC, in one of her first acts as interim CEO, suspended the search for  
11 such a person until a new CEO was hired, she stated. EC did so to ensure that MC could retain  
12 control of activities related to the NYC Properties.

13 **EC and Others Pressure Plaintiff In An Effort to Force Him to Abandon This Action**

14 96. EC, with the active assistance or knowing acquiescence of MC, Kane, Adams,  
15 McEachern and Gould, has taken actions to pressure Plaintiff to abandon this action and cede  
16 control of RDI to them. The actions taken to pressure Plaintiff include immediately terminating  
17 his access to his RDI email account and to RDI's offices and concocting new "policies" and/or  
18 "practices" designed to bring financial pressure to bear on Plaintiff. One such activity is impairing  
19 his ability to exercise RDI options and to sell RDI stock in a manner consistent with RDI's  
20 historical practices.

21 97. After the purported termination of Plaintiff on or about June 12, 2015, on EC's  
22 recommendation, the RDI Board had approved a new so-called insider trading policy. Plaintiff is  
23 informed and believes that this supposed policy was created to impair his ability to generate  
24 liquidity through the sale of RDI stock, the principal source of Plaintiff's net worth. Given the  
25 extremely limited holdings in RDI stock by any director, officer or employee of RDI other than  
26 Plaintiff, this supposed policy enables EC to control the disposition of such shares through the  
27 imposition of supposed blackout periods, which she has effectively done, with the assistance of  
28 Craig Tompkins. Kane and McEachern, who purportedly oversee compensation related and

1 related party matters, each have agreed to and cooperated in efforts to prevent Plaintiff from  
2 exercising RDI options and selling RDI shares.

3 98. In an effort to pressure Plaintiff to abandon this action, and to secure his resignation  
4 from the RDI Board of Directors, EC on June 15, 2015 transmitted a letter to Plaintiff in which  
5 she claimed that the employment agreement entered into by him as an executive (over a decade  
6 after he became a director) required him to resign as a director upon his termination as an officer.  
7 That letter claimed that his failure to do so constituted a breach of the referenced employment  
8 agreement and threatened to terminate payments and benefits to Plaintiff if he did not resign  
9 within 30 days of his termination. Shortly thereafter, the Company terminated the health and  
10 medical benefits the Company provides to him, his wife and his three children and also terminated  
11 severance payments and other benefits.

12 **EC, MC, Kane and Adams Act to Entrench Themselves and Mislead RDI Shareholders**

13 99. Subsequent to terminating Plaintiff, EC, MC, Kane, Adams and McEachern acted to  
14 limit if not eliminate the participation in governance of RDI of JJC and directors Storey and Gould.  
15 To that end, a previously inactive executive committee of the RDI Board of Directors has been  
16 activated (i.e., the "EC Committee"). It has been repopulated so that EC, MC, Kane and Adams  
17 are its only members, with only McEachern able to attend any of its meetings as he wishes. The  
18 full authority of the RDI Board of Directors purportedly now is held by the EC Committee. By  
19 such actions, EC, MC, Kane and Adams purposely impaired if not eviscerated the functioning of  
20 RDI's full Board of Directors, selectively replacing it with the EC Committee as EC saw fit.  
21 Separately, McEachern as chairman of the Audit and Conflicts Committee barred directors who  
22 were not committee members or at least Plaintiff, from attending committee meetings, ending a  
23 longstanding practice of allowing all directors to attend.

24 100. Other fundamental corporate governance practices and protections at RDI have  
25 been altered, circumscribed or eliminated. EC, with the active assistance and/or knowing  
26 cooperation of MC, Kane and Adams, manipulated and reduced the flow of information to JJC,  
27 Gould and Storey as RDI directors, including by failing to timely distribute drafts of prior RDI  
28 board of directors meeting minutes and by failing to provide board packages sufficiently in



1 advance of board meetings such that board matters were, to the knowledge of JJC, Storey and  
2 Gould, impromptu actions (which had been addressed previously by one or more of EC, MC, Kane  
3 and Adams).

4 101. EC, with the active assistance and/or knowing cooperation of MC, Kane, Adams,  
5 McEachern and Gould, has caused RDI to disseminate materially misleading if not inaccurate  
6 information to its public shareholders. They have done so in an effort to delay if not avoid  
7 discovery of the actions of EC, MC, Kane, Adams and McEachern, and to avoid being held  
8 accountable for those actions, whether by way of derivative action or otherwise. Among other  
9 things, these defendants caused RDI to disseminate the following press release(s) and/or SEC  
10 filings, each of which was misleading if not inaccurate by omission, commission or both:

- 11 a. RDI on June 15, 2015 issued a press release stating that its board of directors  
12 “has appointed [EC] as interim President and [CEO], succeeding [JJC] . . . .”  
13 This press release was misleading because, among other things, it failed to  
14 address the circumstances of the purported termination of JJC as President and  
15 CEO, much less disclose that he purportedly had been terminated, much less  
16 that the purported termination was without cause, or even that JJC had filed this  
17 action;
- 18 b. On or about June 18, 2015, RDI filed with the SEC a Form 8-K which was  
19 materially misleading if not inaccurate in several respects, including that it  
20 stated that JJC was “required to tender his resignation as a director of [RDI]  
21 immediately upon termination of his employment [, that he had not done so and  
22 that RDI] considers such refusal as a material breach of [the] employment  
23 agreement [] and has given [JJC] thirty (30) days in which to resign . . . .” The  
24 employment agreement in question, which is an exhibit to the Form 10-Q for  
25 period ending June 30, 2013 filed by RDI with the SEC, on its face not only  
26 does not require JJC to resign as a director in the event that he is terminated as  
27 an executive officer, but on its face contemplates that he may continue to serve  
28 as a director, which position he in fact held for many years prior to becoming  
an officer and entering into the subject employment agreement. Separately, the  
employment agreement contains a thirty (30) day cure provision with respect to  
breaches of the agreement which may constitute a basis for termination of JJC  
for cause, which defendants do not claim occurred here. Therefore, the  
characterization in the Form 8-K of what the Company has done for thirty (30)  
days is misleading both as to what the employment agreement provides and  
what the Company has done, which in fact is to assert that JJC is breach of an  
agreement which the Company purports to have terminated previously.  
Additionally, the Form 8-K is materially misleading in describing this action;

- 1 c. RDI has failed to file a Form 8-K with respect to the EC Committee, which is a  
2 development that materially deviates from the prior practices of RDI and RDI's  
3 SEC disclosures with respect to those practices.
- 4 d. On or about October 13, 2015, RDI filed with the SEC a Form 8-K which was  
5 materially misleading if not inaccurate. In particular, the description in that  
6 Form 8-K of defendant Storey "retir[ing]" from the RDI Board of Directors is  
7 misleading if not inaccurate. As alleged herein, Mr. Storey had been told that he  
8 would not be nominated to stand for reelection and he effectively was forced to  
9 resign as a director. The Form 8-K also is misleading if not inaccurate insofar  
10 as its descriptions of new board members Judy Coddington and Michael Wrotniak  
11 suggest that their respective experiences described in the Form 8-K, such as  
12 Coddington having experience in the field of education and/or Wrotniak having  
13 "considerable experience in international business, including foreign exchange  
14 risk mitigation," were the reasons those two persons were made Directors of  
15 RDI. The Form 8-K also is misleading if not inaccurate with respect to those  
16 two persons being made directors of RDI because it fails to disclose their  
17 respective personal relationships with Cotter family members. As alleged  
18 herein, Coddington is a personal friend of Mary Cotter and Wrotniak and/or his  
19 wife are personal friends of MC.
- 20 e. On or about November 13, 2015, RDI filed with the SEC a Form 8-K which  
21 was materially misleading if not accurate. It purported to describe the voting  
22 results of the 2015 ASM and, in doing so, reflected the (likely purposefully)  
23 erroneous results the new inspector of elections, First Coast, have been engaged  
24 to provide.
- 25 f. On or about January 11, 2016, the Company issued a Form 8-K attaching a  
26 press release of that date. The press release included a statement by defendant  
27 Gould that said: "After conducting a thorough search process, it is clear that  
28 Ellen is best suited to lead Reading moving forward." That statement is  
materially misleading if not inaccurate, including because it implies  
erroneously that the selection of EC was the result of a (supposedly) "thorough  
search process."
- g. On or about March 15, 2016, RDI filed with the SEC a Form 8-K which stated,  
among other things, that the RDI Board of Directors Compensation Committee  
and its Audit and Conflicts Committee each had approved payment of so-called  
"additional consulting fee compensation" of \$200,000 to MC "for services  
rendered by her to the Company in recent years outside the scope" of a Theater  
Management Agreement dated January 1, 2002, between the Company's  
subsidiary, Liberty Theaters, Inc. and OBI, LLC, an entity wholly-owned by  
MC. The Form 8-K also stated that the RDI Board of Directors approved  
"additional special compensation" of \$50,000 to be paid to Adams "for  
extraordinary services provided the Company and devotion of time in  
providing such services." The Form 8-K was materially misleading if not  
inaccurate because, among other things, those payments were awarded for  
reasons other and/or additional to those set in the Form 8-K.
- h. On or about July 20, 2016, RDI filed with the SEC a Form 8-K which was  
materially misleading if not accurate. It purported to describe the voting results

of the 2016 ASM and, in doing so, reflected the (likely purposefully) erroneous results the inspector of elections, First Coast, have been engaged to provide.

- i. On or about July 18, 2016, after failing to file a Form 8-K regarding the offer, the Company issued a press release regarding the offer. It stated that the “Board of Directors, after receiving input from management and its outside advisors, carefully evaluated the [offer]. Following this review, the Board of Directors determined that our stockholders would be better served by pursuing our independent, stand-alone strategic business plan...” The press release was materially misleading if not false because, among other things, no “independent, standalone strategic business plan” has been delivered by management to the Individual Director Defendants, either in connection with the offer or otherwise.

**EC, MC, Kane, Adams and McEachern Manipulate the Corporate Machinery of RDI in An Effort to Control the Election of Directors at the 2015 Annual Shareholders Meeting**

102. At least approximately forty four percent (44%) of the Class B voting stock of RDI is held in the name of the James J. Cotter Living Trust, which became irrevocable upon JJC, Sr.’s death on September 13, 2014 (the “Trust”). Who has authority to vote the RDI Class B voting stock held in the name of the Trust is a subject of dispute in the California trust and estate litigation between EC and MC, on one hand, and JJC, on the other hand. Plaintiff is informed and believes that, unless EC, MC and JJC as co-trustees of the Trust all agree and provide a unanimous direction to the Company as required under Section 15620 of the California Probate Code, none of them can vote any of those shares in connection with an RDI Annual Shareholders Meeting (“ASM”).

103. Plaintiff is informed and believes that EC and MC are aware of the foregoing regarding whether the RDI Class B voting stock held in the name of the Trust properly can be voted at or in connection with RDI’s ASM.

104. Plaintiff is informed and believes that EC and MC agreed to act and took actions to increase the number of RDI Class B shares they could vote at RDI’s ASM in order to attempt to control that vote without including the Class B voting stock held in the name of the Trust.

- a. On or about April 17, 2015, EC and MC exercised options to acquire 50,000 and 35,100 shares of RDI Class B shares, respectively.
- b. On or about September 17, 2015, EC and MC, acting as executors of the estate of JJC, Sr., exercised an option to acquire 100,000 shares of RDI Class B voting stock. Despite claiming a need to preserve assets of the

1 Estate, EC and MC utilized liquid RDI Class A shares to pay for the  
2 exercise of the Estate's option to acquire these illiquid RDI Class B  
3 shares.

4 105. In or about June 12, 2015, Plaintiff was told by RDI that the prior practice of  
5 allowing the Compensation Committee of RDI's full Board of Directors to approve the exercise of  
6 options had been changed to require that each member of the Board of Directors approve any  
7 exercise of options by any director. When Plaintiff on or about June 5 and July 2 sought to  
8 exercise two separate tranches of RDI options, processing of his requests was delayed for weeks  
9 from the times he gave notice of his election to exercise such options.

10 106. However, that purported new practice later was reversed or abandoned. Plaintiff is  
11 informed and believes that that was because EC and MC, purporting to act as executors of the  
12 Estate of JJC, Sr., intended to seek to exercise a supposed option to have the Estate acquire  
13 100,000 shares of Class B voting stock (which they did, as alleged herein). EC and MC feared  
14 that JJC as an RDI director would refuse to consent to the exercise of this option controlled by EC  
15 and MC as executors of the Estate of JJC, Sr.

16 107. Two of three members of the Compensation Committee are Adams and Kane. On  
17 or about September 21, 2015, Kane and Adams, purporting to act as directors and as members of  
18 the Compensation Committee, authorized the request of EC and MC that the Estate be allowed to  
19 (use liquid Class A stock to) exercise the supposed option to acquire the 100,000 shares using  
20 shares of RDI Class A stock. Kane and Adams did so in derogation of the interests of RDI, which  
21 received no benefit from receiving Class A stock (rather than cash), which merely reduced the  
22 float of such stock. Plaintiff is informed and believes that Kane and Adams also did so without  
23 requiring EC and MC as executors of the Estate to produce documentation establishing the  
24 Estate's entitlement to exercise such option, which documentation may not exist. Kane and  
25 Adams claimed that they decided to allow EC and MC to exercise the supposed 100,000 share  
26 option based on the advice of counsel, including Craig Tompkins. The third director who was a  
27 member of the Compensation Committee, Timothy Storey, was unable to attend the supposed  
28 meeting of the Compensation Committee because it was called with too little notice.

1           108. Plaintiff is informed and believes that EC and MC took such actions because of a  
2 concern that, absent the exercise of the supposed option for the Estate to acquire 100,000 shares of  
3 RDI Class B voting stock which EC and MC will purport to vote as executors of the Estate, EC  
4 and MC might have lacked sufficient votes to control the 2015 ASM and, in effect, unilaterally  
5 elect as RDI directors whomever they choose, in view of the requirement of unanimity under  
6 California Probate Code Section 15620.

7  
8           **EC And MC Systematically Mislead RDI Shareholders, Including By Failing To Make**  
9           **Disclosures Required By The Federal Securities Laws And By Making Misleading**  
10           **Disclosures.**

11           109. On or about September 24, 2014, MC and EC filed a Schedule 13D with the United  
12 States Securities and Exchange Commission (the "SEC"). In that 13D, each of MC and EC  
13 indicated that they were not a member of a 13D group and each excluded any and all RDI shares  
14 not owned by them, including shares owned by the Trust and shares held by the Estate, from the  
15 shares each reported as beneficially owned and/or shares subject to shared voting power.

16           110. On or about December 22, 2014, EC and MC were appointed in the accompanying  
17 Nevada probate action to act as co-executors of the Estate. Plaintiff is informed and believes that  
18 they commenced the Nevada probate action at least in part to exercise control as executors of  
19 certain Company Class B voting stock.

20           111. On or about January 9, 2015, MC and EC filed an amendment to the schedule 13D  
21 they filed on or about September 24, 2014 (the "13D1"). The 13D1 for the first time identified the  
22 two of them as a 13D group. The 13D1 also was filed for the Estate, but it expressly indicates that  
23 the RDI Class B voting stock held by the Estate was not stock with respect to which either MC or  
24 EC had shared voting power.

25           112. On or about April 16, 2015, EC exercised one or more options to acquire 50,000  
26 shares of RDI Class B voting stock. She was allowed to do so by using RDI Class A non-voting  
27 stock rather than cash. That provided no benefit to RDI. EC did not file the required Form 4  
28 disclosure with the SEC regarding that acquisition of Class B voting stock until on or about  
October 9, 2015, three days after the record date of October 6, 2015 set for the 2015 ASM.

113. On or about April 17, 2015, MC exercised options to acquire a total of 35,100 shares of RDI Class B voting stock. She was allowed to do so by using RDI Class A non-voting stock rather than cash. That provided no benefit to RDI. MC did not file the required Form 4 disclosure with the SEC regarding that acquisition of Class B voting stock until on or about October 9, 2015, three days after the record date of October 6, 2015.

114. Plaintiff is informed and believes that in or before April 2015, MC and EC agreed that they would exercise shared voting power of the RDI Class B voting stock held in the name of the Estate together with RDI Class B voting stock held individually by each of them, such that EC and MC together with the Estate were members of a group for the purposes of Schedule 13D.

115. On or about October 9, 2015, EC and MC filed an amended 13D (the "13D2"). The 13D2 disclosed for the first time that EC and MC together with the Estate were members of a group for the purposes of Schedule 13D. Plaintiff is informed and believes that EC and MC purposefully failed to disclose the prior existence of this 13D group until such time as they had exercised an option held by the Estate to acquire an additional 100,000 shares of RDI Class B voting stock and until after the October 6 record date had passed, as part of their scheme to attempt to control over fifty percent (50%) of the Class B voting stock (not including such stock held in the name of the Trust) before the record date for the 2015 ASM. They acquired the 100,000 shares on or about September 21, 2015.

116. The 13D2 filed on or about October 9, 2015 also states that the Trust "is also a member of the group with the Estate, Margaret Cotter and Ellen Cotter" and says that the "Trust has separately filed a report on Schedule 13D on the date hereof." The 13D2 also states that MC and EC have shared voting power with both the Estate and the Trust.

117. On or about October 9, 2015, EC and MC caused the Trust to file a Schedule 13D. That Schedule 13D, like the 13D2, states that the Trust is a member of a group for the purposes of Schedule 13D with the Estate, MC and EC. In response to these late filings as well as others made by the Company, one RDI shareholder representative asked the Board, "Why does this board and management choose to continue to be serial abusers of the securities laws?"

1           118. Contrary to what the Schedule 13D filed for the Trust on or about October 9 and  
2 the 13D2 imply, EC and MC do not control the shares held in the name of the Trust for voting  
3 purposes, shared or otherwise. Plaintiff is informed and believes that such statements made in  
4 these two schedule 13Ds (and in the Company's Proxy Statement for the 2015 ASM) were  
5 intended by EC and MC (and by Kane, Adams and McEachern) to mislead other holders of RDI  
6 Class B voting stock in anticipation of and in connection with the 2015 ASM and the 2016 ASM.

7           119. Thus, EC and MC systematically have manipulated their disclosure of actual and  
8 claimed ownership and control of RDI Class B voting stock for the purposes of misleading RDI  
9 shareholders and facilitating their scheme to seize control of RDI and perpetuate their control of  
10 RDI. All such actions were purposefully taken by them in derogation of their fiduciary  
11 obligations, including the duty of disclosure.

12           120. Plaintiff is informed and believes that Kane was and Adams and McEachern may  
13 have been party to this scheme. Kane and Adams acted to facilitate this scheme, acting as directors  
14 and members of the Compensation Committee to effectuate the acquisition by the Estate of  
15 100,000 shares of Class B voting stock, including as alleged herein.

16           **EC, MC, Kane, Adams and McEachern Act to Stack the Board With Others Loyal to EC**  
17           **and MC**

18           121. EC, MC, Kane and Adams have added to the RDI Board of Directors individuals  
19 who have had long-standing friendships with EC, MC and/or their mother.

20           122. On or about August 1, 2015, a couple days before a RDI board meeting, EC as  
21 Chairman of the Board included on a Board of Directors agenda an item not previously discussed,  
22 proposing to add to RDI's Board an individual purported to have needed and sought after real  
23 estate development experience. EC has known this individual over twelve years and has a close,  
24 personal relationship with him, his wife and child. However, that individual previously had done  
25 business with RDI in a manner that caused harm to RDI. After Plaintiff objected based on these  
26 factors, EC reported to the Board that her nominee had withdrawn from consideration.

27           123. On or about October 3, just days before a board meeting, EC proposed Coddington as  
28 a director candidate. This prevented directors who had not been informed of this candidate,

1 including Plaintiff, Storey and Gould, from genuinely vetting and deliberating about the candidate.  
2 Coddling has no expertise in either of RDI's two principal business segments, cinema operations  
3 and real estate development. Coddling also has no experience as a director of a public company.

4 124. However, Coddling maintains a long standing, close personal friendship with Mary  
5 Cotter, the mother of EC, MC and Plaintiff. Mary Cotter has chosen the side of EC and MC in the  
6 family disputes between EC and MC, on one hand, and JJC, on the other hand. EC currently  
7 resides with Mary Cotter.

8 125. EC, together with Adams, McEachern and Kane, pushed to have Coddling added to  
9 RDI's Board in advance of the 2015 ASM. On October 5, Coddling was made a director on an  
10 impromptu basis, after only minutes of supposed deliberation by the Board. Each of defendants  
11 other than Storey (and Plaintiff) acquiesced to EC's request and voted to add her to the Board.  
12 While Gould said that more time was needed to allow for vetting of Coddling, he approved the  
13 appointment, effectively acknowledging that he was abdicating his fiduciary responsibilities in  
14 order to accommodate EC and/or MC.

15 126. After Coddling's appointment to RDI's Board of Directors was disclosed, one of  
16 RDI's shareholder representatives communicated his disbelief over the appointment of someone  
17 with no relevant experience and whose activity relating to her employer's alleged violations of the  
18 public bidding laws to secure a contract with L.A. Unified School District (LAUSD) to provide  
19 iPads to schools allegedly was under scrutiny in a federal criminal investigation, discovered  
20 through a simple Google search. None of Kane, Adams, McEachern or Gould had either  
21 performed or caused a basic, competent public records search or other such diligence that would  
22 have discovered this publicly available information regarding Coddling before approving Coddling  
23 to be a director of RDI. None of Adams, McEachern or Kane therefore were aware of, or at least  
24 disclosed to the Board any prior knowledge of, Coddling's involvement in such alleged activity  
25 prior to voting to add her to the RDI Board. EC knew previously, but did not disclose what she  
26 knew.

27 127. On October 5, 2015, EC announced to the full RDI Board of Directors that a so-  
28 called nominating committee comprised of Kane, Adams and McEachern supposedly would



1 propose a board slate of nominees for the RDI's 2015 ASM, which has been set for November 10,  
2 2015. RDI's counsel indicated that EC and MC's personal lawyer recommended that EC and MC  
3 not be involved in the nominating process and that the Board form a nominating committee for  
4 optical reasons, given EC and MC's role as executors of the Estate and trustees of the Trust.

5 128. EC and MC previously had determined that director Storey would not be  
6 nominated to stand for reelection. Each member of the so-called nominating committee agreed to  
7 execute the decision of EC and MC to not nominate director Storey to be reelected.

8 129. Plaintiff is informed and believes that the insistence of director Storey that RDI  
9 directors act in the interest of all shareholders, not just EC and MC, and his efforts to do so,  
10 account in part for the decision and agreement of EC, MC, Kane, Adams and McEachern to not  
11 nominate director Storey to stand for reelection at the 2015 ASM.

12 130. McEachern and Adams, purporting to act as members of the so-called special  
13 nominating committee, pressured Storey to "retire" as a director. Storey acquiesced.

14 131. The supposed nominating committee, acting at the direction and requests of EC and  
15 MC, then selected Wrotniak, who was a candidate about whom EC provided information to the  
16 full Board only a couple days before the Board meeting, to replace Storey.

17 132. Wrotniak does not have expertise in either of RDI's business segments, cinema  
18 operations and real estate development. Nor does he possess experience in public company  
19 corporate governance. However, Wrotniak is the husband of MC's long-standing best friend. He  
20 was chosen because of that friendship. MC and EC expect loyalty from him.

21 133. The supposed nominating committee selected Wrotniak, notwithstanding the fact  
22 that a senior executive with chief financial officer experience at a public, multi-billion dollar real  
23 estate services and investment company, experience with Wall Street and years of experience in  
24 the real estate industry, expressed a willingness to serve on RDI's Board of Directors. That  
25 candidate had been suggested by Plaintiff and had no ties to any of the Cotters.

26 134. By the foregoing actions, EC, MC, Kane, Adams and McEachern each have  
27 continued to misuse the corporate machinery of RDI, including in particular to attempt to rig the  
28

1 vote at the 2015 and 2016 ASMs, to entrench and perpetuate themselves in exclusive control of  
2 RDI. Gould has acquiesced, at a minimum.

3 135. On or about October 20, 2015, the Company issued its Proxy Statement for the  
4 2015 ASM scheduled for November 10, 2015. The Proxy Statement is materially misleading if not  
5 inaccurate in a number of respects, including the following:

- 6 a. It states (at page 10) that, under Nevada law, EC and MC, as two of three  
7 trustees of the Trust, have the power to vote all of the RDI Class B voting stock  
8 held in the name of the Trust on the books and records of the Company;
- 9 b. It states (at page 10) that EC and MC together have the power to vote  
10 71.9% of a Class B voting stock entitled to vote for directors at the 2015 ASM;
- 11 c. It states (at pages 10 and 11) that the Company is a controlled company  
12 under NASDAQ listing rules;
- 13 d. It states (at page 11) that EC has been appointed as interim President and  
14 CEO and that the Board has established an Executive Search Committee comprised  
15 of EC, MC, Adams, Gould and McEachern which, it says, “will consider both  
16 internal and external candidates.” Plaintiff is informed and believes that the  
17 undisclosed plan is to make EC President and CEO after conducting a search the  
18 purpose of which is to create the misimpression of a bona fide process;
- 19 e. It states (on page 12) that the “Special Nominating Committee and the  
20 Board accordingly considered the views of (EC and MC) with respect to the 2015  
21 Director nominees,” when in fact the Special Nominating Committee and every  
22 member of the Board other than Plaintiff acted as each understood EC and MC  
23 desired;
- 24 f. It states (on page 12) that Plaintiff “vot[ed] against each of the  
25 recommended nominees (including himself),” which is inaccurate;
- 26 g. It describes (on page 15) historical business experience of defendant  
27 Adams, as if that experience is the reason he is a director and is nominated for  
28 reelection, but fails to disclose his close personal ties to the late JJC, Sr. and to EC

1 and MC, fails to disclose Adams' financial dependence on companies and deals  
2 controlled by EC and MC and misstates his recent professional activities;

3 h. It describes (at page 15) professional experience of Judy Coddington in the  
4 field of education as if that were the reason she was made a director and is  
5 nominated for reelection, but fails to disclose her personal relationship with Mary  
6 Cotter, the mother of EC and MC, and misstates her recent professional activities;

7 i. It describes (at pages 15-16) the role of MC with respect to the Company's  
8 live theatre operations, and says that she "heads up the re-development process  
9 with respect to these properties and our Cinemas 1, 2 & 3," but fails to disclose that  
10 MC successfully has ended the search by the Company for an experienced real  
11 estate executive to lead its real estate development efforts, in the United States,  
12 including for the NYC Properties. Among the reasons MC did so was to create a  
13 purported basis for seeking and securing employment with the Company;

14 j. It describes (at page 16) certain professional experience of Kane, including  
15 experience from 1987 and 1988, but fails to disclose his historical and ongoing  
16 quasi-familial relationship with EC and MC;

17 k. It describes (at page 16) certain professional experience of Wrotniak, as if  
18 that were the reason he was made a director and is nominated for reelection, but  
19 fails to disclose the close personal relationship he and his wife have with MC.

20 136. On or about May 18, 2016, the Company issued its Proxy Statement for the 2016  
21 ASM scheduled for June 2, 2016. The Proxy Statement was materially misleading if not  
22 inaccurate in a number of respects, including the following:

23 a. It implies (at page 7) that the Company is entitled to determine the identity  
24 of the trustees under the so-called Cotter Trust, the right of those trustees to vote  
25 under California law and/or that the books and records of the Company identify  
26 each of EC, MC and Plaintiff as trustees of the so-called Cotter Trust (the "Trust");

27 b. It describes (at page 8) the supposed CEO search in a manner that implies  
28 that EC timely resigned from the CEO search committee, that that committee relied

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on Korn Ferry and that Korn Ferry evaluated EC as a candidate for the CEO position;

c. It states (at page 9 and elsewhere) that the Company is a controlled company under NASDAQ listing rules;

d. It states (on pages 9-10) that Adams served on the compensation committee through May 14, 2016, but fails to disclose how it came to pass that he resigned;

e. It describes (on page 15) historical business experience of defendant Adams, as if that experience is the reason he is a director and is nominated for reelection, but fails to disclose his close personal ties to the late JJC, Sr. and to EC and MC, and fails to disclose Adams' financial dependence on companies and deals controlled by EC and MC and misstates his recent professional activities;

f. It describes (at page 15) professional experience of Coddling in the field of education as if that were the reason she was made a director and is nominated for reelection, but fails to disclose her personal relationship with Mary Cotter, the mother of EC, and MC and her relationship with her employer would be coming to an end and the reasons for such termination;

g. It describes (at page 16) the role of MC with respect to the Company's live theatre operations, and says that she "heads up the re-development process with respect to these properties and our Cinemas 1, 2 & 3," but fails to disclose that MC successfully has ended the search by the Company for an experienced real estate executive to lead its real estate development efforts in the United States, including for the NYC Properties. Among the reasons MC did so was to create a purported basis for seeking and securing employment in such position with the Company;

h. It describes (at page 16) certain professional experience of Kane, including experience from 1987 and 1988, but fails to disclose his historical and ongoing quasi-familial relationship with EC and MC;

- 1 i. It describes (at page 16) certain professional experience of Wrotniak, as if  
2 that were the reason he was made a director and is nominated for reelection, but  
3 fails to disclose the close personal relationship he and his wife have with MC.

4 **The CEO Search is Aborted, Manipulated or Both, and EC is Selected**

5 137. At a Board meeting on or about June 30, 2015, EC was empowered to select an  
6 outside search firm to search for a new, permanent President and CEO for RDI. EC selected EC,  
7 MC, McEachern and Gould as members of a CEO search committee. EC functioned as the  
8 chairperson of the committee until she resigned, as described below.

9 138. On or about August 4, 2015, EC reported to the Board that she had selected Korn  
10 Ferry to be the outside search firm. A stated and accepted rationale for selecting Korn Ferry was  
11 that Korn Ferry would perform a proprietary detailed assessment of the finalists for the position  
12 of President and CEO of RDI. The full Board had been told that each of the three finalists would  
13 be presented to the full Board to be interviewed.

14 139. Korn Ferry interviewed each of the four members of the CEO search committee  
15 and Craig Tompkins, as well as other persons EC and/or MC had Korn Ferry interview and, based  
16 on those interviews and further communications with some of those people, Korn Ferry created a  
17 “position specification” document. The stated purpose of the document was to list qualifications  
18 and characteristics that had been agreed to as those that would be used to select candidates and,  
19 ultimately, a new President and CEO.

20 140. Finally, on or about November 13, 2015, an initial set of interviews of CEO  
21 candidates was set to occur. Shortly before those interviews were to commence, EC allegedly  
22 announced to the other members of the CEO search committee that she was a candidate for the  
23 positions of President and CEO. At that point, she purportedly resigned from the committee.  
24 Plaintiff is informed and believes that EC had considered being a candidate well before the initial  
25 set of interviews, but chose to not disclose that.

26 141. At that point, McEachern, Gould and MC had no discussions about whether MC  
27 should or could continue to serve on the committee, in view of the fact that her sister was a  
28 candidate. Nor did the committee or any of them seek the advice of outside counsel with respect

1 to that subject or any other issue related to EC declaring her candidacy after having directed Korn  
2 Ferry for months.

3 142. After on or about August 4, 2015, neither EC nor the CEO search committee  
4 provided any reports regarding the (supposed) CEO search to the full Board until mid-December  
5 2015. That was so in spite of requests by Storey and Plaintiff for reports or updates.

6 143. McEachren, Gould and MC in November and December interviewed several CEO  
7 candidates. They identified at least one and possibly two of them as finalists. They also  
8 interviewed EC. After interviewing EC, the three of them preliminarily agreed that she was their  
9 choice to be CEO. They also agreed that Korn Ferry would be instructed to cease further work.

10 144. McEachern, Gould and MC then conducted a conference call during year-end  
11 holidays, confirmed their choice of EC and charged Tompkins with summarizing their reasons.  
12 Tompkins did so. The stated reasons for selecting EC did not match or even approximate the  
13 qualifications and characteristics that were summarized in the "position specification" document  
14 prepared by Korn Ferry.

15 145. Korn Ferry did not perform its proprietary special assessment of EC or of any other  
16 candidate.

17 146. On or about January 8, 2016, McEachern, Gould and MC presented EC to the full  
18 Board of Directors as their selection to be the President and CEO of RDI. With little if any  
19 deliberation, and with little if any information regarding the search and/or other candidates other  
20 than a summary provided to them just days prior to meeting, each of the director defendants  
21 agreed and voted to make EC President and CEO.

22 147. On or about January 11, 2016, the Company issued a Form 8-K attaching a press  
23 release of that date. The press release included a statement by defendant Gould that said: "After  
24 conducting a thorough search process, it is clear that Ellen is best suited to lead Reading moving  
25 forward." That statement is materially misleading if not inaccurate, including because it implies  
26 erroneously that the selection of EC was the result of a (supposedly) "thorough search process."  
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**The Director Defendants Commence Looting The Company**

148. Following the 2015 ASM in November 2015, by which the individual defendants secured effectively unfettered control of the Company, and following the appointment of EC as President and CEO in January 2016, the individual defendants turned their attention to the subjects of employment, titles and compensation.

149. On or about March 10, 2016, MC was appointed EVP--RED – NYC on EC’s recommendation as President and CEO. In that position, MC became the senior executive at RDI responsible for the development of its valuable NYC Properties. However, MC has no real estate development experience. She is unqualified to hold that senior executive position.

150. As EVP--RED – NYC, MC was awarded a compensation package that includes a base salary of \$350,000 and a short-term incentive target bonus of \$105,000 (30% of her base salary), and was granted a long-term incentive of a stock option for 19,921 shares of Class A common stock and 4,184 restricted stock units under the Company’s 2010 Stock Incentive Plan.

151. Additionally, the Compensation Committee, comprised of Adams, Kane and Coddington, and the Audit and Conflicts Committee, comprised of Kane, McEachern and Wrotniak, in or about March 2016 each unanimously approved so-called “additional consulting fee compensation” of \$200,000 to MC. Each of the Individual Director Defendants (with EC and MC abstaining) approved this \$200,000 payment to MC. In effect, MC was given a \$200,000 gift.

152. At the request of EC, the EC Committee requested the Compensation Committee to review executive compensation. The result was that EC as President and CEO received a new compensation package. If all bonuses available are paid to her, she will be paid over three times what Plaintiff was paid as President and CEO.

153. The Compensation Committee also recommended and the RDI Board of Directors (meaning all of the individual director defendants) also approved so-called “additional special compensation” of \$50,000 to Adams. This after-the-fact payment in effect was a gift.

**The Non-Cotter Director Defendants Effectively Ignore a Third Party Cash Offer to Buy All of the Outstanding Stock of RDI at a Price in Excess of the Market Price**

154. On or about May 31, 2016, EC as Chairman, President and CEO of RDI and each director received an unsolicited offer from a third party to purchase, for all cash, all of the outstanding shares of RDI stock, meaning all Class A nonvoting shares and all Class B voting shares (the "Offer"). This Offer was sent to EC and the other board members shortly after an RDI employee reporting to EC reported to the third party that the Company was not for sale after such third party indicated an interest in buying the Company. The proposed cash purchase price was \$17 per share. That price represented an approximate thirty-three percent (33%) premium over the prices at which RDI stock was then trading in the open market.

155. The Offer to purchase all of the outstanding shares of RDI stock expressly allowed for the possibility that, following due diligence, the Offer price might be increased from \$17 per share. The Offer indicated that a response to it was needed no later than June 14, 2016. The Offer also indicated that those making it did not intend to make it public at the time.

156. EC distributed the Offer to members of the RDI Board of Directors on or about May 31, 2016. The Board of Directors met with respect to the Offer on Thursday, June 2, 2016. The Board agreed to meet the following week to determine whether and how to respond to the Offer, after management distributed to Board members a business plan and materials relating to the value of the Company.

157. The RDI Board of Directors did not reconvene with respect to the Offer until June 23, 2016. No business plan and no materials relating to the value of the Company were provided to Board members in advance of or at the June 23, 2016 meeting. Nor were any other materials relevant to assessing the Offer provided. EC made an oral presentation concluding that RDI was worth a price dramatically in excess of the Offer price and recommended that RDI pursue its (supposed) long-term business plan. All of the individual director defendants agreed that an Offer of \$17 per share was inadequate. Plaintiff abstained in view of management's failure to provide information promised to be delivered before the meeting.



1           158. Neither EC nor anyone acting at her direction or request has ever provided a  
2 strategic or long-term business plan for the Company to the RDI Board of Directors.

3           159. In connection with determining whether and, if so, how to respond to the Offer,  
4 none of the non-Cotter director defendants indicated that they had and, on information and belief,  
5 Plaintiff alleges that they had not, consulted with outside independent counsel, outside  
6 independent financial advisers such as investment bankers, or anyone else on whom directors are  
7 entitled to rely in determining in good faith whether and, if so, how, to respond to such an offer.

8           160. Plaintiff is informed and believes and thereon alleges that each of the non-Cotter  
9 directors, in determining whether and, if so, how to respond to the Offer, made their respective  
10 decisions largely if not entirely on their understanding of what they understood EC and MC (as  
11 supposedly controlling shareholders) wanted to do or not do in response to the Offer.

12           161. Plaintiff is informed and believes and thereon alleges that neither EC nor MC  
13 consulted with outside independent counsel, outside independent financial advisers such as an  
14 investment bank, or anyone else on whom directors are entitled to rely in determining in good  
15 faith whether and, if so, how, to respond to such an Offer. Plaintiff is further informed and  
16 believes and thereon alleges that neither EC nor MC in good faith even considered accepting the  
17 Offer, pursuing discussions with the offerors or taking any other steps that would amount to  
18 anything other than rejection of the Offer.

19           162. None of the individual director defendants made an informed, good-faith  
20 determination of what was in the best interests of RDI and its stockholders in responding to the  
21 Offer. None of the individual director defendants made a good faith determination of whether,  
22 much less that, RDI with its present senior management, including EC as CEO and MC as EVP-  
23 RED-NYC, could, much less would, deliver value or achieve results that approximated, much less  
24 resulted in, RDI trading at the price or value EC told the Board of Directors on June 23, 2016 that  
25 management had ascribed to the Company. Plaintiff is informed and believes and thereon alleges  
26 that none of the individual director defendants took any actions to test or to verify any of the oral  
27 presentation by EC regarding the supposed value of the Company.  
28

**RDI and RDI Shareholders are Injured**

163. When the individual defendants' complained of conduct became publicly known and disseminated, the price at which RDI stock traded dropped, evidencing injury to RDI and resulting in monetary damages to RDI and to RDI stockholders. One or more directors or officers of RDI observed at or about the time that this had occurred. Those damages are estimated to be in the millions of dollars. When subsequent complained of actions of the individual defendants, including to stack the RDI Board, became publicly known, RDI stock prices dropped again. When the Offer described above was (belatedly) disclosed by the Company on or about July 18, 2016, the price at which RDI stock traded increased, evidencing injury and damages resulting from the individual director defendants' complained of conduct.

164. The individual defendants' complained of conduct has resulted in injury to and impairment of RDI's reputation and goodwill. The consequences of such damage include diminished ability to attract and retain qualified senior executives, increased costs if able to do so, an impaired ability to effectuate transactions that may involve use of Company stock as consideration, diminished willingness of institutional investors to buy and to hold RDI stock and other impairment of and increased costs to conduct RDI's business. Increased costs include payment of unnecessary and/or excessive consulting fees, payment of duplicative or redundant compensation and payment of increased professional costs, including audit and legal fees.

165. The individual defendants' complained of conduct effectively has eliminated important rights of shareholders, including the right to be timely informed of material developments, the right to not be misled, the right to rely on timely and accurate SEC filings and the right to have elections for directors that are not manipulated and not rigged.

166. The individual defendants' complained of conduct constitutes waste and has caused monetary damages to RDI, including what amounted to a gift of \$50,000 to EC, a \$200,000 gift to MC and a \$50,000 gift to Adams. Likewise, the engagement and payment of Korn Ferry, which was used to create a misimpression of a *bona fide* CEO search, but which was not used to identify or evaluate EC, who was selected by MC, McEachern and Gould without input from Korn Ferry, which they instructed to cease work, also amounts to waste of at least the monies paid to Korn

1 Ferry.

2 167. In taking the actions complained of herein, the individual defendants have wasted if  
3 not appropriated corporate opportunities and wasted corporate assets. In particular and without  
4 limitation, they have failed to act in good faith and on an informed basis to determine how to  
5 monetize the Company's valuable real estate assets, including the NYC Properties. Instead, they  
6 have chosen to not take such steps but rather to hire MC to "keep the ball in the air," so that there  
7 is a pretext to employ her in the position in which is now employed, which she is wholly  
8 unqualified to fulfill. In doing so, they have caused the Company to spend and continue to spend  
9 substantial sums of money, believed to be at least in the millions of dollars, to pay outside  
10 consultants because the Interested Director Defendants effectively acquiesced to MC's insistence  
11 that RDI not hire an executive experienced in real estate development, and because all of the  
12 individual defendants instead approved hiring MC as EVP-RED-NYC. The extra monies paid to  
13 outside consultant is believed to be in the millions of dollars.

14 168. The failure of the individual defendants to undertake to make an informed, good  
15 faith determination of what was in the best interests of RDI and its stockholders in responding to  
16 the Offer described above has resulted in injury to RDI and each of the stockholders. That injury  
17 includes lost opportunity of each and every RDI stockholder to decide for himself, herself or itself  
18 whether to sell his, her or its RDI stock at a price in excess of the price at which it trades in the  
19 open market.

20 **Demand Is Excused**

21 169. Insofar as any or all of the claims made herein are derivative in nature, demand  
22 upon the RDI board is excused because, among other things, as to each matter complained of  
23 herein, a majority if not all members of RDI's Board of Directors except Plaintiff (and in certain  
24 instances former director Storey) took and/or approved the complained of conduct. They therefore  
25 are unable to exercise independent and disinterested business judgment in responding to a demand,  
26 including because the actions giving rise to this action alleged herein were not undertaken honestly  
27 and in good faith in the best interests of RDI, much less the product of a valid exercise of business  
28 judgment.

170. Each and all of the RDI board members named as defendants herein would be materially affected, either to their benefit or detriment, by a decision of the RDI board with respect to any demand, and would be so affected in a manner not shared by the Company or its stockholders, including for the reasons alleged herein.

171. Additionally, as to each and all matters complained of herein, a majority if not all of the director defendants is and would be unable to exercise independent and disinterested business judgment responding to a demand because, among other things, doing so would entail assessing their own liability, including possibly to the Company. The same is true particularly with respect to the non-Cotter directors, who lack independence and lack disinterestedness, including for the reasons alleged herein, including but not limited to Adams' financial dependence on companies controlled by EC and MC, Kane's quasi-familial relationship with EC and MC, McEachern's and Gould's fiduciary breaches and Coddington and Wrotniak's personal relationships with Cotter family members.

172. Additionally, notwithstanding the foregoing allegations, each of Adams, Kane and McEachern lack disinterestedness and independence because each has affirmatively chosen, without any obligation to do so and in derogation of their fiduciary obligations as directors of RDI, to pick sides in a family dispute involving trust and estate litigation between Plaintiff, on one hand, and EC and MC, on the other hand, and to misuse their positions as directors in doing so. Like MC and EC, in so acting, they did not act honestly and in good faith in the best interests of RDI. Additionally, in voting to give EC and MC positions for which they are unqualified, and corresponding compensation packages, and in failing to take steps to make an informed, good faith decision regarding the Offer to purchase all RDI stock at a premium, and instead effectively deferring to EC and/or MC, each of the director defendants, including Coddington and Wrotniak, acted in derogation of the fiduciary duties they owe to RDI and its other shareholders.

#### **FIRST CAUSE OF ACTION**

##### **(For Breach of Fiduciary Duty – Against All Defendants)**

173. Plaintiff repeats and realleges paragraphs 1 through 172, inclusive, of this complaint and incorporates them herein by this reference as though set forth in full.

1           174. Each of the individual defendants at times relevant hereto was a director of RDI.  
2 As such, each owed fiduciary duties to RDI and to Plaintiff and other RDI shareholders, including  
3 fiduciary duties of care, candor, disclosure, good faith and loyalty to RDI.

4           175. The duty of care owed by each of these defendants entails, among other things, an  
5 obligation to exercise the requisite degree of care in the process of decision making as a director  
6 and to act on an informed basis.

7           176. The duty of care further requires, among other things, that these directors do not act  
8 with undue haste, a lack of board preparation or a failure of deliberation with respect to the merits  
9 of any and every supposed business decision.

10          177. By the conduct described herein, each of the individual defendants (insofar as he or  
11 she was a director at the time) breached their respective duties of care and good faith. Each did so  
12 as alleged herein, including by, among other things, the following:

- 13           a. They failed to engage in any process to assess the skills and performance of  
14 Plaintiff as President or as CEO in connection with the decision to threaten  
15 to terminate and to terminate him, and instead pre-empted an ongoing  
16 process;
- 17           b. They abdicated, or caused other directors to abdicate, their fiduciary  
18 responsibilities as directors by creating and acting through the EC  
19 Committee;
- 20           c. They failed to take steps to cause, much less assure, that persons added to  
21 the RDI Board possessed any qualifications other than personal  
22 relationships with one or more members of the Cotter family;
- 23           d. They failed to take actions to cause, much less assure, a *bona fide*, fair and  
24 un-manipulated search for a new President and CEO to occur;
- 25           e. They failed to take and/or delayed taking action, after having been informed  
26 of the financial dependence of Adams on Cotter family businesses for  
27 income, to eliminate or even circumscribe Adam's authority as a director or  
28 as a member of the Compensation Committee responsible for determining  
compensation to EC and MC;
- f. They failed to take actions to enable themselves to make an informed, good  
faith decision regarding whether to respond to the Offer, and if so, how, and  
instead did what they thought EC, MC or both wished.

178. As a direct and proximate result of the acts and omissions of said defendants as

described herein, Plaintiff and the Company and its other shareholders have suffered injury and continue to suffer injury as alleged herein.

179. Plaintiff cannot ascertain at this time the full nature, extent or amount of damages, which are in excess of \$50,000, suffered by virtue of the complained of conduct of said defendants. Plaintiff will amend this complaint and set forth said damages when they are ascertained, according to proof at trial.

## SECOND CAUSE OF ACTION

### (Breach of Fiduciary Duty – Against All Defendants)

180. Plaintiff repeats and realleges paragraphs 1 through 172, inclusive, of this complaint and incorporates them herein by this reference as though set forth in full.

181. Each of the individual defendants at times relevant hereto were directors of RDI. As such, each owed fiduciary duties, including fiduciary duties of care, candor, disclosure, good faith and loyalty, to the Company, to Plaintiff and to other RDI shareholders.

182. The duty of loyalty includes the obligation to not use their positions of control of the Company, including in particular as directors, to further their own personal or financial interests or the personal or financial interests of another of them to the detriment of the interests of the Company and its shareholders.

183. By the conduct described herein, each of these defendants have undertaken to further their own interests or the interests of another of them, to the direct, immediate and ongoing detriment of the Company, Plaintiff and each of its other shareholders. That conduct includes, but is not limited to, the following:

- a. Threatening to terminate Plaintiff as President and CEO if he did not strike a resolution of trust and estate disputes with EC and MC on terms satisfactory to the two of them;
- b. Terminating Plaintiff as President and CEO of RDI after he did not strike a resolution of trust and estate disputes with EC and MC on terms satisfactory to the two of them;
- c. Repopulating and activating an executive committee where none was needed and where the effect, if not the purpose and effect, was to prevent

1 Plaintiff, Storey and Gould from fully participating as members of the RDI  
2 Board of Directors;

- 3 d. Allowing EC to direct the (supposed) search for a permanent President and  
4 CEO, allowing MC to participate, including in particular following the  
5 disclosure by EC that she was a candidate, and by effectively firing Korn  
6 Ferry in order to assure the selection of EC and selecting EC;
- 7 e. Awarding EC and MC positions they were not qualified to hold, and by  
8 gifting monies to EC, MC and Adams; and
- 9 f. As to all individual defendants other than EC and MC, choosing not to take  
10 any actions such as employing independent counsel or financial advisors to  
11 advise them regarding whether and, if so, how to respond to the Offer, but  
12 instead relying on untimely, incomplete and/or inadequate information  
13 provided by a conflicted EC and by effectively deferring to EC, MC or both  
14 of them;
- 15 g. As to all individual defendants other than EC and MC, abdicating their  
16 fiduciary responsibilities to the Company and shareholders other than EC  
17 and MC; and
- 18 h. As to EC and MC, misusing their position as purportedly controlling  
19 shareholders to usurp or attempt to usurp the authority of the RDI Board of  
20 Directors.

21 184. By reason of the foregoing, each of the individual defendants has breached their  
22 fiduciary obligations, and in particular their fiduciary duties of good faith and loyalty, to the  
23 Company and to Plaintiff and all other shareholders of the Company.

24 185. As a direct and proximate result of the acts and omissions of said defendants as  
25 described herein, Plaintiff and the Company and its other shareholders have suffered injury and  
26 continue to suffer injury as alleged herein.

27 186. Plaintiff cannot ascertain at this time the full nature, extent or amount of damages,  
28 which are in excess of \$50,000, suffered by virtue of the complained of conduct of said defendants.  
Plaintiff will amend this complaint and set forth said damages when they are ascertained,  
according to proof at trial.

### 29 **THIRD CAUSE OF ACTION**

#### 30 **(Breach of Fiduciary Duty—Against All Defendants)**

31 187. Plaintiff repeats realleges paragraph 1 through 172, inclusive, of this complaint and

1 incorporates them here in by this reference as though set forth in full.

2 188. Each of the defendants at times relevant hereto was a director of RDI. As such,  
3 each owed fiduciary duties to RDI and to its shareholders, including Plaintiff, including the duties  
4 of care, candor, disclosure, good faith and loyalty.

5 189. The duties of candor and disclosure require that the Individual Director Defendants  
6 each cause the Company to make timely, accurate and complete disclosures of information to its  
7 shareholders.

8 190. By the conduct described herein, including in particular but not limited to causing  
9 or allowing RDI to disseminate untimely and materially misleading if not inaccurate information,  
10 in SEC filings and/or by press releases, each of the individual defendants has breached his or her  
11 duties of candor and disclosure.

12 191. As a direct and proximate result thereof, the Company and its shareholders have  
13 suffered injury and continue to suffer injury is alleged herein.

14 192. Plaintiff cannot ascertain at this time the full nature, extent amount of damages  
15 suffered by virtue of the complained of conduct of said defendants.

#### 16 **FOURTH CAUSE OF ACTION**

##### 17 **(Aiding and Abetting Breach of Fiduciary Duty – Against MC and EC)**

18 193. Plaintiff repeats and realleges paragraphs 1 through 192, inclusive, of this  
19 complaint and incorporates them herein by this reference as though set forth in full.

20 194. Insofar as any or all of Defendants contend that the decision to terminate Plaintiff  
21 as CEO and President was made based upon a vote of the non-Cotter directors, and independent of  
22 the fact that such vote was legally ineffectual, the fiduciary breaches alleged above were solicited  
23 and aided and abetted by MC and EC.

24 195. As alleged more fully herein, EC and MC had solicited and assisted the actionable  
25 conduct of defendants Kane, Adams and McEachern, including in particular but not limited to the  
26 threat by the three of them to terminate JJC as President and CEO of RDI if, in the few hours  
27 between the adjournment of the supposed RDI board meeting on Friday, May 29, 2015 the  
28 resumption of that supposed meeting at or about 6:00 p.m. that evening, JJC did not reach a global



1 settlement agreement with EC and MC, meaning agree to their take-it or leave-it agreement or any  
2 other such agreement they would demand he accept.

3 196. EC and MC further solicited and aided and abetted the decisions and actions of  
4 defendants Adams, Kane and McEachern to terminate JJC as President and CEO of RDI.

5 197. EC and MC further prompted and aided and abetted the fiduciary breaches of other  
6 directors as alleged herein, including but not limited to matters as to which EC, MC or both  
7 abstained or otherwise did not vote, including votes regarding their employment at RDI.

8 198. Each of EC and MC have acted with knowledge of the fiduciary obligations of the  
9 five outside directors. Each of EC and MC have acted with knowledge of the manner in which  
10 those fiduciary obligations were breached, and aided and abetted and continue to aide and abet  
11 said breaches. Accordingly, each of EC and MC are liable for aiding and abetting those fiduciary  
12 breaches.

13 199. As a direct and proximate result of the acts and omissions of said defendants as  
14 described herein, Plaintiff and the Company and its other shareholders have suffered injury and  
15 continue to suffer injury as alleged herein.

16 200. Plaintiff cannot ascertain at this time the full nature, extent or amount of damages,  
17 which are in excess of \$50,000, suffered by virtue of the complaint of conduct of said defendants.  
18 Plaintiff will amend this complaint and set forth said damages when they are ascertained,  
19 according to proof at trial.

#### 20 **Irreparable Harm**

21 201. As a result of the ongoing acts of Defendants, the Company, Plaintiff and other RDI  
22 shareholders have suffered and will continue to suffer immediate and ongoing irreparable injury  
23 for which no adequate remedy at law exists, including as alleged herein. Accordingly, Plaintiff is  
24 entitled to relief restraining Defendants, and each of them, from continuing their course of conduct  
25 and undertaking further actions in derogation of their fiduciary obligations, and to an order and  
26 judgment finding that the actions undertaken to date, including to threaten JJC with termination  
27 and thereafter terminate JJC as President and CEO of RDI, as well as their actions undertaken in  
28 furtherance of the self-dealing and entrenchment scheme alleged herein, are legally ineffectual and

1 of no force and effect, will be enjoined, or both.

2 202. In particular, unless such injunctive relief is granted, Plaintiff, the Company and  
3 other shareholders will suffer irreparable harm for which no adequate remedy at law exists.

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiff prays for judgment against Defendants and each of them, jointly  
6 and severally, as follows:

7 1. For relief restraining and enjoining Defendants from taking further action to  
8 effectuate or implement the (legally ineffectual) termination of Plaintiff as President and CEO of  
9 RDI;

10 2. For a determination that the purported termination of Plaintiff as President and  
11 CEO of RDI was legally ineffectual and is of no force and effect;

12 3. For entry of an order that:

13 a. Finds that that EC, MC, and one or more of Kane, Adams and/or  
14 McEachern lacked the requisite disinterestedness and/or lacked independence  
15 and/or failed to act with the requisite disinterestedness and/or independence in  
16 voting (and purporting to act as) directors of RDI to remove Plaintiff as President  
17 and CEO of RDI, finds that actions to remove Plaintiff as President and CEO were  
18 void or voidable and declares such action voided and legally ineffectual, such that  
19 Plaintiff is restored to and EC is removed from the positions of President and CEO  
20 of RDI (unless and until such time as he resigns or is removed by way of proper  
21 and legally enforceable procedure);

22 b. Enjoins the individual defendants and each of them, and their agents, from  
23 any and all actions to circumvent, impair the function of or render ineffective RDI's  
24 full Board of Directors, including in particular but not limited to any and all actions  
25 to (i) delay the delivery of draft minutes of RDI Board of Directors meetings and/or  
26 cause minutes to be edited or revised to suit the litigation purposes of any or all of  
27 EC, MC, Kane, Adams and McEachern, (ii) cause the failure or untimely delivery  
28 of agendas and materials to be used at RDI Board of Directors meetings, (iii) cause

- 1 minutes of RDI Board of Directors meeting to be inaccurate, misleading or  
2 incomplete, (iv) cause the EC Committee or any other committee of the Board of  
3 Directors (other than its audit and compensation committees in the ordinary course  
4 of business) to take any actions, to make any decisions or to otherwise act or fail to  
5 act in place or in lieu of the full Board of Directors with respect to any and all  
6 decisions of the type or nature that can be made by RDI's Board of Directors  
7 (rather than by its senior executives), and (v) put any member of RDI's Board of  
8 Directors in a position of making any decision on an informed basis, in good faith  
9 and with the best interests of all RDI shareholders in mind;
- 10 c. Directs RDI and the individual defendants to make such corrective  
11 disclosures as are determined by the Court to be appropriate, with such disclosures  
12 required to be made in advance of RDI's 2017 ASM or, alternatively, orders that  
13 the 2017 ASM to be postponed pending such corrective disclosures;
- 14 d. Enjoins the individual defendants and each of them, and their agents, from  
15 manipulating the 2017 ASM, including by entering an order sterilizing or voiding  
16 any vote they cast at or in connection with the 2017 ASM of the 100,000 shares of  
17 Class B voting stock that were the subject of an option purportedly exercised in or  
18 about September 2015 and any shares of Class B voting stock held in the name of  
19 the Trust on the Company's stock register; and
- 20 e. Requires that nominees for RDI's Board of Directors have *bona fide*  
21 qualifications to serve on the board of a public company engaged in RDI's two  
22 principal business segments, cinemas and real estate development.
- 23 4. For judgment against each of the Defendants for breach of their respective fiduciary  
24 obligations;
- 25 5. For actual and compensatory damages incurred by RDI and/or by Plaintiff and  
26 against each of Defendants in an amount according to proof at trial;
- 27 6. For costs of suit herein; and
- 28 ///

1 7. For such other and further relief as the Court may deem just and proper.

2 DATED this 2nd day of September, 2016.

3 LEWIS ROCA ROTHGERBER CHRISTIE LLP

4  
5 /s/ Mark G. Krum

6 Mark G. Krum (Nevada Bar No. 10913)  
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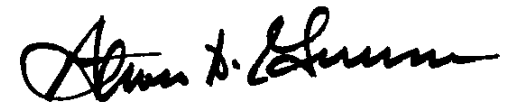
**Lewis Roca**  
**ROTHGERBER CHRISTIE**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 2nd day of September, 2016, I caused a true and correct copy of the foregoing **SECOND AMENDED COMPLAINT** to be electronically served to all parties of record via this Court's electronic filing system to all parties listed on the E-Service Master List.

/s/ Judy Estrada

An employee of Lewis Roca Rothgerber Christie LLP



CLERK OF THE COURT

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Attorneys for Defendants Margaret Cotter,  
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**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JAMES J. COTTER, JR. individually and  
derivatively on behalf of Reading  
International, Inc.,

Plaintiffs,

v.

MARGARET COTTER, ELLEN COTTER,  
GUY ADAMS, EDWARD KANE, DOUGLAS  
McEACHERN, WILLIAM GOULD, JUDY  
CODDING, MICHAEL WROTONIAK, and  
DOES 1 through 100, inclusive,

Defendants.

AND

READING INTERNATIONAL, INC., a Nevada  
corporation,

Nominal Defendant.

Case No.: A-15-719860-B  
Dept. No.: XI

Case No.: P-14-082942-E  
Dept. No.: XI

Related and Coordinated Cases

**BUSINESS COURT**

**INDIVIDUAL DEFENDANTS' MOTION  
FOR SUMMARY JUDGMENT (NO. 1)  
RE: PLAINTIFF'S TERMINATION AND  
REINSTATEMENT CLAIMS**

Judge: Hon. Elizabeth Gonzalez  
Date of Hearing: 10 / 25 / 16  
Time of Hearing: 8 : 30 AM

1 **TO ALL PARTIES, COUNSEL, AND THE COURT:**

2 Pursuant to Nevada Rule of Civil Procedure 56, Defendants Margaret Cotter, Ellen  
3 Cotter, Guy Adams, Edward Kane, Douglas McEachern, Judy Coddling, and Michael Wrotniak  
4 (collectively, the “Individual Defendants”),<sup>1</sup> by and through their counsel of record,  
5 Cohen|Johnson|Parker|Edwards and Quinn Emanuel Urquhart & Sullivan, LLP, hereby submit  
6 this Motion for Summary Judgment (No. 1) as to the First, Second, Third, and Fourth Causes of  
7 Action in Plaintiff’s Second Amended Complaint, to the extent that they assert claims based on  
8 Plaintiff’s June 12, 2015 termination as CEO and President of Reading International, Inc. (“RDI”  
9 or “the Company”), and to the extent that Plaintiff seeks damages and/or an order (1) declaring  
10 that his termination was “legally ineffectual and is of no force and effect,” and (2) entering an  
11 injunction that reinstates him as the Company’s CEO and President.

12 This Motion is based upon the following Memorandum of Points and Authorities, the  
13 accompanying Declaration of Noah S. Helpert (“HD”) and exhibits thereto, the pleadings and  
14 papers on file, and any oral argument at the time of a hearing on this motion.

15 Dated: September 23, 2016

16 **COHEN|JOHNSON|PARKER|EDWARDS**

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18 By: /s/ H. Stan Johnson  
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---

26 <sup>1</sup> Individual Defendants Coddling and Wrotniak were not members of the RDI Board at the  
27 time of Plaintiff’s termination; they joined months after the fact and cannot be liable for any  
28 claims involving that decision. They join this motion out of an abundance of caution given  
Plaintiff’s failure to accurately parse the causes of action in his Second Amended Complaint.



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**NOTICE OF MOTION**

TO: LEWIS ROCA ROTHGERBER CHRISTIE LLP, Attorneys for Plaintiff.

PLEASE TAKE NOTICE that the above Motion will be heard the <sup>25</sup> day of Oct.,  
<sup>XI</sup>  
2016 at 8 : 3 0 AM in Department ~~XXVII~~ of the above designated Court or as soon  
thereafter as counsel can be heard.

Dated: September 23, 2016

**COHEN|JOHNSON|PARKER|EDWARDS**

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 To the extent that Plaintiff asserts claims challenging his termination as CEO and  
4 President of Reading International, Inc. (“RDI” or “the Company”) and seeks reinstatement in  
5 those positions, he is attempting to accomplish derivatively what he cannot individually. RDI’s  
6 Bylaws provide that its officers “hold office at the pleasure of the Board of Directors,” and “may  
7 be removed at any time, with or without cause” should a majority of the Board vote accordingly.  
8 Plaintiff’s Employment Contract contemplates that Plaintiff could be fired with or without cause,  
9 and strictly limits his relief following a termination to monetary compensation. Unhappy with  
10 the RDI Board of Directors’ (“the Board”) conclusion that his brief and divisive tenure should  
11 come to an end, Plaintiff now claims that the Board’s decision to remove him—after months of  
12 internal debate and numerous attempts to address and rectify his deficiencies—was somehow a  
13 violation of its fiduciary duties that injured RDI. It was not, and summary judgment is warranted  
14 because Plaintiff has not met (and cannot meet) *any* of the elements required to reach trial on his  
15 termination and reinstatement claims.

16 First, the Board’s termination of Plaintiff cannot support a breach of fiduciary claim as a  
17 matter of law. Courts regularly reject attempts by former officers to utilize fiduciary duty law  
18 when challenging the propriety of their removals, especially where (as here) a bylaw authorized  
19 their firing without cause. These courts have restricted their jurisdiction for good reason; actions  
20 such as Plaintiff’s threaten to transform every officer termination into a derivative attack on a  
21 board’s exercise of its duties, thereby requiring Nevada courts to become arbiters months (or  
22 years) after the fact of the unique judgments a board must make regarding officer performance.  
23 Plaintiff’s attempted expansion of fiduciary duty law to cover purely managerial decisions by a  
24 board is bad policy and contrary to well-reasoned precedent.

25 Second, even on the merits, the Board’s decision to terminate Plaintiff and the process it  
26 utilized leading up to that outcome were entirely appropriate and unquestionably protected by the  
27 “business judgment” rule. As the evidence shows, the Board was faced with a young,  
28 inexperienced CEO who could not work well with certain key executives (and attempted to



1 undermine central figures within the Company rather than address pending issues); acted in a  
2 manner that was violent and abusive to fellow employees and Board members; and demonstrated  
3 a lack of understanding with respect to metrics of RDI's businesses. The Board's vote to  
4 terminate Plaintiff, even in the face of repeated legal threats by Plaintiff to "ruin them  
5 financially" if they were to remove him, was (applying the standard articulated by the Supreme  
6 Court of Nevada in *Shoen v. SAC Holding Corp.*, 122 Nev. 621, 632, 639-40 (2006)) at a  
7 minimum taken for the benefit of the Company and therefore immune from Plaintiff's fiduciary  
8 challenge. Similarly, while the Board was in no way required to provide Plaintiff with notice or  
9 undertake a particular process, it repeatedly made Plaintiff aware of his deficiencies, attempted  
10 to correct them, gave him a platform to defend himself, and debated his removal informally and  
11 formally over several months. This was exactly how a board was supposed to act under both  
12 Nevada law and RDI's Bylaws. Plaintiff's fiduciary challenge fails.

13 Third, Plaintiff's fiduciary duty claims also fail on the merits because there is no  
14 evidence RDI suffered any injury from Plaintiff's termination, or that the purported breaches  
15 identified by Plaintiff proximately caused damages. To sustain a breach of fiduciary claim,  
16 Plaintiff must produce evidence of "economic harm suffered." He cannot. The Company's  
17 share price has traded at or above the value it held as of Plaintiff's firing for the majority of the  
18 ensuing period, and uncontroverted evidence reveals that insiders within RDI as well as its major  
19 investors, unaffiliated with the parties, are unanimous in their conclusion that Plaintiff's  
20 termination made no difference to the Company's performance or business plan. Absent any  
21 harm or causation, Plaintiff's fiduciary duty claims are unsupportable.

22 Fourth, now that the evidence is in, it is plain that Plaintiff, to the extent that he is  
23 complaining of his termination and seeks reinstatement, lacks standing to serve as a derivative  
24 plaintiff. Clear economic antagonisms exist between Plaintiff and other stockholders. The  
25 remedy sought by Plaintiff is also entirely personal; RDI's stockholders do not share Plaintiff's  
26 interest in regaining his positions. Other litigation is pending regarding Plaintiff's firing and  
27 ultimate control of the Company, and Plaintiff's conduct—both before and after the filing of this  
28 suit—indicates that he is simply using his purported derivative claims as leverage to obtain a

1 favorable global settlement. The evidence further shows that Plaintiff's action is driven by  
2 vindictiveness, both as to certain Board members and to his sisters. And outside shareholders  
3 unrelated to the Cotters have stated that they would not "reinstate" Plaintiff and that he is not  
4 "the best adequate representative." In their totality, these factors fatally undermine Plaintiff's  
5 attempted assertion of derivative claims regarding his termination and reinstatement.

6 Fifth, in addition to these flaws, the relief demanded by Plaintiff—reinstatement—is  
7 untenable and unsupportable. Equity jurisdiction does not lie where an officer was removable  
8 without cause (like Plaintiff). Nor is specific performance available where, as here, the contract  
9 damages provided to Plaintiff are plainly an adequate remedy. Further, there are strong policy  
10 reasons against compelling the Board to reinstate Plaintiff against its wishes, including the  
11 difficulty of supervision and the fact that Plaintiff's reinstatement would perpetuate a divided  
12 company. Plaintiff had no vested right to remain President and CEO and, even if reinstated,  
13 could simply be terminated again immediately by the Board—another factor cutting against  
14 reinstatement since equity does not require the taking of futile actions. More time has elapsed  
15 since Plaintiff's termination than he served as CEO, and the Company has moved on, which also  
16 counsels against reinstatement. Finally, in light of the "irreparable animosity" between Plaintiff  
17 and other directors, reinstatement would do nothing more than harm RDI's business.

## 18 **II. FACTUAL BACKGROUND**

### 19 **A. Plaintiff Joins RDI at His Father's Behest**

20 RDI is an internationally diversified company, incorporated in Nevada, principally  
21 focused on the development, ownership, and operation of cinema exhibition and real property  
22 assets in the United States, Australia, and New Zealand. (HD ¶ 22.)<sup>2</sup> James J. Cotter, Sr.  
23 became the CEO and Chairman of RDI's Board in December 2000. (*Id.* ¶¶ 22-23.) Plaintiff, the  
24 son of James J. Cotter, Sr., claims to be both a holder of non-voting shares of RDI stock and a  
25 co-trustee of a trust which owns a large number of the Company's voting and non-voting shares.

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26  
27 <sup>2</sup> The documentary and testimonial evidence supporting this Motion is attached to the  
28 Declaration of Noah S. Helpert. The citations to the "HD" refer to the paragraphs of that  
Declaration that authenticate and correspond to the relevant supporting evidence.

1 (Second Am. Compl. (“SAC”) ¶ 17.) Plaintiff was added to the Board in March 2002 at his  
2 father’s behest, despite the fact that he had never previously served on the board of a public  
3 company. (HD ¶ 11(c).) He was appointed Vice Chairman of the Company in September 2007,  
4 and then President in June 2013. (*Id.* ¶ 11(b).) The position of President of RDI, while provided  
5 for in the Bylaws, was reactivated specifically for Plaintiff, as there had been no President for  
6 some time and he did not succeed anyone in that position. (*Id.* ¶ 11(e).)

7 Following his appointment as President, Plaintiff and RDI executed an agreement dated  
8 June 3, 2013 (the “Employment Agreement”), which governed Plaintiff’s service “in the capacity  
9 of President.” (*Id.* ¶¶ 21(a)-(b).) The Employment Agreement provided that Plaintiff would not  
10 receive any damages in the event of a “for cause” termination. (*Id.* ¶ 21(c).) In the event that  
11 Plaintiff was terminated without cause, he was entitled to receive 12 months of compensation  
12 and benefits following notice of his termination; however, the Employment Agreement provided  
13 no relief other than monetary damages, and contained no provision allowing for Plaintiff’s  
14 reinstatement or any other form of specific performance by RDI. (*Id.*)

15 **B. Plaintiff Becomes CEO of RDI Following His Father’s Death**

16 James J. Cotter, Sr. was compelled to resign from his positions with RDI on August 7,  
17 2014 for health-related reasons, and subsequently passed away on September 13, 2014. (*Id.*  
18 ¶¶ 24, 28.) Faced with an emergency vacancy on no notice, the Board unanimously appointed  
19 Plaintiff as CEO at a meeting held on August 7, 2014. (*Id.* ¶ 28.) Plaintiff was elected as CEO  
20 pursuant to the Company’s Amended and Restated Bylaws, which provide: “Any person may  
21 hold one or more offices and each officer shall hold office until his successor has been duly  
22 elected and qualified or until his death or until he shall resign or is removed in the manner as  
23 hereinafter provided for such term as may be prescribed by the Board of Directors from time to  
24 time.” (*Id.* ¶ 20(a).) The Amended and Restated Bylaws of RDI further provide: “The officers  
25 of the Corporation shall hold office at the pleasure of the Board of Directors. Any officer elected  
26 or appointed by the Board of Directors . . . may be removed at any time, with or without cause,  
27 by the Board of Directors by a vote of not less than a majority of the entire Board at any meeting  
28

1 thereof . . . .” (*Id.* ¶ 20(b).) As Plaintiff has agreed, RDI’s Board always had the prerogative to  
2 hire and fire the Company’s officers, subject to whatever contracts might exist. (*Id.* ¶ 13(c).)

3 Besides Plaintiff, the seven remaining members of the Board at the time of Plaintiff’s  
4 appointment as CEO were: (1) Margaret Cotter, Plaintiff’s sister, who had served as a director  
5 since 2002 and Vice-Chairman of the Board since 2014, runs RDI’s live theater division,  
6 manages certain live theater real estate, and has been responsible for re-development work on  
7 RDI’s Manhattan theater properties; (2) Ellen Cotter, Plaintiff’s sister, who had served as a  
8 director since March 2013 and Chairman of the Board since 2014, been an RDI employee since  
9 1998, and ran the day-to-day operations of the Company’s domestic cinema operations;  
10 (3) Edward Kane, who had served as a director since October 2004 (and before that from 1985-  
11 1998) and served as Chair of the Tax Oversight and the Compensation and Stock Option  
12 Committees; (4) Guy Adams, who had served as a director since January 2014 and is a registered  
13 investment advisor and experienced independent director on public company boards; (5) Douglas  
14 McEachern, who had served as a director since May 2012 and was an audit partner at Deloitte &  
15 Touche from 1985-2009; (6) Timothy Storey, who had served as a director since December  
16 2011; and (7) William Gould, who had served as a director since October 2004. (*Id.* ¶¶ 22, 28.)

17 **C. Significant Problems With Plaintiff’s Managerial Skills Become Obvious**

18 While it was hoped that he would develop on the job, Plaintiff—at the time of his  
19 election as CEO—lacked experience in virtually all of the business areas relevant to RDI’s  
20 operations, including, but not limited to, non-agricultural commercial real estate operation and  
21 development, live theater, cinema, international business, and management. (*Id.* ¶¶ 8(a), (k), (p),  
22 (v); 3(b); 4(h)-(i); 11(d).) The non-Cotter members of the Board soon grew concerned that  
23 Plaintiff needed help both in running the company and building bridges with Ellen and Margaret  
24 Cotter; accordingly, the Board began discussing getting Plaintiff a management coach. (*Id.*  
25 ¶¶ 4(j); 33(a).) Plaintiff’s management style was perceived by the Board as “closed door” and  
26 unengaged with RDI’s employees, and some Board members saw Plaintiff as “very reluctant and  
27 very slow to make decisions,” and understood that his “office is a place where documents go to  
28 get lost.” (*Id.* ¶¶ 4(f)-(g); 8(d), (o); 12(f).) Members of the RDI Board soon questioned the

1 value that Plaintiff added as the Company's CEO based on obvious defects. (*Id.* ¶¶ 3(d), (f)-  
2 (g); 8(r), (u).)

3 **1. Plaintiff Could Not Work With, and Instead Undermined, Key**  
4 **Executives**

5 Members of the Board were concerned with Plaintiff's inability to communicate, create  
6 trust, and work cooperatively with fellow executives of the Company. (*Id.* ¶¶ 8(t), (w); 33(b).)  
7 For instance, Plaintiff decided to conduct an examination of RDI's cinema operations in the fall  
8 of 2014, but went around Ellen Cotter to do so—which engendered criticism from the Board  
9 both for Plaintiff's duplicity and for spending his time on a pursuit better left to an independent  
10 consultant. (*Id.* ¶ 8(b).) Contrary to the advice of various Board members, Plaintiff continued  
11 his review of RDI's individual cinemas, and even traveled to various cinemas in Hawaii without  
12 identifying himself or visiting management in a surreptitious effort to take pictures of the  
13 theaters there and ultimately embarrass Ellen Cotter over the perceived need for renovations.  
14 (*Id.* ¶¶ 5(c); 8(c), (n); 12(d).) Similarly, several members of the Board were alarmed by  
15 Plaintiff's unilateral effort to hire a food and beverage manager without involving Ellen Cotter,  
16 despite the fact that such operations fell within her purview. (*Id.* ¶¶ 8(y); 36(c).)

17 As with Ellen Cotter, members of the Board believed that Plaintiff needlessly  
18 exacerbated discord with Margaret Cotter when, after months of failing to resolve her  
19 employment status with the Company, he circulated a short employment contract for her with a  
20 cover email outlining approximately 20 reasons why she should not be given an employment  
21 contract with RDI. (*Id.* ¶¶ 8(q); 10(a).) In addition, following threats by the producers of  
22 STOMP to vacate RDI's Orpheum Theater, various directors became alarmed when Plaintiff,  
23 rather than working productively with Margaret Cotter to address the issue, attempted to use the  
24 ensuing dispute to embarrass her before the Board. (*Id.* ¶¶ 5(d); 10(b).) Ultimately, the STOMP  
25 dispute resulted in an arbitration in which it was determined that Margaret Cotter had done  
26 everything required, the STOMP producers had an agenda to leave because they thought the  
27 show could make more money elsewhere, and RDI was awarded more than \$2.2 million in  
28 attorney's fees. (*Id.* ¶¶ 5(d); 15(g).)

1 Tensions between Plaintiff and Ellen and Margaret Cotter were further aggravated by  
2 trust and estate litigation initiated in February 2015, after the death of Jim J. Cotter, Sr., which  
3 involved the issue of whether Margaret Cotter, separately or together with Plaintiff, controlled  
4 the RDI stock previously held by their father. (*Id.* ¶¶ 6(a); 12(b); 25; 27; 34.) As a result, the  
5 non-Cotter directors were forced to spend “an inordinate amount of time” trying to ameliorate  
6 the interactions between Plaintiff and his sisters. (*Id.* ¶ 6(a).)

7 **2. Plaintiff Acted in a Violent, Abusive Manner to Both Employees and**  
8 **Fellow Board Members**

9 In addition to his problems with certain key executives, the RDI Board of Directors was  
10 made aware of allegations that Plaintiff, as CEO, had acted in an abusive, physically threatening  
11 manner toward several employees and/or outside workers, including Linda Pham, Debbie  
12 Watson, and Ellen Cotter, by yelling, behaving very critically, and going through their files  
13 behind closed doors. (*Id.* ¶¶ 4(a); 5(a)-(b); 8(g); 12(e); 16.) Certain female employees stated  
14 that they were “physically afraid” of Plaintiff and concerned for their “actual physical safety”  
15 around him; one resorted to “carrying mace to the office” due to Plaintiff’s perceived “violent  
16 temper” and “anger management problem[s].” (*Id.*) Plaintiff’s violent outbursts even extended  
17 to his relations with fellow members of the Board, such as Guy Adams. (*Id.* ¶¶ 4(e); 12(g).) As  
18 a result of these incidents, the non-Cotter Board members had multiple conversations regarding  
19 Plaintiff’s weak interpersonal skills in which they contemplated sending Plaintiff to anger  
20 management classes in early 2015. (*Id.* ¶¶ 4(b)-(c); 7(a); 36(c).)

21 **3. Plaintiff Lacked an Understanding of Key Components of RDI’s**  
22 **Business**

23 During Plaintiff’s tenure as CEO, the Board also identified significant problems with his  
24 understanding of costs and margins pertinent to RDI’s cinema business, including his failure to  
25 adjust his analysis to account for lower film rentals in Australia/New Zealand when comparing  
26 margins there with U.S. theatres, and his lack of comprehension with respect to the different  
27 labor cost allocations utilized by the Company in each region. (*Id.* ¶ 3(e).) Moreover, during the  
28 11 months that he served as CEO, Plaintiff never presented—or even drafted—a business plan.  
(*Id.* ¶¶ 11(f)-(h).) And various directors were troubled by the fact that Plaintiff, upon becoming

1 CEO, failed to visit RDI's operations in Australia and New Zealand for the first six months of his  
2 tenure, despite their outsized importance to the company's financial health. (*Id.* ¶ 8(s).)

3 **D. The RDI Board Attempts to Address Plaintiff's Deficiencies**

4 Due to the need to help Plaintiff develop in the role as CEO and to lessen intra-family  
5 tensions, the non-Cotter directors appointed director Storey as an "ombudsman" in March 2015  
6 to work with and coach Plaintiff, and mediate any disputes between him and other executives.  
7 (*Id.* ¶¶ 3(a); 5(e); 15(c); 29; 33(b) 35; 36(a).) Around this time, several non-Cotter directors also  
8 considered engaging an outside consultant to perform an assessment of RDI and provide  
9 recommendations regarding improvements in the Company's management. (*Id.* ¶ 12(c).) The  
10 non-Cotter directors, concerned with their duty "to all the shareholders and not just to the Cotter  
11 family," were attempting to address what they perceived to be "a dysfunctional management  
12 team," with "'thermonuclear' hostility currently existing" between Plaintiff and his sisters. (*Id.*  
13 ¶ 36(b).) Plaintiff did not disagree; as he testified, the tensions between Plaintiff and his sisters  
14 had become so intense that RDI was unable to function, such that drastic reform in behavior or  
15 potential termination(s) were required to get beyond the current paralysis. (*Id.* ¶¶ 13(a)-(b).)

16 In taking these steps in March 2015, the Board was specifically focused on "getting to a  
17 position where the company is operating more harmoniously and with a clear direction," with the  
18 idea that "if certain people were chronic offenders," the Board would "have to consider  
19 terminating them" in the event that "the situation did not correct itself within a reasonable period  
20 of time." (*Id.* ¶¶ 15(f); 38(a).) Some non-Cotter directors anticipated that an assessment would  
21 be made at the June 2015 Board meeting regarding the progress of the Company and  
22 management situation under Plaintiff; absent sufficient improvement, the non-Cotter directors  
23 expected to take whatever actions they deemed appropriate. (*Id.* ¶¶ 15(e); 36(c); 37.)

24 Initially, Plaintiff was not supportive of the idea of utilizing an ombudsman, but  
25 ultimately came to believe that it would be efficacious to have "an adult in the room" to assist  
26 him as CEO and "let[] this play out until the end of June or whatever date agreed to and revisit."  
27 (*Id.* ¶¶ 12(a); 39.) By mid-April 2015, however, director Storey concluded that Plaintiff "needs  
28 to make progress in the business and with Ellen and Margaret [Cotter] quickly, or the board will

1 need to look to alternatives to protect the interests of the company.” (*Id.* ¶ 38(a)-(b).) The  
2 hoped-for progress did not occur. By May 2015, multiple members of RDI’s Board had  
3 concluded that Plaintiff was not correcting his deficiencies or ameliorating his inexperience, and  
4 that his behavior as CEO was hindering the company. (*Id.* ¶¶ 3(c); 8(e), (h), (x).)

5 **1. The Reasoned Review Process Begins at the May 21, 2015 Board**  
6 **Meeting, as Plaintiff Threatens Each Director With a Lawsuit**

7 Despite months-long efforts to address and alleviate ongoing conflicts and concerns  
8 regarding Plaintiff’s performance, no resolution was in sight; as such, Plaintiff’s continuing role  
9 as President and CEO was put on the agenda for the Board’s May 21, 2015 meeting as an item  
10 for discussion. (*Id.* ¶ 40.) At the outset of the May 21, 2015 meeting, Plaintiff—through his  
11 personal attorney—threatened to file a lawsuit based on purported breaches of the fiduciary  
12 duties of care and loyalty against each Board member in the event that they decided to terminate  
13 his employment. (*Id.* ¶ 30(b).) In addition to this threat of litigation made during the May 21,  
14 2015 board meeting itself, Plaintiff separately threatened various Board members personally,  
15 stating that they could “not fire him as C.E.O.” and intimidating them by claiming that if they  
16 were “to vote to fire him, he would sue [them] and ruin them financially.” (*Id.* ¶¶ 4(d); 8(f).)

17 Once the May 21, 2015 meeting began, both RDI’s full Board as well as a session of the  
18 non-Cotter directors discussed Plaintiff’s performance as CEO and the possibility of his  
19 termination for nearly five hours, during which Plaintiff was permitted to speak at length  
20 regarding his tenure. (*Id.* ¶¶ 30(a); 43(a).) Plaintiff was specifically asked to present his  
21 Business Plan (the presentation of which had been added to the agenda for the meeting at  
22 Plaintiff’s request), but declined. (*Id.* ¶ 30(a).) Outside counsel retained by the Company also  
23 attended the May 21, 2015 Board meeting to provide corporate law advice, where appropriate.  
24 (*Id.* ¶¶ 14; 30(a).) While various directors, including Adams, Kane, Margaret Cotter, and Ellen  
25 Cotter, reviewed their assessment of observed “deficiencies” in Plaintiff’s “leadership,  
26 understanding of the Company’s business, temperament, managerial skills, decision-making and  
27 other attributes in the role of Chief Executive Officer,” ultimately the Board chose to take no  
28 action with respect to Plaintiff’s position at the May 21, 2015 meeting, determining instead to



1 take additional time to consider what had been said and “reconvene the meeting on May 29,  
2 2015 to continue its deliberations.” (*Id.* ¶ 30(c).)

3 **2. Continued Discussion at the May 29, 2015 Board Meeting**

4 As anticipated, the Board again discussed the possibility of Plaintiff’s termination at a  
5 Board meeting held on May 29, 2015. (*Id.* ¶¶ 31(a); 43(b).) Once again, the Board was  
6 informed at the outset of its meeting by outside counsel, separately retained by the non-Cotter  
7 directors, that Plaintiff planned to serve them with a lawsuit in the event that they voted to  
8 terminate his positions as President and CEO of RDI. (*Id.* ¶ 31(a).) Once the May 29, 2015  
9 meeting began, Plaintiff explicitly rejected a suggestion, made at the previous meeting, that, in  
10 order for him to have more time to develop, he continue as President of RDI under a new CEO,  
11 for whom a search would commence. (*Id.* ¶¶ 10(c); 30(d); 31(b).) Director Adams made a  
12 formal motion, seconded by director McEachern, to remove Plaintiff from his position as  
13 President and CEO, “principally based on Plaintiff’s lack of leadership skills, understanding of  
14 the Company’s business, temperament, managerial skills, decision-making and other attributes”;  
15 although Adams “believe[d] we may have cause in this situation” to terminate for cause, his  
16 motion sought termination “‘without cause’ under the terms” of Plaintiff’s Employment Contract  
17 in order to “provide him with the benefit of the contractual severance pay.” (*Id.* ¶ 31(c).)

18 After the interested positions of Plaintiff and Ellen and Margaret Cotter were noted for  
19 the record, the Board engaged in extensive discussions about Plaintiff’s performance as CEO and  
20 President of RDI, both in and outside of the presence of Plaintiff and the Cotter sisters. (*Id.*  
21 ¶ 31(d).) During a break at the May 29, 2015 meeting, Ellen and Margaret Cotter reached a  
22 tentative “agreement-in-principle” with Plaintiff regarding various litigation matters existing  
23 between the three Cotters individually and related trusts and estates. (*Id.* ¶ 31(e).) This  
24 “agreement-in-principle,” which was subject to review by counsel, documentation to the Cotters’  
25 mutual satisfaction, and approval by the Board as to certain issues, had the potential to resolve  
26 some of the underlying issues affecting the Company and Plaintiff’s performance as CEO. (*Id.*  
27 ¶¶ 31(e); 41.) In particular, the “agreement-in-principle” provided for a new executive structure  
28 at RDI—Plaintiff would remain as CEO, but his decisions would be subject to oversight by an

1 Executive Committee composed of Ellen Cotter, Margaret Cotter, and Guy Adams. (*Id.* ¶ 41.)  
2 Encouraged by the prospect of the Cotter siblings coming to a cooperative resolution, the Board  
3 agreed to adjourn the May 29, 2015 meeting without resolving the pending motion to terminate  
4 Plaintiff in order to see if the issues could be finally resolved in a manner acceptable to the non-  
5 Cotter directors and to have additional data from which the Board could evaluate the  
6 continuation of Plaintiff as CEO and President of RDI. (*Id.* ¶ 31(f).)

7 **3. Plaintiff Is Terminated at the June 12, 2015 Board Meeting**

8 The “agreement-in-principle,” struck between the three Cotters on May 29, 2015,  
9 ultimately broke down by early June 2015 when the sides attempted to paper the final form of  
10 the agreement. (*Id.* ¶¶ 9; 10(d).) In view of the failed break-through, Plaintiff’s continuing role  
11 as President and CEO of RDI was placed back on the agenda as an item for discussion at the  
12 Board of Directors’ June 12, 2015 meeting. (*Id.* ¶ 42.)

13 RDI’s Board discussed the possibility of Plaintiff’s termination for the final time on  
14 June 12, 2015. (*Id.* ¶¶ 32(a); 43(c).) As the meeting began, Plaintiff asked to defer a vote on his  
15 status until the next scheduled Board meeting (to be held on June 15, 2015), but there was little  
16 support for his proposal, and no motion with respect to such a continuance was made. (*Id.*  
17 ¶ 32(b).) The Company’s directors proceeded to discuss Plaintiff’s management skills and  
18 experience, following which directors Adams, Kane, and McEachern, as well as Ellen and  
19 Margaret Cotter, voted in favor of the pending motion to remove Plaintiff as the Company’s  
20 CEO and President; directors Gould and Storey voted against the removal motion, while Plaintiff  
21 abstained. (*Id.* ¶ 32(a).) Director Storey voted against Plaintiff’s termination on June 12, 2015  
22 because he wanted to wait until the latter part of June to make a final assessment, while director  
23 Gould thought that the Board should delay until all of the pending litigation between the Cotters  
24 was resolved. (*Id.* ¶¶ 2(a); 6(b); 8(i), (m).) The majority of the non-Cotter directors, however,  
25 concluded that further delay was not “in the best interests of the shareholders” because, due to  
26 Plaintiff, “the company was not moving forward,” “[t]here was polarization in the office,” and  
27 the issue “had to be resolved one way or another.” (*Id.*) None of the directors—including Storey  
28 and Gould—believed that Plaintiff’s failure to settle the trust and estate litigation between him

1 and Ellen and Margaret Cotter caused his termination as CEO and President of the Company.  
2 (*Id.* ¶¶ 2(b)-(c); 15(b), (d).)

3 Plaintiff was therefore terminated as CEO and President of the Company based on a  
4 majority vote of the full Board and by a majority vote of the non-Cotter directors. (*Id.* ¶¶ 15(a);  
5 32(a).) After Plaintiff's termination, Ellen Cotter was appointed interim CEO and President of  
6 RDI. (*Id.* ¶ 26(a).) Plaintiff subsequently filed the above-captioned derivative action against the  
7 other members of the Company's Board of Directors on June 12, 2015. (*Id.* ¶ 26(b).)

8 **E. No Shareholder Support Exists for Plaintiff's Reinstatement**

9 As part of Plaintiff's attempted derivative action, he seeks "a determination that the  
10 purported termination of Plaintiff as President and CEO of RDI was legally ineffectual and is of  
11 no force and effect," and—despite the passage of over fifteen months since his termination—  
12 demands reinstatement in his former positions with the Company. (SAC at 53 ("Relief").) But  
13 support for Plaintiff's requested relief is nonexistent among his fellow shareholders.

14 Jonathan Glaser, the managing member of both JMG Capital Management, LLC and  
15 Pacific Capital Management, LLC (owners of approximately 526,000 shares of Class A RDI  
16 stock and approximately 1,000 Class B shares), has testified that he would not seek the  
17 reinstatement of Plaintiff, that "it's just not a high priority to put [Plaintiff] back," that he is  
18 "personally comfortable with Ellen Cotter as CEO," and he did not "think it would make much  
19 difference" to the "shareholders of Reading" if Plaintiff was CEO. (*Id.* ¶¶ 18(a)-(b), (e); 44(b).)  
20 Glaser also has emphasized his view that a CEO could properly be terminated for not getting  
21 along with the employees and other executives within a company. (*Id.* ¶ 18(d).) Whitney Tilson,  
22 hedge fund manager of T2 Partners Management, L.P., which controls various funds owning  
23 approximately 519,242 shares of Class A RDI stock and 901 Class B shares, has similarly  
24 confirmed that he would not reinstate Plaintiff if he had the opportunity because "the well has  
25 been poisoned" following Plaintiff's conflicts with Ellen and Margaret Cotter, his reinstatement  
26 would merely perpetuate a "divided company," there is a "reasonable likelihood" that Plaintiff is  
27 not "the single best qualified person to run" RDI, and Tilson's general concern that Plaintiff's  
28 advancement within RDI was purely the product of "nepotism." (*Id.* ¶¶ 17(a)-(c); 44(b).) And

1 Andrew Shapiro, the president of Lawndale Capital Management, which owns approximately  
2 \$13 million in RDI's Class A stock and \$30,000 in Class B stock, likewise has testified that he  
3 "was not necessarily in pursuit of, of any and all of those remedies" sought by Plaintiff, he  
4 "wasn't committed one way or the other than [Plaintiff] should be reinstated," and he did not  
5 "think necessarily [Plaintiff] is the best adequate representative of mine or other shareholder  
6 interests." (*Id.* ¶¶ 19(d), (f)-(g).)

7 Moreover, when questioned, these key investors in RDI could not predict whether  
8 reinstating Plaintiff would affect the Company's share price, as many believed that the overall  
9 performance of the Company, along with its business plan, have remained entirely consistent and  
10 appropriate since Plaintiff's termination. (*Id.* ¶¶ 17(a), (d); 18(c), (f)-(g); 19(a)-(c), (e).)

### 11 **III. LEGAL STANDARD**

12 Summary judgment is warranted under Nevada Rule of Civil Procedure 56 whenever the  
13 "pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are  
14 properly before the court demonstrate that no genuine issue of material fact exists, and the  
15 moving party is entitled to judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. 724,  
16 731 (2005). "The substantive law controls which factual disputes are material and will preclude  
17 summary judgment; other factual disputes are irrelevant." *Id.*; *see also Anderson v. Liberty*  
18 *Lobby, Inc.*, 477 U.S. 242, 248 (1986) ("Factual disputes that are irrelevant or unnecessary will  
19 not be counted."). A factual dispute is "genuine" only "when the evidence is such that a rational  
20 trier of fact could return a verdict for the nonmoving party." *Holcomb v. Ga. Pac., LLC*, 289  
21 P.3d 188, 192 (Nev. 2012) (citation omitted).

22 While the pleadings and other proof are "construed in the light most favorable to the  
23 nonmoving party," *LaMantia v. Redisi*, 118 Nev. 27, 29 (2002), that party "bears the burden to  
24 more than simply show that there is some metaphysical doubt as to the operative facts in order to  
25 avoid summary judgment." *Wood*, 121 Nev. at 732 (citation and internal quotation marks  
26 omitted) (rejecting the "slightest doubt" standard). The nonmoving party "is not entitled to build  
27 a case on the gossamer threads of whimsy, speculation, and conjecture," *id.* (citation omitted),  
28 but instead must identify "admissible evidence" showing "a genuine issue for trial." *Posadas v.*

1 *City of Reno*, 109 Nev. 448, 452 (1993); *Shuck v. Signature Flight Support of Nev., Inc.*, 126  
2 Nev. 434, 436 (2010) (“bald allegations without supporting facts” are insufficient); *LaMantia*,  
3 118 Nev. at 29 (nonmovant must “show specific facts, rather than general allegations and  
4 conclusions”). A nonmoving party that fails to make this showing will “have summary judgment  
5 entered against him.” *Wood*, 121 Nev. at 732 (citation omitted).

6 **IV. ARGUMENT**

7 **A. Plaintiff’s Termination Cannot Support a Breach of Fiduciary Duty Claim**

8 It is well-settled that the only fiduciary duties owed by directors are “to the corporation  
9 itself,” not to its employees. *Byington v. Vega Biotech., Inc.*, 869 F. Supp. 338, 345 (D. Md.  
10 1994). Traditionally, courts have been wary of plaintiffs’ attempts to use “an appeal to general  
11 fiduciary law” to transform cases involving the dismissal of an employee or officer into claims  
12 that a company’s directors “breached a fiduciary duty as corporate officers” when effecting a  
13 termination. *Ingle v. Glamore Motor Sales, Inc.*, 73 N.Y.2d 183, 190 (1989) (rejecting effort by  
14 operating manager and minority shareholder, upon his firing, to assert fiduciary duty violations);  
15 *Hackett v. Marquardt & Roche/Meditz & Hackett, Inc.*, Civ. No. 02-990166881S, 2002 WL  
16 31304216, at \*2 (Conn. Sup. Ct. Sept. 17, 2002) (rejecting breach of fiduciary duty claim, and  
17 holding that “the law of employment relations seems to provide sufficient protection for any civil  
18 wrongs” in the event of a purportedly unlawful termination). To thread the narrow needle  
19 necessary to avoid summary judgment on his termination and reinstatement claims, Plaintiff  
20 must produce cognizable evidence showing (1) “the existence of a fiduciary duty”; (2) the  
21 decision by the RDI Board of Directors to terminate him as CEO and President of the Company  
22 represented a “breach of that duty” to RDI itself as a matter of law; and (3) “that the breach  
23 proximately caused the damages” to the Company alleged. *Brown v. Kinross Gold U.S.A., Inc.*,  
24 531 F. Supp. 2d 1234, 1245 (D. Nev. 2008). Under NRS 78.138(7), in order for the Individual  
25 Defendants to be liable, Plaintiff must prove that the fiduciary breach “involved intentional  
26 misconduct, fraud or a knowing violation of the law.” Plaintiff cannot meet *any*—let alone all—  
27 of these requirements.  
28

1                   **1.       RDI's Board Had the Undisputed Right to Remove Plaintiff at Any**  
2                   **Time, With or Without Cause**

3                   “Ordinarily, under Nevada’s corporations laws, a corporation’s board of directors has full  
4 control over the affairs of the corporation.” *Shoen*, 122 Nev. at 632 (citation and internal  
5 quotation marks omitted); NRS 78.120(1) (“Subject only to such limitations as may be provided  
6 by this chapter, or the articles of the corporation, the board of directors has full control over the  
7 affairs of the corporation.”). All officers “hold their offices for such terms and have such powers  
8 and duties as may be prescribed by the bylaws or determined by the board of directors,” and may  
9 remain in office until the “expiration of his or her term” or “until the officer’s resignation or  
10 removal before the expiration of his or her term.” NRS 78.130(3)-(4). “[T]here is no vested  
11 right to retain one’s office in the face of a properly executed removal.” *Cooper v. Anderson-*  
12 *Stokes, Inc.*, 571 A.2d 786, 1990 WL 17756, at \*2 (Del. 1989) (table); *see also Roven v. Cotter*,  
13 547 A.2d 603, 609 (Del. Ch. 1988) (director had “no vested vest right to hold office in defiance  
14 of a properly expressed will of the majority”).

15                   RDI’s Amended and Restated Bylaws mirror NRS 78.130, and provide that Plaintiff,  
16 upon his election as CEO on August 7, 2014, could hold office only until the appointment of his  
17 successor, his death, or “until he shall resign or is removed in the manner as hereinafter provided  
18 for such term as may be prescribed by the Board of Directors.” (HD ¶ 20(a).) The Company’s  
19 Bylaws further emphasize that Plaintiff served solely “at the pleasure of the Board of Directors,”  
20 and that he could “be removed at any time, with or without cause, by the Board of Directors by a  
21 vote of not less than a majority of the entire Board at any meeting thereof.” (*Id.* ¶ 20(b).)

22                   In light of Board’s unrestricted right to terminate Plaintiff at any time, for any reason,  
23 Plaintiff’s attempt to utilize fiduciary duty law—via this derivative action—to challenge the  
24 propriety of his termination is untenable. Courts have rejected similar attempts by other  
25 terminated officers to assert fiduciary duty claims as a “novel argument,” finding that there was  
26 “no case in support.” *Carlson v. Hallinan*, 925 A.2d 506, 540 (Del. Ch. 2006) (plaintiff could  
27 not “articulate a theory as to how Carlson’s removal as President . . . could be a breach of  
28 fiduciary duty”); *see also Datto Inc. v. Braband*, 856 F. Supp. 2d 354, 384 (D. Conn. 2012)

1 (plaintiff's allegations of "breach of fiduciary duty" based "on her allegedly wrongful  
2 termination . . . fail to state a claim"). Instead, it typically has been the case that "[q]uestions of  
3 policy or management . . . are left solely to the honest decision of the directors, if their powers  
4 are without limitation and free from restraint." *Treadway Cos., Inc. v. Care Corp.*, 638 F.2d 357,  
5 381 (2d Cir. 1980) (citation omitted); 2 Fletcher Cyc. Corp. § 363 (2015) ("Thus, where a bylaw  
6 provided that any officer might be removed by a majority vote of the entire board whenever the  
7 best interests of the company require it, it was for the directors to determine what was in the best  
8 interests of the company; the courts will not interfere unless for fraud or illegality.").

9 The leading treatise on the subject emphasizes that "a court has no right or jurisdiction to  
10 review the discretionary action of the board in removing an officer, unless the contract rights of  
11 the person removed are involved," 2 Fletcher Cyc. Corp. § 360 (2015),<sup>3</sup> and numerous other  
12 decisions have stressed that, if the removal power within a corporation's bylaws allowed the  
13 termination, "[t]he motives for the acts of a board of directors, when lawful, are not properly the  
14 subject of judicial inquiry." *Zannis v. Lake Shore Radiologists, Ltd.*, 432 N.E.2d 1108, 1110 (Ill.  
15 Ct. App. 1982); *see also Mannix v. Butte Water Co.*, 854 P.2d 834, 842 (Mont. 1993) ("the  
16 determination to terminate an officer is a *subjective* one for the *board of directors* to make," not  
17 the court) (emphasis in original); *New Founded Indus. Missionary Baptist Ass'n v. Anderson*, 49  
18 So.2d 342, 344 (La. Ct. App. 1950) (holding, where plaintiff sought a review of the merits of his  
19 removal as president, "a court has no right or jurisdiction to review the discretionary action of  
20 the board in removing an officer, unless the contract rights of the person removed are involved").

21 The reason for this deferential approach to boards in the context of their decision to  
22 terminate an officer is clear: "Often it is said that a board's most important task is to hire,  
23 monitor, and fire the CEO." *Klaassen v. Allegro Dev. Corp.*, C.A. Case No. 8262-VCL, 2013  
24 WL 5967028, at \*15 (Del. Ch. Nov. 7, 2013). It is the board, rather than a court, that is  
25 "optimally suited . . . to selecting, monitoring, and removing members of the chief executive's  
26

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27 <sup>3</sup> The contract rights of Plaintiff under the Employment Contract are, of course, being  
28 adjudicated in an arbitration concurrent with this action.

1 office” so that it may “replace an underperformer in a timely fashion.” *Id.* at \*15 n.8 (citations  
2 omitted). The kind of action attempted by Plaintiff threatens to transform *every* termination of  
3 an executive from a personal dispute into a derivative attack on a board’s exercise of its fiduciary  
4 duties, and would force Nevada courts to become frequent arbiters months (or, in this case,  
5 years) after the fact of the unique judgments a board must make regarding the effectiveness of its  
6 officers. Given that Plaintiff could be fired “at any time, with or without cause,” under RDI’s  
7 Bylaws, and both a majority of the entire Board *and* a majority of the non-Cotter directors voted  
8 to remove Plaintiff, the Court need not even engage in the business judgment analysis: Plaintiff’s  
9 fiduciary duty claim arising from his termination is unsupportable.

10 **2. The RDI Board’s Termination of Plaintiff Fell Well Within the**  
11 **Protection of the Business Judgment Rule**

12 Even reviewed on the merits, the RDI Board’s decision to terminate Plaintiff as CEO and  
13 President of the Company was entirely appropriate. Under Nevada law, “[w]here a director is  
14 charged with breach of his fiduciary obligation, the ‘business judgment rule’ applies.” *Horwitz*  
15 *v. SW. Forest Indus., Inc.*, 604 F. Supp. 1130, 1134 (D. Nev. 1985). The business judgment rule  
16 is a “presumption that in making a business decision the directors of a corporation acted on an  
17 informed basis, in good faith and in the honest belief that the action taken was in the best  
18 interests of the company.” *Shoen*, 122 Nev. at 632 (citation omitted); *see also* NRS 78.138(3)  
19 (codifying the rule under Nevada law). “The business judgment rule postulates that if directors’  
20 actions can arguably be taken to have been done for the benefit of the corporation, then the  
21 directors are presumed to have been exercising their sound business judgment rather than to have  
22 been responding to self-interest motivation.” *Horwitz*, 604 F. Supp. at 1135.

23 “[T]he business judgment rule applies” to the “decision to remove an officer” absent  
24 “gross negligence” or “proof that the action was not taken in an honest attempt to foster the  
25 corporation’s welfare,” *In re Dwight’s Piano Co.*, 424 B.R. 260, 284 (S.D. Ohio 2009), and  
26 “[c]ourts are reluctant to second-guess such business judgments absent demonstrable bad faith on  
27 the part of the Board.” *Franklin v. Tex. Int’l Petroleum Corp.*, 324 F. Supp. 808, 813 (W.D. La.  
28 1971). “[E]ven a bad decision is generally protected by the business judgment rule,” *Shoen*, 122



1 Nev. at 636, and the “burden of showing bad faith or abuse of discretion rests upon the plaintiff.”  
2 *Horwitz*, 604 F. Supp. at 1135. Nevada is particularly strict with respect to plaintiffs who  
3 attempt to circumvent the business judgment rule: in the event that a director’s action (or failure  
4 to act) is ultimately held to “constitute[] a breach of his or her fiduciary duties,” the director  
5 faces individual liability only if “[t]he breach of those duties involved intentional misconduct,  
6 fraud or a knowing violation of the law.” NRS 78.138(7)(a)-(b).

7 In light of the broad protections afforded under Nevada law to RDI’s directors, Plaintiff  
8 cannot meet the showing required to avoid summary judgment for two reasons.

9 (a) **Plaintiffs’ Termination Was Justified on the Merits and a**  
10 **Proper Exercise of Business Judgment**

11 First, the RDI Board’s decision to terminate Plaintiff was justified on the merits and was  
12 an appropriate exercise of their business judgment—there was a “legitimate business reason” for  
13 Plaintiff’s firing, the decision was “neither false, whimsical, arbitrary or capricious,” and it had  
14 “some logical connection to the needs of the business.” *Mannix*, 854 P.2d at 846; NRS  
15 78.138(1) (directors are to “exercise their powers in good faith and with a view to the interests of  
16 the corporation”). Plaintiff’s bald allegation that personal motivations may have influenced  
17 some directors is not sufficient to justify a trial on the merits of the Board’s final decision.  
18 Nevada requires “intentional misconduct, fraud or a knowing violation of the law” to maintain an  
19 actionable fiduciary duty claim—not just the potential that personal animus or self-interested  
20 considerations played a role in a board’s decision. NRS 78.138(7); *see also Franklin*, 324 F.  
21 Supp. at 813 (“intra- and intercorporate maneuvering” affecting termination decision did not  
22 disturb board’s business judgment where other legitimate reasons justified firing). Purported  
23 “self-interest” will not forestall application of the business judgment rule unless “that motive is  
24 the sole or predominant reason” for a decision. *Horwitz*, 604 F. Supp. at 1135. It was not here.

25 With respect to Plaintiff, the RDI Board faced a CEO that was “young,” chosen on “short  
26 notice,” and lacked significant hands-on experience in numerous, highly relevant business areas.  
27 RDI’s Board and shareholders recognized that “nepotism” may have benefitted Plaintiff in his  
28 selection as CEO, but all hoped that he could grow into the role and develop on the job. Within

1 two to three months of his election, the Board saw that Plaintiff needed help, which it attempted  
2 to provide—including via director Storey’s formal participation as an “ombudsman.” But  
3 Plaintiff had significant weaknesses: he could not work well with certain key executives, and  
4 some Board members came to believe that he was more interested in undermining central figures  
5 within the Company rather than in addressing pending issues; he acted—or was perceived to  
6 act—in a manner that was violent and abusive to employees and fellow Board members; and he  
7 demonstrated a lack of understanding with respect to metrics critical to evaluating RDI’s  
8 businesses. Moreover, outside litigation involving Plaintiff and his sisters, who were key  
9 executives in the Company and also sat on the Board, had led to a “dysfunctional management  
10 team” torn apart by “‘thermonuclear’ hostility” that was clearly affecting the Company and  
11 stockholder value. (See Factual Background, *supra* at 5-9.)

12 After months of contemplating anger management courses, hiring outside consultants, or  
13 other changes to ameliorate Plaintiff’s deficiencies, a majority of RDI’s Board saw a lack of  
14 progress. Absent evidence that Plaintiff’s tenure as CEO was creating any value or “leading us  
15 forward,” the Board chose to terminate his divisive reign after several weeks of open  
16 contemplation in which it debated Plaintiff’s performance “at length,” gave Plaintiff multiple  
17 opportunities to make presentations defending himself, utilized the services of outside counsel,  
18 attempted to find negotiated alternatives to Plaintiff’s termination, and took its role seriously in  
19 the face of Plaintiff’s repeated threats to sue each of them and “ruin them financially” if the  
20 Board dared to remove him. Even the directors that voted not to terminate Plaintiff on June 12,  
21 2015 recognized significant problems with his performance, and objected more to the timing of  
22 his removal than to the underlying basis. (See Factual Background, *supra* at 8-12.) This was  
23 exactly how a board was supposed to act under both Nevada law and RDI’s Bylaws.

24 As with Plaintiff, an officer’s “inability to perform adequately” and lack of “experience,  
25 expertise, and proper degree of affability” are protected reasons under the business judgment rule  
26 for his or her termination. *Franklin*, 324 F. Supp. at 813; *see also Carlson*, 925 A.2d at 540  
27 n.232 (where “the evidence indicated that Carlson was not effective in the role of President of  
28 CR and that he had important managerial shortcomings,” “firing him could have fostered CR’s

1 welfare” and was thus protected by the business judgment rule). Plaintiff’s insinuation that his  
2 termination was somehow “improper” because he was fired after he ultimately declined to settle  
3 the Cotter trust litigation (SAC ¶¶ 78-94) is baseless. The “agreement-in-principle” between  
4 Plaintiff and his sisters, if finalized, would have circumscribed Plaintiff’s management authority  
5 and placed him under the auspices of an Executive Committee. (HD ¶ 41.) The Board’s  
6 consideration of that potential deal made sense, as a finalized agreement could have reduced the  
7 admitted dysfunction hampering RDI and rectified some of the otherwise-terminal problems in  
8 Plaintiff’s CEO tenure, while also providing him a structure within which to grow and gain  
9 experience; once that agreement fell through, the Board was left with the same intractable  
10 problems as before. The fact that a company’s CEO cannot “work well” with its directors or  
11 executives, and requires “close and constant supervision,” as was the case with Plaintiff, is a  
12 valid basis for terminating the officer, and is a decision protected by the business judgment rule.  
13 *In re Walt Disney Co. Deriv. Litig.*, 906 A.2d 27, 72-73 (Del. 2006). Even RDI’s unaffiliated  
14 investors see this as a valid reason for Plaintiff’s termination. (HD ¶ 18(d).)<sup>4</sup>

15 Because the RDI Board’s termination of Plaintiff can “arguably be taken to have been  
16 done for the benefit of the corporation,” that merits-based decision is fully protected by the  
17 business judgment rule and immune from Plaintiff’s challenge. *Horwitz*, 604 F. Supp. at 1135;  
18 *see also Katz v. Chevron Corp.*, 22 Cal.App.4th 1352, 1366 (1994) (rule protects corporate  
19 management decisions whenever they can be “attributed to any rational business purpose”).<sup>5</sup>

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21 <sup>4</sup> The fact that the RDI Board utilized both the Company’s outside counsel and its own  
22 counsel, separately retained, when evaluating Plaintiff’s performance and its duties is further  
23 evidence of the exercise of protected business judgment. *See In re Walt Disney Co. Deriv. Litig.*,  
24 906 A.2d at 72-73 (“business judgment” properly exercised where officer “weighed the  
alternatives” and “received advice from counsel”); *Horwitz*, 604 F. Supp. at 1134-35 (directors  
use of advice from “law firms” was evidence of business judgment exercise).

25 <sup>5</sup> As noted in the Individual Defendants’ contemporaneous Motion for Summary Judgment  
26 on Director Independence (No. 2), each non-Cotter Board member was independent with respect  
27 to the decision to terminate Plaintiff. Even if they were not, the “business judgment rule” would  
28 still apply because, under Nevada law, an “entire fairness” review can be triggered only  
(1) where there is a “change or potential change” in stockholder “control of [the] corporation,”  
NRS 78.139, not present here; or (2) where a board “authorizes, approves, or ratifies a contract  
or transaction” involving an “interested director,” a scenario also not present where there was a

1 (b) Plaintiffs' Procedural Complaints Are Unsupportable

2 Second, Plaintiff's remaining complaints regarding the "process" surrounding his  
3 termination are equally invalid. (See SAC ¶¶ 72-74, 76.) It is "well settled that corporate bodies,  
4 in proceedings taken for the removal of a corporate director or an officer, are not bound to act  
5 with the strict regularity required in judicial proceedings." 2 Fletcher Cyc. Corp. § 360.  
6 Directors need not give a CEO advance notice of a plan to remove him at a regular board  
7 meeting, and RDI's Bylaws contain no notice requirement. *Klaassen v. Allegro Dev. Corp.*, 106  
8 A.3d 1035, 1043-44 (Del. 2014) (rejecting claim that CEO's termination was improper because  
9 of lack of agenda item giving advance notice that his performance was at issue); *OptimisCorp. v.*  
10 *Waite*, C.A. No. 8773-VCP, 2015 WL 5147038, at \*66-67 (Del. Ch. Aug. 26, 2015) (rejecting  
11 argument that directors "breached their duty of loyalty by not advising [CEO] in advance of his  
12 potential termination"); 2 Fletcher Cyc. Corp. § 357.20 (2015) (a board's failure to give CEO  
13 advance notice of a plan to remove him as CEO does "not invalidate his termination").

14 Even so, here Plaintiff's performance was listed as an agenda item in advance of all three  
15 Board meetings in which his potential termination was discussed, and he was repeatedly given a  
16 platform before the Board to defend his tenure and present a business plan (which he declined  
17 when it became apparent that no such plan existed). (See Factual Background, *supra* at 9-11.)  
18 While Plaintiff may have wished to continue through June 2015 before any vote was held on his  
19 performance, his removal was permissible under RDI's Bylaws "at any time" (HD ¶ 20(b)),  
20 RDI's Board had "an individual who we're very concerned about" such that its "process or  
21 evaluation is constantly going on" (*id.* ¶ 8(1)), and the Board had an affirmative fiduciary duty to  
22 shareholders to remove Plaintiff whenever it felt that his performance was hindering the value of  
23 the Company—it could not simply hold off on a final decision based on Plaintiff's preferred  
24 timetable. (See also *id.* ¶ 7(b) (noting that the Board "had never set a date of June 30 for our  
25 intervention" and "there was no reason for us to wait until June 30").) RDI's Board of Directors  
26 in no way "ambushed" Plaintiff. *OptimisCorp*, 2015 WL 5147038, at \*67. Plaintiff "knew that  
27 termination of an officer. NRS 78.140. And, even if an "entire fairness" review could apply,  
28 Plaintiff's firing was unquestionably a "fair" decision by the Board in light of the above-issues.

1 his position as C.E.O. was in jeopardy for a longer period of time than just May 21” (HD ¶ 8(j)),  
2 and RDI’s Board gave him far more notice and opportunity to defend his performance than  
3 required by law. (*See also* HD ¶ 12(j) (per Plaintiff, RDI’s Board discussed “the possibility of  
4 getting an interim CEO . . . as early as October 2014”).) Plaintiff’s process claims, as with his  
5 attack on the underlying merits of his termination, are baseless as a matter of fact and precluded  
6 as a matter of law by the business judgment rule.

7 **3. RDI Was Not Damaged by Plaintiff’s Termination**

8 Plaintiff’s fiduciary duty claim relating to his termination also fails because he cannot  
9 prove that any “breach proximately caused . . . damages” to RDI itself. *Olvera v. Shafer*, No.  
10 2:14-cv-01298, 2015 WL 7566682, at \*2 (D. Nev. Nov. 24, 2015) (applying Nevada law and  
11 dismissing fiduciary duty claim); *see also Carlson*, 925 A.2d at 540 (dismissing claim because  
12 plaintiff could not “articulate” or “prove that any damages flowed proximately” to company  
13 from his firing). To sustain a fiduciary duty claim, there must be cognizable evidence of  
14 “economic harm suffered” by the Company actually resulting from the Board’s alleged “breach  
15 of duties owed in a fiduciary relationship.” *Chimney Rock Pub. Power Dist. v. Tri-State*  
16 *Generation & Transmission Ass’n, Inc.*, No. 10-cv-02349, 2014 WL 811566, at \*4 (D. Colo.  
17 Mar. 3, 2014). Nominal damages are insufficient. *See AMERCO v. Shoen*, 907 P.2d 536, 542  
18 (Ariz. App. 1995) (in evaluating breach of fiduciary duty claim, finding “[w]e have no basis for  
19 concluding that, in the absence of actual damage or unjust enrichment, Nevada would encourage  
20 internecine corporate litigation by permitting a nominal damage claim”). Nor will mere  
21 “speculative” damages suffice. *Chimney Rock*, 2014 WL 811566, at \*4.

22 Plaintiff cannot meet the damages showing required to avoid summary judgment.  
23 Uncontroverted testimony and documentary evidence from within RDI indicates that Plaintiff  
24 “was very weak as a C.E.O. or as a manager,” that he “wasn’t really leading the business and he  
25 wasn’t leading us forward,” “wasn’t progressing fast,” lacked a “vision of where we’re going,”  
26 and did not do “one thing . . . that created value for the company.” (HD ¶¶ 3(d), (f)-(g); 8(r),  
27 (u).) RDI’s unaffiliated major investors were also unanimous that it would not “make much  
28 difference” to shareholders if Plaintiff was CEO, and that the overall performance of the RDI,

1 along with its business plan, have remained entirely consistent and appropriate since Plaintiff's  
2 termination. (See Factual Background, *supra* at 12-13.) And while Plaintiff's expert Tiago  
3 Duarte-Silva asserts that RDI performed differently when Plaintiff was CEO as compared to  
4 Ellen Cotter, he offers no evidence or analysis connecting the purported changes in performance  
5 to anything Plaintiff or Ellen Cotter did or did not do as CEO, completely avoids actual or  
6 proximate causation, and does not address the essentially unchanged performance of RDI's stock  
7 price. (See HD ¶ 46.)<sup>6</sup>

8 Because Plaintiff does not have evidence of any "economic harm" flowing to RDI  
9 following his termination, let alone evidence that his firing was the "proximate cause" of such  
10 harm, he cannot establish an actionable breach of fiduciary claim. See *Bd. of Managers at Wash.*  
11 *Park Condo v. Foundry Dev. Co.*, 975 N.Y.S.2d 707, at \*2-3 (N.Y. Sup. Ct. 2013) (table)  
12 (rejecting fiduciary duty claim where there was no connection of harm to nominal plaintiff);  
13 *Stafford v. Reiner*, 804 N.Y.S.2d 114, 114-15 (N.Y. App. Div. 2005) (rejecting fiduciary duty  
14 claim because "proximate cause" evidence was absent, and claim was "entirely speculative" with  
15 "no support in the record"). Indeed, given that he cannot satisfy *any* of the elements required to  
16 sustain his fiduciary duty claim relating to his termination, each of Plaintiff's causes of action  
17 should be dismissed to the extent that they relate to his removal.

18 **B. Plaintiff Cannot Maintain This Derivative Action to Assert Fiduciary Duty**  
19 **Claims Relating to His Termination**

20 This Court, at the pleading stage (accepting all allegations as true), determined that  
21 Plaintiff had standing to assert a derivative action on behalf of RDI itself and its shareholders

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22  
23 <sup>6</sup> Indeed, since Plaintiff's termination, RDI's stock has frequently traded at or above the  
24 value it held on June 12, 2015. (See HD ¶ 45.) Where the market data regarding the share price  
25 shows that prices have risen following disclosures, the "proximate causation" required for a  
26 breach of fiduciary duty claim is entirely lacking. See *In re Acterna Corp. Sec. Litig.*, 378 F.  
27 Supp. 2d 561, 588 (D. Md. 2005). Even if it had not, a mere drop in share price is insufficient to  
28 satisfy the required causation. See *Morgan v. AXT, Inc.*, No. C 04-4362, 2005 WL 2347125,  
at \*16 (N.D. Cal. Sept. 23, 2005) (allegation that share price dropped after disclosure revealed  
prior misrepresentations insufficient to constitute causation). And, of course, a "decline" in  
"stock price is not even a derivative injury" and cannot support the required causation in the  
context of Plaintiff's purported derivative action. *South v. Baker*, 62 A.3d 1, 25 (Del. Ch. 2012).

1 with respect to a variety of fiduciary claims, including as they related to his termination.  
2 However, the elements of standing are not merely pleading requirements but, rather, are an  
3 “indispensable part of the plaintiff’s case,” and “each element must be supported in the same  
4 way as any other matter on which the plaintiff bears the burden of proof, *i.e.*, with the manner  
5 and degree of evidence required at the successive stages of the litigation.” *Lujan v. Defenders of*  
6 *Wildlife*, 504 U.S. 555, 561 (1992); *see also Parfi Holding AB v. Mirror Image Internet, Inc.*,  
7 954 A.2d 911, 934-42 (Del. Ch. 2008) (finding, based on “evidence that arose during discovery  
8 and other developments,” that plaintiffs “now lack standing to serve as derivative plaintiffs”). It  
9 is now obvious, following discovery, that Plaintiff “does not fairly and adequately represent the  
10 interests of the shareholders or members similarly situated in enforcing the right of the  
11 corporation or association,” Nev. R. Civ. P. 23.1, in bringing fiduciary duty claims relating to his  
12 termination and to the extent that he seeks reinstatement as CEO and President of the RDI. Any  
13 suggestion by the Plaintiff otherwise is tilting at windmills. Thus, even if Plaintiff’s termination  
14 and reinstatement claims were not entirely barred by the business judgment rule (which they  
15 are), Plaintiff could not maintain a derivative action regarding such claims.

16 In pursuing a derivative action, Plaintiff “must not have ulterior motives and must not be  
17 pursuing an external personal agenda.” *Energytec, Inc. v. Proctor*, Nos. 3:06-cv-0871 *et al.*,  
18 2008 WL 4131257, at \*6 (N.D. Tex. Aug. 29, 2008) (citation omitted) (applying Nevada law).  
19 “Because of the fear that shareholder derivative suits could subvert the basic principle of  
20 management control over corporation operations, courts have generally characterized  
21 shareholder derivative suits as a remedy of last resort.” *Quinn v. Anvil Corp.*, 620 F.3d 1005,  
22 1012 (9th Cir. 2010) (citation omitted).

23 In light of “the extraordinary nature of a shareholder derivative suit,” a purported  
24 derivative plaintiff must satisfy several “stringent conditions” in order to bring such a suit. *Id.*  
25 Courts carefully weigh several factors under Rule 23.1 when deciding whether a shareholder is  
26 an adequate representative, such as: (1) economic antagonisms between the purported  
27 representative and class; (2) the remedy sought by the plaintiff in the derivative action, including  
28 the magnitude of the plaintiff’s personal interests as compared to his interest in the derivative

1 action itself; (3) other litigation pending between the plaintiff and defendants; (4) the plaintiff's  
2 vindictiveness toward the defendants; and (5) the degree of support the plaintiff is receiving from  
3 the shareholders he purports to represent. *Energytec*, 2008 WL 4131257, at \*7 (citation  
4 omitted). "It is possible that the inadequacy of a plaintiff may be concluded from a strong  
5 showing of only one factor," especially if that factor involves "some conflict of interest between  
6 the derivative plaintiff and the class." *Khanna v. McMinn*, No. Civ. A. 20545-NC, 2006 WL  
7 1388744, at \*41 (Del. Ch. May 9, 2006). Following discovery, it is clear that the vast majority  
8 of these factors negate Plaintiff's attempted derivative standing with respect to his termination  
9 and reinstatement claims, as there are irreconcilable conflicts of interest between Plaintiff, other  
10 RDI shareholders, and the Company itself.<sup>7</sup>

11 Economic Antagonism Exists: "[E]conomic antagonism between . . . plaintiff and other  
12 shareholders is typically fatal to a shareholder derivative suit." *Pacemaker Plastics Co., Inc. v.*  
13 *AFM Corp.*, 139 F. Supp. 2d 851, 855 (N.D. Ohio 2001). As the former CEO and President of  
14 RDI, Plaintiff "has a personal economic interest in reversing the events leading to his removal,"  
15 but RDI's "shareholders do not share this interest, as they do not stand to regain past  
16 employment or company influence." *Energytec*, 2008 WL 4131257, at \*7 (rejecting derivative  
17 standing by former CEO of company). Not only do Ellen and Margaret Cotter, who control the  
18 majority of the voting Class B shares in RDI, oppose Plaintiff's termination and reinstatement  
19 claims, significant unaffiliated shareholders in the Company have testified that they see no  
20 economic benefit in pursuing Plaintiff's termination claim or in seeking his reinstatement. (*See*  
21 *Factual Background, supra* at 12-13.) These outside shareholders had "no opinion" as to  
22 whether Plaintiff's termination and requested reinstatement would affect RDI's share price, saw  
23 no evidence that the Company's "business operations" have been affected by his termination or  
24 would be benefitted by his reinstatement, and do not see "a high priority" to returning Plaintiff to  
25 office. (*Id.*) Thus, there is clear economic antagonism—what is economically beneficial to  
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27 <sup>7</sup> Other traditional factors, such as "indications that the named plaintiff was not the driving  
28 force behind the litigation" and "plaintiff's unfamiliarity with the litigation," *Energytec*, 2008  
WL 4131257, at \*7, are not at issue here and need not be discussed.



1 Plaintiff himself is not viewed by the Company or its investors as economically advantageous.

2       The Remedy Sought Is Personal: Even prior to his firing, Plaintiff repeatedly threatened  
3 RDI's Board of Directors with a derivative action to entrench his position as the Company's  
4 CEO and President. (See Factual Background, *supra* 9-10.) Other courts have found identical  
5 conduct to be "personal," and contrary to the type of remedy sought by truly representative  
6 plaintiffs in a derivative action. For instance, in *Khanna*, the court found that a suspended  
7 general counsel could not maintain a derivative action because of similar threats, which  
8 "demonstrate[d] a self-interested motivation that is not consistent with the continued pursuit of a  
9 derivative and class action by the plaintiff." 2006 WL 1388744, at \*43. As that court noted, the  
10 derivative litigation was really "to provide leverage in his attempt to regain (and enhance) his  
11 position" after his removal—a result whose "benefit is directed almost exclusively, if not solely,  
12 to [plaintiff]." *Id.* Similarly, in *Energystec*, the court concluded that the former CEO's "interest  
13 in obtaining the requested relief" of reinstatement "far outweighs that of other shareholders,"  
14 who did not "share" an interest in his "regain[ing] control" of the company. 2008 WL 4131257,  
15 at \*7; *see also Tankersley v. Albright*, 80 F.R.D. 441, 444 (N.D. Ill. 1978) ("[W]here it appears  
16 that the injury is directly suffered by an individual shareholder or relates directly to an  
17 individual's stock ownership, the action is personal."). Here, Plaintiff's personal dispute relating  
18 to his termination is not a harm suffered by RDI itself or any of its other shareholders, and is not  
19 a proper vehicle for a derivative action.

20       Other Litigation Is Pending: In addition to this case, currently there is a California trust  
21 litigation, a Nevada trust and estates litigation, and a private arbitration proceeding, all of which  
22 relate to the contested control of RDI and purported misdeeds related to Plaintiff's firing.  
23 "Ordinarily, other litigation, in and of itself, may warrant disqualification of a plaintiff from  
24 bringing a derivative suit where it appears that the derivative plaintiff instituted the derivative  
25 suit only as 'leverage' to further his individual claims." *Scopas Tech. Co. v. Lord*, No. 7559,  
26 1984 WL 8266, at \*2 (Del. Ch. Nov. 20, 1984). Here, Plaintiff is clearly using this "derivative  
27 action as leverage to obtain a favorable settlement" in these "other actions" currently pending,  
28 *Recchion on Behalf of Westinghouse Elec. Corp. v. Kirby*, 637 F. Supp. 1309, 1315 (W.D.Pa.

1 1986), as he is asserting the same arguments in those cases as in this one. For instance, Plaintiff  
2 in the trust litigation has claimed—as in this action—that he was wrongfully terminated in “a  
3 boardroom coup,” that “Ellen [Cotter] deliberately interfered with and corrupted a search process  
4 set in motion by the RDI Board,” that Margaret Cotter was promoted to a position to which she  
5 is also wholly unqualified,” and that the Board improperly increased his sisters’ compensation.  
6 (See HD ¶ 47.) “In such circumstances,” where the overlap between suits is obvious, “there is  
7 substantial likelihood that the derivative action will be used as a weapon in the plaintiff  
8 shareholder’s arsenal, and not as a device for the protection of all shareholders,” and “other  
9 courts have properly refused to permit the derivative action to proceed.” *Owen v. Diversified*  
10 *Industries, Inc.*, 643 F.2d 441, 443 (6th Cir. 1981) (citations omitted).

11 Plaintiff Is Clearly Driven by Vindictiveness: In addition to his pre-litigation threat to  
12 use a derivative suit to “ruin . . . financially” any director that challenged his position, Plaintiff’s  
13 own allegations demonstrate a strong personal animus at the heart of his action. See, e.g., SAC  
14 ¶ 20 (accusing Kane of threatening “Corleone (‘Godfather’) style family justice”), ¶ 33  
15 (admitting that Plaintiff “alienated his sisters”), ¶ 35 (labeling Margaret Cotter’s handling of the  
16 STOMP matter, which resulted in a \$2.2 million judgment for the Company, a “debacle”), ¶ 70  
17 (insinuating that Adams was not forthcoming in his divorce proceedings); see also First Am.  
18 Compl. ¶ 75 (alleging that Kane, with Margaret and Ellen Cotter, “launched [a] scheme to extort  
19 [Plaintiff]”), ¶ 78 (accusing Adams of consistently engaging in a “search for the next public  
20 company victim”). Courts have determined that similar “unmistakable personal” allegations and  
21 comparable “vituperative epithets, pugilistic metaphors, and [extreme] descriptions” are  
22 indicative of an “emotionally charged feud” that is not the proper subject of a shareholder  
23 derivative action. *Smith v. Ayres*, 977 F.2d 946, 949 (5th Cir. 1992); see also *Love v. Wilson*,  
24 No. CV 06-06148, 2007 WL 4928035, at \*7-8 (C.D. Cal. Nov. 15, 2007) (complaint filled with  
25 “gratuitous language” was indicative of well-known “vindictiveness and animosity” between  
26 founders of The Beach Boys, and indication that one cousin could not maintain derivative action  
27 against others); *Khanna*, 2006 WL 1388744, at \*44 (“the tangential and acrimonious  
28 employment dispute” between plaintiff “and his former employer” precluded derivative action).

1           Plaintiff Has No Shareholder Support: Even setting aside the fact that the individuals  
2 who control a majority of RDI's voting shares do not support Plaintiff's derivative action or his  
3 requested reinstatement, it is clear that Plaintiff has no evidence of shareholder support from  
4 significant unaffiliated shareholders in RDI. Andrew Shapiro, which owns approximately \$13  
5 million in RDI's Class A stock and \$30,000 in Class B stock, has testified that he "wasn't  
6 committed one way or the other than [Plaintiff] should be reinstated," and he did not "think  
7 necessarily [Plaintiff] is the best adequate representative of mine or other shareholder interests."  
8 (HD ¶ 19(f)-(g).) Both Whitney Tilson and Jonathan Glaser, who together control over 1 million  
9 shares of the Company's Class A stock and over a thousand Class B shares, have explicitly  
10 rejected the idea of reinstating Plaintiff. (See Factual Background, *supra* at 12-13.) Indeed,  
11 Tilson has specifically noted that "the well has been poisoned" with respect to Plaintiff as CEO,  
12 and his reinstatement would merely perpetuate a "divided company." (HD ¶ 17(a).) Tilson has  
13 further stressed that Plaintiff is not "the single best qualified person to run" RDI, and emphasized  
14 his belief that Plaintiff's advancement within RDI was likely the product of "nepotism." (*Id.*)  
15 This "lack of support" for Plaintiff's termination and reinstatement claims by relevant "non-  
16 defendant shareholders" is strong evidence that Plaintiff does not have standing to maintain his  
17 derivative challenge. *Love*, 2007 WL 4928035, at \*6; *see also Smith*, 977 F.2d at 948 (lack of  
18 "cooperation" or support from other shareholders undermined attempted derivative action).

19           In their totality, the relevant factors reveal that Plaintiff is an inadequate derivative  
20 plaintiff, and that he should not be allowed to maintain a derivative action for his highly personal  
21 termination and reinstatement claims. *See Aztec Oil & Gas, Inc. v. Fisher*, 152 F. Supp. 3d 832,  
22 859 (S.D. Tex. 2016) (finding similar employment dispute was not a proper derivative action);  
23 *cf. CCWIPP v. Alden*, No. Civ. A. 1184, 2006 WL 456786, at \*10 (Del. Ch. Feb. 22, 2006)  
24 ("discovery" and "[f]urther development of the facts" may prove a plaintiff is "an inadequate  
25 derivative plaintiff"). Because Plaintiff lacks standing to pursue a derivative action seeking  
26 relief on his termination and reinstatement claims, summary judgment is fully warranted.

27           **C. Plaintiff's Reinstatement Demand Is Unsupportable and Untenable**

28           Plaintiff's Employment Contract with RDI, which relates to his duties as President and

1 which—according to Plaintiff—continued to apply when he became CEO (HD ¶ 11(a)), provides  
2 that Plaintiff will receive twelve months of “compensation and benefits” following a termination  
3 “without cause,” and nothing if he was terminated for “cause.” (*Id.* ¶ 21(c).) Nowhere does the  
4 Employment Contract give Plaintiff the right of reinstatement or any other right of specific  
5 performance against the Company. (*Id.* ¶ 21.) “It is hardly controversial to recognize that an  
6 order of specific performance is rarely an appropriate remedy for breach of an employment  
7 agreement.” *Cedar Fair, L.P. v. Falfas*, 19 N.E.3d 893, 897 (Ohio 2014). The result should not  
8 be different here: Plaintiff’s attempt to achieve, via this derivative action, a reinstatement  
9 remedy beyond what is available under his Employment Contract is unsupportable for six  
10 reasons. Accordingly, summary judgment as to the relief sought by Plaintiff is warranted.

11 First, “generally, equity will not assume jurisdiction for the purpose of reinstating a  
12 removed officer.” 2 Fletcher Cyc. Corp. § 363. “An equitable action does not lie where the  
13 officer was removable without cause,” *id.*, as Plaintiff was pursuant to RDI’s Bylaws, which  
14 provided that he “may be removed at any time, with or without cause.” (HD ¶ 20(b).)

15 Second, specific performance is available under Nevada law only if “the remedy at law is  
16 inadequate.” *Serpa v. Darling*, 107 Nev. 299, 305 (1991); *see also* 2 Fletcher Cyc. Corp. § 363  
17 (“equity has no power to reinstate a removed officer . . . where they have an adequate remedy at  
18 law”). Here, Plaintiff’s Employment Contract sets forth the relief owed following a termination,  
19 Plaintiff is participating in a simultaneous arbitration regarding his removal, and the Company  
20 itself has suffered no damages as a result of his firing. As such, a remedy at law is clearly  
21 sufficient to resolve Plaintiff’s wrongful termination claims.

22 Third, “there are strong policy reasons” for the “general rule against compelling an  
23 employer to retain an employee,” especially if such reinstatement—as here—is “against [the  
24 employer’s] wishes.” *Zannis v. Lake Shore Radiologists, Ltd.*, 392 N.E.2d 126, 129 (Ill. Ct. App.  
25 1979). Plaintiff’s reinstatement “would involve difficulty of supervision,” *Cedar Fair*, 19  
26 N.E.3d at 898, and there are significant questions counseling against reinstatement as to how “a  
27 large business entity” like RDI could “properly function” if it was “force[d]” to “reemploy an  
28 unwanted senior officer” like Plaintiff “after it had obviously moved on.” *Id.*

1 Fourth, officers have no “vested right to serve out the remainder of their terms.”  
2 *Chesapeake Corp. v. Shore*, 771 A.2d 293, 345-46 (Del. Ch. 2000). Plaintiff has “no property  
3 right” in his position as CEO and, given RDI’s Bylaws, if reinstated he “could immediately be  
4 fired for no reason or for any other permissible reason.” *Rosario-Torres v. Hernandez-Colon*,  
5 889 F.2d 314, 323 (1st Cir. 1989). This fact alone may “support a denial of reinstatement.” *Id.*

6 Fifth, the “long period of time” that has elapsed since Plaintiff’s termination, over 15  
7 months at the moment (far longer than his 10 months as CEO), counsels against Plaintiff’s  
8 reinstatement. *Id.* at 324 (recognizing that “a long period of time” between “discharge” and  
9 “entry of judgment” weighs against reinstatement); *Nance v. City of Newark*, Civ. No. 97-6184,  
10 2010 WL 4193057, at \*2 (D.N.J. Oct. 19, 2010) (same). This is especially true given that the  
11 Company has moved on from the issues encountered during Plaintiff’s tenure, now has several  
12 new directors serving on the Board, and its own uninterested investors recognize that Plaintiff’s  
13 reinstatement would merely perpetuate a “divided company.”

14 Sixth, and finally, reinstatement is not proper where—as here—there is “irreparable  
15 animosity between the parties.” *Blum v. Witco Chem. Corp.*, 829 F.2d 367, 373-74 (3d Cir.  
16 1987); *Robinson v. SEPTA*, 982 F.2d 892, 899 (3d Cir. 1993) (same). It is beyond dispute that  
17 there is “substantial animosity between the parties,” including, in particular, between Plaintiff  
18 and his sisters; “the parties’ relationship [is] not likely to improve”; and “the nature of [RDI’s]  
19 business require[s] a high degree of mutual trust and confidence,” which is “noticeably lacking.”  
20 *Brooks v. Woodline Motor Freight, Inc.*, 852 F.2d 1061, 1066 (8th Cir. 1988). Plaintiff’s  
21 requested reinstatement relief is therefore untenable and should be denied.

## 22 **V. CONCLUSION**

23 For the foregoing reasons, the Individual Defendants respectfully request that the Court  
24 grant them summary judgment as to the First, Second, Third, and Fourth Causes of Action set  
25 forth in Plaintiff’s SAC, to the extent that they assert claims based on Plaintiff’s June 12, 2015  
26 termination as CEO and President of RDI, and to the extent that Plaintiff seeks damages and/or  
27 an order both declaring that his termination was “legally ineffectual and is of no force and effect”  
28 and an injunction reinstating him as the Company’s CEO and Chairman.

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Dated: September 23, 2016

**COHEN|JOHNSON|PARKER|EDWARDS**

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Edward Kane*

1                   **DECLARATION OF COUNSEL NOAH S. HELPERN IN SUPPORT OF**  
2                   **THE INDIVIDUAL DEFENDANTS' MOTION FOR SUMMARY JUDGMENT (NO. 1)**  
3                   **ON PLAINTIFF'S TERMINATION AND REINSTATEMENT CLAIMS**

4                   I, Noah Helpern, state and declare as follows:

5                   1.       I am a member of the Bar of the State of California, and am an attorney with the  
6 law firm of Quinn Emanuel Urquhart & Sullivan, LLP ("Quinn Emanuel"), attorneys for the  
7 Individual Defendants. I make this declaration based upon personal, firsthand knowledge,  
8 except where stated to be on information and belief, and as to that information, I believe it to be  
9 true. If called upon to testify as to the contents of this Declaration, I am legally competent to  
10 testify to its contents in a court of law.

11                  2.       Attached hereto as Exhibit 1 is a true and correct copy of transcript excerpts from  
12 the deposition of Timothy Storey, taken on February 12, 2016, in which the following pages are  
13 relevant:

- 14                   a.) 119:25-120:12 (Storey testifying that McEachern believed "the current  
15 disharmony within the business was untenable going forward and needed to  
16 be dealt with");  
17                   b.) 154:2-4 ("I think the comment was simply . . . that things should be dealt with  
18 now. They had come to a head and there was no point in delaying. . . .  
19 That's my perception, that there was – the view was there was disharmony,  
20 and therefore it needed to be dealt with. It was clearly a view around the  
21 board table by a number of people that the matter needed to be dealt with  
22 expeditiously and rightly."); and  
23                   c.) 226:21-227:11 (Storey testifying that it "was not my opinion" that Plaintiff  
24 was terminated as CEO as a result of "the trust and estate litigation").

25                  3.       Attached hereto as Exhibit 2 is a true and correct copy of transcript excerpts from  
26 the deposition of Guy Adams, taken on April 28, 2016, in which the following pages are  
27 relevant:  
28

- 1 a.) 77:6-24 (“Tim Storey was coaching” Plaintiff and acting as “ombudsman” to  
2 address Plaintiff’s “performance and there being certain issues”);
- 3 b.) 78:13-20 (according to Adams, Storey noted that “the only reason” Plaintiff  
4 received the CEO “job is because his last name is Cotter,” while Adams was  
5 aware of Plaintiff’s “shortcomings” upon his election);
- 6 c.) 78:18-21 (while Adams had hoped that Plaintiff could “learn on the job and  
7 get up to speed quickly . . . by April, [Adams] was of the opinion that wasn’t  
8 working out”);
- 9 d.) 83:23-87:23 (“I questioned [Plaintiff’s] knowledge about the business he’s  
10 managing and his management style . . . I was forming the opinion or had  
11 formed the opinion that he wasn’t really leading the business and he wasn’t  
12 leading us forward . . . I said, We’ve been working with [Plaintiff] all these  
13 months and I don’t see progress.”);
- 14 e.) 84:20-87:23 (Adams testifying that, properly adjusting for lease rentals, the  
15 margins for film rental in the United States as compared to Australia and New  
16 Zealand revealed a 2% gap, not a 16-18% gap as Plaintiff claimed. Similarly,  
17 as RDI’s ex-CFO clarified, “[i]n the USA they allocate the G and A down to  
18 the theatre level so the theatre level labor cost looks high, and in Australia and  
19 New Zealand, they allocate a lot of the labor costs up to G and A so the labor  
20 cost looks really low.”);
- 21 f.) 88:24-89:22 (“But the vision of where we’re going, how we’re going to lead –  
22 where is our CEO leading our company, I said, We haven’t heard a whiff of  
23 this . . . Nobody saw it; nobody heard it.”); and
- 24 g.) 89:23-90:10 (Gould “agreed” with Adams that Plaintiff “wasn’t progressing  
25 fast.”).

26 4. Attached hereto as Exhibit 3 is a true and correct copy of transcript excerpts from  
27 the deposition of Guy Adams, taken on April 29, 2016, in which the following pages are  
28 relevant:



- 1 a.) 419:17-421:23 (Adams recalling occasions on which he was informed, within  
2 “two days” after the events, of outbursts by Plaintiff in which he “lost his  
3 temper” when dealing with Linda Pham, Debbie Watson, and Ellen Cotter);
- 4 b.) 419:11-16 (“There’s been more than one conversation by the non-Cotter board  
5 members about [Plaintiff’s] interpersonal skills and anger management  
6 issues.”);
- 7 c.) 422:1-18 (“Late 2014, early 2015, . . . there was a discussion . . . among the  
8 board – non-Cotter board members about potentially [Plaintiff] being coaxed  
9 or demanded to attend anger management classes.”);
- 10 d.) 426:19-427:9 (Adams testifying that “[c]alling up the chairman of the board  
11 and saying he’s prepared to file a derivative suit” against the Company was an  
12 unjustifiable attempt to pressure the Board and itself “cause to remove”  
13 Plaintiff);
- 14 e.) 431:2-432:19 (When Adams was discussing estate planning with Plaintiff in  
15 June 2014, Plaintiff “jumped up from his desk and turned beet red and was  
16 screaming at the top of his lungs at [Adams],” and then “marched up and  
17 down, paced, and was yelling at [Adams]” before “apologiz[ing]” for his  
18 outburst.);
- 19 f.) 451:25-452:16 (Plaintiff’s “door was shut a considerable amount of time. I’m  
20 not sure exactly what was going [on] during the time the door was shut.”);
- 21 g.) 451:25-454:25 (further noting that Plaintiff “seemed very slow, very hard to  
22 make decisions”);
- 23 h.) 460:12-24 (“Tim Storey voiced the opinion that if his last name wasn’t Cotter,  
24 he wouldn’t be CEO.”);
- 25 i.) 462:14-25 (Adams believed that, at the time of Plaintiff’s election, he “was  
26 young” and “didn’t have that much experience”); and
- 27 j.) 463:9-464:7 (Storey “appointed himself” coach for Plaintiff because, “within  
28 two or three months, it became clear to the board that [Plaintiff] needed help

1 in his role, not only as CEO in running the company but trying to make  
2 amends or find bridges that he could work with his sisters.”).

3 5. Attached hereto as Exhibit 4 is a true and correct copy of transcript excerpts from  
4 the deposition of Edward Kane, taken on May 2, 2016, in which the following pages are  
5 relevant:

- 6 a.) 134:1-135:22 (Kane believed that there was a “toxic office and polarization”  
7 in RDI because of, in part, incidents between Plaintiff and various employees,  
8 which led Linda Pham to contact McEachern regarding “her concern for her  
9 actual physical safety” and Debbie Watson to “carry[] mace to the office”);
- 10 b.) 137:12-140:15 (Linda Pham filed two complaints that were turned over the  
11 McEachern and Storey because she was “physically afraid” of Plaintiff,  
12 especially “when she was there after-hours.”);
- 13 c.) 159:10-160:12 (Plaintiff insisted on showing the board pictures of theatres in  
14 Hawaii that Plaintiff believed were in disrepair to the Board, without first  
15 raising the issue with Ellen Cotter, in an attempt to make Ellen “the fall  
16 person for this,” even though “[s]he had nothing to do with the issues, if there  
17 were any.”);
- 18 d.) 161:4-162:11 (Rather than ask, “Margaret, how can I help in solving this  
19 issue?,” Plaintiff “attack[ed] his sister” and “used [the STOMP dispute] as a  
20 tool to embarrass her in front of the board,” which is “not what a C.E.O.  
21 would do when you have two experienced executives,” and “[t]he net result”  
22 of the STOMP dispute “is that Margaret by herself handled this arbitration  
23 with her lawyers and we just got an award for more than \$2.2 million.”); and
- 24 e.) 164:3-21 (Storey was acting “as the ombudsman” to try to get Plaintiff “to  
25 work together” with Ellen and Margaret Cotter).

26 6. Attached hereto as Exhibit 5 is a true and correct copy of transcript excerpts from  
27 the deposition of Edward Kane, taken on May 3, 2016, in which the following pages are  
28 relevant:

1 a.) 251:13-253:6 (“The independent committee . . . spent an inordinate amount of  
2 time trying to come up with ways of ameliorating the . . . way . . . the Cotters  
3 interacted with each other.”); and  
4 b.) 331:11-332:17 (Kane explaining opinion of majority of non-Cotter directors  
5 as to why further delay on vote to terminate Plaintiff at the June 12, 2015  
6 Board meeting would have been problematic and suboptimal for the  
7 Company’s shareholders).

8 7. Attached hereto as Exhibit 6 is a true and correct copy of transcript excerpts from  
9 the deposition of Edward Kane, taken on June 9, 2016, in which the following pages are  
10 relevant:

11 a.) 529:22-530:2 (Kane noting that Gould and Storey saw “a psychologist or  
12 psychiatrist and wanted us to mandate that [Plaintiff] visit this psychologist or  
13 psychiatrist.”); and  
14 b.) 532:12-534 (testifying that the Board “had never set a date of June 30 for our  
15 intervention” and “there was no reason for us to wait until June 30”).

16 8. Attached hereto as Exhibit 7 is a true and correct copy of transcript excerpts from  
17 the deposition of Douglas McEachern, taken on May 6, 2016, in which the following pages are  
18 relevant:

19 a.) 49:25-50:7 (Plaintiff “had no real estate experience, no international  
20 experience, no management experience, no cinema experience and no live  
21 theater experience”);  
22 b.) 50:19-51:12 (Storey and McEachern cautioned Plaintiff for “going around  
23 Ellen’s back” and wasting “valuable” time “doing financial analysis of  
24 individual cinemas” where a “consultant [could] do this”);  
25 c.) 51:13-52:1 (Plaintiff visited RDI cinemas in Hawaii and “didn’t talk to  
26 anybody, just went and took pictures” so that he could “undercut” Ellen  
27 Cotter);  
28

- 1 d.) 52:2-5 (Plaintiff “had a habit of coming into the office, sitting in his office and  
2 shutting the door, by himself and being there all day.”);
- 3 e.) 71:2-18 (identifying “sometime in mid to late May of 2015” when McEachern  
4 decided to support the termination of Plaintiff as CEO);
- 5 f.) 78:14-79:2 (McEachern testifying as to a personal meeting with Plaintiff in  
6 May, in which he threatened to go “after everybody”);
- 7 g.) 112:18-113:24, 114:6-15 (Linda Pham “felt that [Plaintiff] was being abusive  
8 in his behavior towards her,” and Debbie Watson’s “comments were  
9 supportive of Linda Pham’s concerns.”);
- 10 h.) 163:20-164:5 (“I was not comfortable with [Plaintiff] having the authority and  
11 responsibilities on his own as C.E.O. of Reading”);
- 12 i.) 167:4-25 (explaining why Gould’s proposal, which involved delay of  
13 potentially “two years” on decision regarding Plaintiff as CEO, was not “in  
14 the best interest of shareholders”);
- 15 j.) 176:1-9 (Plaintiff “knew that his position as C.E.O. was in jeopardy for a  
16 longer period of time than just May 21”);
- 17 k.) 177:5-11 (recalling emails from Storey regarding “the holes in” Plaintiff’s  
18 “expertise or ability to function as C.E.O. and where he needed further  
19 handling”);
- 20 l.) 219:2-24 (noting that the Board had “an individual who we’re very concerned  
21 about” such that its “process or evaluation is constantly going on”);
- 22 m.) 229:4-6 (McEachern explaining Storey’s preference at the June 12, 2015  
23 Board meeting to conclude the process relating to the evaluation of Plaintiff as  
24 CEO “at the end of June time frame or 90-day time frame when he started”);
- 25 n.) 285:5-8 (noting Plaintiff’s plan “to make some sort of presentation about the  
26 ugliness of the theaters which hadn’t had any capital put into them for quite a  
27 while”);
- 28

- 1 o.) 285:23-286:11 (after complaints from McEachern over the course of “a month  
2 or two” that his “closed door” policy was sending the message that he was  
3 “not being engaged with the employees of the company,” Plaintiff “open[ed]  
4 the door to his office one inch,” which “really caused some great angst”);
- 5 p.) 287:21-24 (Plaintiff “traveled around with his dad looking at things in  
6 Australia and possibly New Zealand, but in terms of any real operational  
7 effect or activities, nothing”);
- 8 q.) 288:19-289:8 (likening Plaintiff’s response to “throw[ing] hand grenades in  
9 something that you’re trying to do on a positive basis”);
- 10 r.) 292:2-5 (“The company from August of 2014 until Jim’s termination, I cannot  
11 tell you one thing that we did that created value for the company, one thing  
12 that Jim Cotter, Jr., managed to do. Nothing.”);
- 13 s.) 292:6-24 (Following Plaintiff’s election as CEO, “August, September,  
14 October, November, December, January, February – six months goes on and  
15 he hasn’t gone to visit anybody who has – connected our big activities that are  
16 taking place, which are doing exceedingly in Australia and New Zealand.”);
- 17 t.) 292:25-293:9 (identifying Plaintiffs’ “[i]nability to work with executives” of  
18 RDI);
- 19 u.) 293:4-9 (recalling emails in which Storey “alluded to” the fact that Plaintiff  
20 “was very weak as a C.E.O. or as a manager”);
- 21 v.) 293:10-13 (noting Plaintiff’s idea “to go to U.C.L.A. to learn how to manage”  
22 and “get an M.B.A.”);
- 23 w.) 293:23-294:8 (Plaintiff had “an inability to operate as a manager, an inability  
24 to create trust, an inability to communicate with people.”);
- 25 x.) 294:3-15 (“That lack of experience that [Plaintiff] had all painted a picture  
26 that we’re not making progress that our shareholders expect us to make in this  
27 organization, and we got to get somebody in here who can help us move the  
28 company forward.”); and

1 y.) 302:21-303:13 (McEachern emphasizing his belief that Ellen Cotter “should  
2 be in charge of going and figuring out where to go” with respect to food and  
3 beverage changes, “not the C.E.O. going and undercutting an individual  
4 running that operation”).

5 9. Attached hereto as Exhibit 8 is a true and correct copy of transcript excerpts from  
6 the deposition of Margaret Cotter, taken on May 12, 2016, in which the following pages are  
7 relevant:

8 a.) 275:14-278:12 (discussing factors leading to the dissolution of the  
9 “agreement-in-principle” as it was revised and lawyers for each side attempted  
10 to put it into final form).

11 10. Attached hereto as Exhibit 9 is a true and correct copy of transcript excerpts from  
12 the deposition of Margaret Cotter, taken on May 13, 2016, in which the following pages are  
13 relevant:

14 a.) 301:17-302:6 (“I believe that the email had 23 reasons why he shouldn’t be  
15 giving me this employment agreement. And the employment agreement was  
16 very restricted, where if I didn’t hand in a report at some particular time, I  
17 could be terminated.”);

18 b.) 304:5-23 (Plaintiff “just wanted to find all the fault in what I had done rather  
19 than deal with the situation in hand and getting this [preliminary injunction  
20 motion] filed to prevent the show from leaving the theater.”);

21 c.) 367:20-368:12 (Gould suggested that Plaintiff remain as President while  
22 stepping down as CEO at the May 21, 2015 meeting, following which  
23 Margaret Cotter recognized that Plaintiff “can get [his] training over the next  
24 five years and gain more experience and possibly [he] could become C.E.O. in  
25 another five years”); and

26 d.) 368:13-371:20 (describing negotiations regarding additional items and  
27 revisions during the attempted finalization of the agreement-in-principle).

28

1           11. Attached hereto as Exhibit 10 is a true and correct copy of transcript excerpts  
2 from the deposition of James J. Cotter, Jr. ("Plaintiff"), taken on May 16, 2016, in which the  
3 following pages are relevant:

- 4           a.) 30:25-37:9 (Plaintiff contends that his Employment Contract, which covered  
5 his duties as RDI President, continued to apply when he became CEO);  
6           b.) 133:13-17 (Plaintiff testifies that he was appointed Vice Chairman of the  
7 Company in September 2007, and then President in June 2013);  
8           c.) 133:18-134:11, 135:23-144:1 (Plaintiff states that he joined the RDI Board in  
9 March 2002 at his father's behest, and had never previously served on the  
10 board of a public company);  
11           d.) 152:13-153:21 (Plaintiff concedes that he no "experience at all in the cinema  
12 or theater business of any sort" outside of his tenure as an RDI director, no  
13 experience "with business in Australia or New Zealand" other than as an RDI  
14 director, and his exposure to real estate was confined to a few transactions "as  
15 a corporate lawyer" and one "cinema transaction with Reading as a lawyer.");  
16           e.) 163:19-165:1 (the position of President of RDI was reactivated specifically for  
17 Plaintiff; there had been no President for some time and he did not succeed  
18 anyone in that position);  
19           f.) 198:19-21 ("I was on the verge of putting together budgets for the whole  
20 company with stretch goals.");  
21           g.) 205:19-206:6 (Plaintiff admits that he "did not have a draft" business plan  
22 prepared as he was "waiting" for the completion of the plans from various  
23 divisions); and  
24           h.) 235:18-21 (Plaintiff concedes that he "never presented a plan to the board  
25 prior to being terminated, but that was one of the action items that I thought  
26 was important for the company.").

27           12. Attached hereto as Exhibit 11 is a true and correct copy of transcript excerpts  
28 from the deposition of Plaintiff, taken on May 17, 2016., in which the following pages are

1 relevant:

- 2 a.) 315:22-317:16 (Plaintiff admits, “Initially, I was not supportive of the idea [of  
3 an ombudsman]. . . . I was protective of maintaining my authority as  
4 CEO[.]”);
- 5 b.) 344:24-345:12 (Plaintiff testifying that he “found it difficult working with [his  
6 sisters] because, by that point, the issues that I was having with them relating  
7 to the trust and estate matters had permeated the company”);
- 8 c.) 354:23-357:24 (Gould and Storey met with Bryant Crouse, an outside  
9 consultant, to discuss getting “involved in the company and perform[ing] an  
10 assessment and provid[ing] recommendations to the company, to the  
11 management team . . . on ways to improve the management and corporate  
12 governance”);
- 13 d.) 447:18-448:4 (Plaintiff testifying that he visited every theater on Oahu but did  
14 not identify himself to management there “[b]ecause I wanted to almost be a  
15 mystery shopper”);
- 16 e.) 481:24-483:5 (Plaintiff admitting that he “heard [] from the directors” that  
17 there was a “perception at Reading by employees” that he had “a volatile  
18 temper” and “an anger management problem,” and that he told the Board that  
19 they “should all investigate” the accusations);
- 20 f.) 509:10-15 (Plaintiff admitting that “someone communicated” to him that he  
21 needed to keep his door open when in the office);
- 22 g.) 517:2-17 (Plaintiff admits yelling at Adams “sometime in 2014”); and
- 23 h.) 528:9-529:20 (Plaintiff concedes that the Board discussed “the possibility of  
24 getting an interim CEO . . . as early as October 2014”).

25 13. Attached hereto as Exhibit 12 is a true and correct copy of transcript excerpts  
26 from the deposition of Plaintiff, taken on July 6, 2016, in which the following pages are relevant:

- 27 a.) 696:22-700:3 (Plaintiff describing his relationship with Margaret Cotter as  
28 “dysfunctional” and claiming that she “literally refused to report to me”);



1 b.) 704:7-22 (noting his understanding that the independent directors would  
2 utilize director Storey's findings to "possibly take actions in response to those  
3 findings and recommendations"); and  
4 c.) 705:13-706:9 (Plaintiff agreeing that a board of a company always "has the  
5 power to hire and fire a CEO" "[s]ubject to agreements made, written  
6 contracts made," "or possibly a resolution").

7 14. Attached hereto as Exhibit 13 is a true and correct copy of transcript excerpts  
8 from the deposition of Ellen Cotter, taken on May 18, 2016, in which the following pages are  
9 relevant:

10 a.) 156:19-165:18 (testifying that she and Adams also spoke with outside counsel  
11 at Akin Gump prior to May 21, 2015).

12 15. Attached hereto as Exhibit 14 is a true and correct copy of transcript excerpts  
13 from the deposition of William Gould, taken on June 8, 2016, in which the following pages are  
14 relevant:

15 a.) 86:12-22 (at the June 12, 2015 Board meeting, "even without [Ellen and  
16 Margaret Cotter's votes, . . . the parties moving for termination had sufficient  
17 votes . . . to accomplish what they wanted to do");  
18 b.) 110:13-20 ("Guy, Doug and Ed Kane sa[id] they felt . . . that [Plaintiff's]  
19 performance was such that he should be replaced.");  
20 c.) 119:1-120:2 ("[A]ll the directors felt that [Storey's appointment as  
21 ombudsman] was a reasonable approach to try.");  
22 d.) 123:15-21 (At the June 12, 2015 Board meeting, the majority of the non-  
23 Cotter directors "made the statements . . . they felt that they were convinced  
24 [Plaintiff's] performance was such that it had to be cut off at an earlier point;  
25 that the time had come to make decision, and we should not wait the extra  
26 month or so to get Tim Storey's final report.");  
27 e.) 133:17-134:5 (describing plan to "get a report from [Storey] and then make a  
28 final decision whether some or all of the Cotter family members would have

1 to improve their performance or change . . . what they were doing”);  
2 f.) 134:6-24 (further emphasizing that the Board was prepared “to take drastic  
3 steps which might involve terminating one or more of the Cotters”); and  
4 g.) 210:25-211:4 (Margaret Cotter “later was vindicated when the Court ruled in  
5 Reading’s favor[.]”).

6 16. Attached hereto as Exhibit 15 is a true and correct copy of transcript excerpts  
7 from the deposition of William D. Ellis, taken on June 28, 2016, in which the following pages  
8 are relevant:

9 a.) 55:21-57:5 (testifying that he was aware that the Board had “some concerns  
10 about [Plaintiff’s] behavior,” including his “[t]emperament and what I think  
11 people characterized as anger issues,” and that he personally heard Plaintiff  
12 “yelling at times” because his office “shared a thin wall” with that of  
13 Plaintiff).

14 17. Attached hereto as Exhibit 16 is a true and correct copy of transcript excerpts  
15 from the deposition of Whitney Tilson, taken on May 25, 2016, in which the following pages are  
16 relevant:

17 a.) 150:6-154:23 (Tilson stating that he would not reinstate Plaintiff if he had the  
18 opportunity because “the well has been poisoned” following Plaintiff’s  
19 conflicts with Ellen and Margaret Cotter, his reinstatement would merely  
20 perpetuate a “divided company,” there is a “reasonable likelihood” that  
21 Plaintiff is not “the single best qualified person to run” RDI, he was concerned  
22 that Plaintiff’s advancement within RDI was purely the product of  
23 “nepotism,” “[t]here was nothing that was a real outlier, either positive or  
24 negative, in the couple quarters that [Plaintiff] was the CEO” and that “my  
25 general sense is that just because you happen to have the same genetic code of  
26 the person who founded and built the company doesn’t make you the best  
27 qualified CEO”);  
28

- 1 b.) 155:16-156:9 (confirming that he would not seek “the reinstatement or  
2 rehiring of [Plaintiff] as CEO”);
- 3 c.) 176:2-25 (“I personally, speaking only for myself, am not an advocate for  
4 returning [Plaintiff] to the CEO position.”); and
- 5 d.) 182:14-183:3 (admitting that “[t]he business operations” of RDI have  
6 “remained pretty steady” since Plaintiff’s termination).
- 7 18. Attached hereto as Exhibit 17 is a true and correct copy of transcript excerpts  
8 from the deposition of Jonathan Glaser, taken on June 1, 2016, in which the following pages are  
9 relevant:
- 10 a.) 155:13-157:6 (Glaser testifying that he would not seek the reinstatement of  
11 Plaintiff, “it’s just not a high priority to put [Plaintiff] back,” he is “personally  
12 comfortable with Ellen Cotter as CEO,” and he did not “think it would make  
13 much difference” to the “shareholders of Reading” if Plaintiff was CEO);
- 14 b.) 154:13-19 (Glaser testifying, “I actually don’t really have a problem with  
15 Ellen as CEO.”);
- 16 c.) 160:10-19 (testifying that he did not “have an opinion” on whether  
17 reinstatement would affect RDI’s share price, and that if Plaintiff “were  
18 reinstated, I have no idea if the market would react positively or not”);
- 19 d.) 222:13-20 (confirming that “a CEO could properly be terminated for not  
20 getting along with the employees and other executives of the company,” and  
21 that failure to get along “would be a major factor”);
- 22 e.) 243:14-244:18 (estimating current RDI stock ownership);
- 23 f.) 242:9-243:2 (“I don’t really have a huge problem with the way the company is  
24 running day to day.”); and
- 25 g.) 258:22-259:5 (Glaser noting that he does not “have any evidence that [Ellen  
26 Cotter] [is] not a good CEO” and that he “was not necessarily troubled by” her  
27 election as permanent CEO).
- 28

1           19.     Attached hereto as Exhibit 18 is a true and correct copy of transcript excerpts  
2 from the deposition of Andrew Shapiro, taken on June 6, 2016, in which the following pages are  
3 relevant:

- 4           a.) 40:8-17 (“I haven’t had a disagreement with their direction . . . with Senior,  
5           with [Plaintiff], or with what Ellen has been doing . . . . I think the business  
6           plan has been fairly consistent.”);
- 7           b.) 41:8-11 (“[W]ith the current assets that they have, [Plaintiff] was migrating  
8           the company towards building upon what the company had, and I feel Ellen  
9           and the new regime is similarly doing that.”);
- 10          c.) 42:18-43:2 (“So during both periods of time, the operating performance of the  
11          company has kind of chugged along. I don’t feel there’s any differences  
12          between the operational direction. I can’t tell of any difference between the  
13          operational direction that [Plaintiff] was leading the company and that Ellen is  
14          leading the company.”);
- 15          d.) 50:22-57:5 (outlining Shapiro’s position with Lawndale and ownership of  
16          RDI stock);
- 17          e.) 98:19-23 (“I don’t really have a bias between [Plaintiff’s] regime or Ellen’s  
18          regime, if that’s what you say. I think that she’s been advancing the company  
19          forward, similar to what I observed [Plaintiff] doing.”);
- 20          f.) 187:19-188:14 (discussing decision not to intervene because he “was not  
21          necessarily in pursuit of, of any and all of those remedies” sought by Plaintiff,  
22          he “wasn’t committed one way or the other than [Plaintiff] should be  
23          reinstated”); and
- 24          g.) 236:18-237:17 (criticizing representativeness of Plaintiff’s derivative action  
25          purportedly on behalf of RDI’s shareholders, including that Shapiro did not  
26          “think necessarily [Plaintiff] is the best adequate representative of mine or  
27          other shareholder interests”).
- 28

1           20.     Attached hereto as Exhibit 19 is a true and correct copy of the Amended and  
2 Restated Bylaws of RDI, last revised December 28, 2011, in which the following provisions are  
3 relevant:

- 4                   a.) Art. IV (“Officers”), § 1 (“Election”) (“Any person may hold one or more  
5 offices and each officer shall hold office until his successor has been duly  
6 elected and qualified or until his death or until he shall resign or is removed in  
7 the manner as hereinafter provided for such term as may be prescribed by the  
8 Board of Directors from time to time.”); and  
9                   b.) Art. IV (“Officers”), § 10 (“Removal; Resignation”) (“The officers of the  
10 Corporation shall hold office at the pleasure of the Board of Directors. Any  
11 officer elected or appointed by the Board of Directors, or any member of a  
12 committee, may be removed at any time, with or without cause, by the Board  
13 of Directors by a vote of not less than a majority of the entire Board at any  
14 meeting thereof or by written consent.”).

15           21.     Attached hereto as Exhibit 20 is a true and correct copy of the June 3, 2013  
16 Employment Agreement between Plaintiff and Reading International, Inc. (“RDI” or “the  
17 Company”), previously marked as Exhibit 178 during the Plaintiff’s deposition, in which the  
18 following provisions are relevant:

- 19                   a.) § 1 (“Term of Employment”) (“Subject to the provisions of Section 10 below,  
20 the Company shall employ the Executive, and the Executive shall serve the  
21 Company in the capacity of President for a term commencing as of June 3,  
22 2013 . . . .”);  
23                   b.) § 2 (“Duties”) (“During the Term of Employment, the Executive will serve as  
24 the Company’s President and will report directly to the Chief Executive  
25 Officer.”); and  
26                   c.) § 10 (“Termination”) (“In the event of termination under this Section 10 or  
27 under Section 5 (except as provided therein), the Company’s unaccrued  
28 obligations under this Agreement shall cease and the Executive shall forfeit all

1 right to receive any unaccrued compensation or benefits hereunder but shall  
2 have the right to reimbursement of expenses already incurred. If the  
3 Company terminates Executive without Cause, the Executive shall be entitled  
4 to compensation and benefits which he was receiving for a period of twelve  
5 months from such notice of termination.”).

6 22. Attached hereto as Exhibit 21 is a true and correct copy of a Form 10-K filed by  
7 RDI on March 7, 2014, in which the following page is relevant:  
8 a.) 3 (describing focus of RDI’s business and extent of its operations).

9 23. Attached hereto as Exhibit 22 is a true and correct copy of a Form DEF 14A filed  
10 by RDI on April 25, 2014, in which the following pages are relevant:  
11 a.) 3-6 (providing biographies of member of the RDI Board of Directors as of  
12 April 2014 and a breakdown of their committee memberships, including with  
13 respect to James J. Cotter, Sr.).

14 24. Attached hereto as Exhibit 23 is a true and correct copy of an RDI press release  
15 dated September 15, 2014, in which the following page is relevant:  
16 a.) 1 (announcing the death of James J. Cotter, Sr. on September 13, 2014).

17 25. Attached hereto as Exhibit 24 is a true and correct copy of a Form 8-K/A filed by  
18 RDI on February 18, 2015, previously marked as Exhibit 63 during Guy Adams’ deposition, in  
19 which the following page is relevant:  
20 a.) -5591 (summarizing trust and estate litigation).

21 26. Attached hereto as Exhibit 25 is a true and correct copy of a Form 8-K filed by  
22 RDI on June 18, 2015, in which the following Items are relevant:  
23 a.) Item 5.02 (announcing Plaintiff’s termination and appointment of Ellen Cotter  
24 as Interim CEO and President of RDI); and  
25 b.) Item 8.01 (announcing the filing of Plaintiff’s derivative action).

26 27. Attached hereto as Exhibit 26 is a true and correct copy of a Schedule 14A filed  
27 by RDI on November 10, 2015, previously marked as Exhibit 392 during William Gould’s  
28 deposition, in which the following page of the included October 16, 2015 Proxy Statement is

1 relevant:

2 a.) 22 n.8 (further describing trust and estate litigation).

3 28. Attached hereto as Exhibit 27 is a true and correct copy of the Minutes of the  
4 Meeting of the RDI Board of Directors held on August 7, 2014, previously marked as  
5 Exhibit 179 during Plaintiff's deposition, in which the following page is relevant:

6 a.) 1 (reflecting the elections of Plaintiff, Ellen, and Margaret Cotter to new  
7 leadership positions on the Board of Directors, and the health-related  
8 resignation of James J. Cotter, Sr.).

9 29. Attached hereto as Exhibit 28 is a true and correct copy of the Minutes of the  
10 Meeting of the RDI Board of Directors held on March 19, 2015, previously marked as Exhibit 72  
11 during Guy Adams' deposition, in which the following page is relevant:

12 a.) -3830 (reflecting that Storey "will be assisting with planning and governance  
13 issues over the next three months").

14 30. Attached hereto as Exhibit 29 is a true and correct copy of the Minutes of the  
15 Meeting of the RDI Board of Directors held on May 21, 2015, previously marked as Exhibit 199  
16 during Plaintiff's deposition, in which the following pages are relevant:

17 a.) 1 (noting for the record the attendance of in-house counsel Bill Ellis and Craig  
18 Tompkins, and outside counsel from Akin Gump Strauss Hauer & Feld, LLP,  
19 on behalf of RDI; that Plaintiff "stated that he was not prepared to make a  
20 presentation on the Company's operations"; and that the Board "proceeded to  
21 discuss at length the performance of [Plaintiff] as Chief Executive Officer and  
22 President since he was appointed in August 7, 2014");

23 b.) 1-2 (reflecting that Plaintiff threatened a lawsuit and his attorney addressed  
24 the full Board);

25 c.) 3-4 (describing presentations before the Board by certain directors regarding  
26 observed "deficiencies" in Plaintiff's "leadership, understanding of the  
27 Company's business, temperament, managerial skills, decision-making and  
28 other attributes in the role of Chief Executive Officer," with the Board

1 ultimately deciding to “reconvene the meeting on May 29, 2015 to continue  
2 its deliberations”); and  
3 d.) 4 (Plaintiff requested time until the next Board meeting to “give further  
4 consideration to continuing in the role of President of the Company under the  
5 leadership of a new Chief Executive Officer”).

6 31. Attached hereto as Exhibit 30 is a true and correct copy of the Minutes of the  
7 Meeting of the RDI Board of Directors held on May 29, 2015, previously marked as Exhibit 200  
8 during Plaintiff’s deposition, in which the following pages are relevant:

- 9 a.) 1 (reflecting outside counsel’s discussion of a telephonic conversation with  
10 Plaintiff’s attorney on May 28, 2015 regarding authorization “to accept serve  
11 of process on behalf of the independent directors of the Company” with  
12 respect to Plaintiff’s threatened lawsuit and new discussion surrounding  
13 Plaintiff’s potential termination);  
14 b.) 1-2 (Plaintiff “would not agree to remain employed as President of the  
15 Company under the leadership of a new Chief Executive Officer”);  
16 c.) 2 (reflecting motion by Director Adams, seconded by director McEachern, to  
17 remove Plaintiff from his position as President and CEO);  
18 d.) 2-3 (Board discusses Plaintiff’s performance as CEO and President of RDI,  
19 both in and outside of the presence of Plaintiff and the Cotter sisters);  
20 e.) 3-4 (recounting progress and ultimate agreement-in-principle between the  
21 Cotter siblings during the course of the May 29, 2015 Board meeting, with a  
22 general description of the contours of the agreement reached); and  
23 f.) 4 (noting adjournment of meeting, with “[n]o action . . . taken by the board  
24 with respect to the motion made earlier in the meeting,” to “permit the Cotters  
25 to move forward to document their settlement”).

26 32. Attached hereto as Exhibit 31 is a true and correct copy of draft Minutes of the  
27 Meeting of the RDI Board of Directors held on June 12, 2015, previously marked as Exhibit 346  
28 during William Ellis’ deposition, in which the following pages are relevant:



- 1 a.) 1-2 (reflecting Board discussion regarding Plaintiff's performance and  
2 outcome of the ultimate vote on the pending termination motion); and  
3 b.) 2 (noting that Plaintiff asked to defer a vote on his status until the next  
4 scheduled Board meeting (to be held on June 15, 2015), but there was little  
5 support for his proposal, and no related motion was made).

6 33. Attached hereto as Exhibit 32 is a true and correct copy of an email sent by  
7 Timothy Storey to William Gould re: "Reading," with attachment, dated February 5, 2015,  
8 previously marked as Exhibit 189 during Plaintiff's deposition, in which the following pages are  
9 relevant:

- 10 a.) 2 (Storey indicating his belief that Plaintiff "assumed CEO role on short  
11 notice with limited experience"); and  
12 b.) 3 (Storey noting that, under Plaintiff, "morale poor and needs to be improved"  
13 and Plaintiff "need[s] to establish teamwork etc," and writing that "CEO  
14 inexperienced and needs help to lead/develop leadership role").

15 34. Attached hereto as Exhibit 33 is a true and correct copy of an email sent by  
16 Edward Kane to William Gould and Timothy Storey re: "A follow up," dated February 25, 2015,  
17 previously marked as Exhibit 100 during Edward Kane's deposition, in which the following page  
18 is relevant:

- 19 a.) -204 (Kane discussing a conversation in which Plaintiff mentioned that his  
20 "reply" to the trust and estate litigation would be "very upsetting," leading  
21 Kane to fear that this "will exacerbate the dissension" between Plaintiff and  
22 Ellen and Margaret Cotter).

23 35. Attached hereto as Exhibit 34 is a true and correct copy of an email sent by  
24 Timothy Storey to William Gould re: "Reading- issues," dated March 6, 2015, previously  
25 marked as Exhibit 6 during Timothy Storey's deposition, in which the following page is relevant:

- 26 a.) 1 (Storey noting that "we need to help [Plaintiff] learn and to manage the  
27 business").  
28

1           36. Attached hereto as Exhibit 35 is a true and correct copy of an email sent by  
2 William Gould to Guy Adams, Edward Kane, Douglas McEachern, and Timothy Storey re:  
3 “Confidential Memo – Reading International,” dated March 7, 2015, previously marked as  
4 Exhibit 11 during Timothy Storey’s deposition, in which the following pages are relevant:

- 5           a.) 2 (Gould outlining role for Storey to “act as an ombudsman (and mention to  
6 [Plaintiff]”);
- 7           b.) 2-3 (Gould writes, “The Independent Directors cannot allow the hostility  
8 engendered by the Cotter litigation to affect the Company. As Ed Kane has  
9 often pointed out, our duty is to all the shareholders and not just to the Cotter  
10 family. We cannot accept a dysfunctional management team under any  
11 circumstances . . . . But we must ask ourselves, how can we insure that the  
12 three Cotters will work together given the ‘thermonuclear’ hostility currently  
13 existing?”); and
- 14           c.) 3 (Gould indicating that Plaintiff “can’t go around Ellen and deal only with  
15 Bob Smerling or interview and hire a high level food and beverage executive  
16 in Ellen’s area of responsibility without consulting Ellen”; “the Independent  
17 Directors may require [Plaintiff] to take an anger management class”; and  
18 plan that, “[a]t the June Board meeting, we will make an assessment of how  
19 things are going and if there has not been sufficient improvement, we will take  
20 whatever actions we deem necessary or appropriate”).

21           37. Attached hereto as Exhibit 36 is a true and correct copy of a Summary Agenda for  
22 an RDI Conference Call, dated April 8, 2015, previously marked as Exhibit 14 during Timothy  
23 Storey’s deposition, in which the following page is relevant:

- 24           a.) -726 (agenda for conference call lists “Face-to-face meeting of Independent  
25 Directors in June before the Shareholders Meeting to assess status” of Plaintiff  
26 and “Possible options” as items for discussion).

27           38. Attached hereto as Exhibit 37 is a true and correct copy of an email sent by  
28 Timothy Storey to Plaintiff re: “draft email,” dated April 15, 2015, previously marked as

1 Exhibit 190 during Plaintiff's deposition, in which the following pages are relevant:

- 2 a.) 1 (Storey noting goal to operate "more harmoniously" and writing, "I have  
3 made it clear to Jim – and EC and MC – that things have to improve and that  
4 improvement has to be sustained, otherwise the board will need to look to  
5 other steps to protect the company's position"); and  
6 b.) 2 (Storey concluding that "it is difficult for someone to change 'character'  
7 overnight" and "back sliding is not acceptable").

8 39. Attached hereto as Exhibit 38 is a true and correct copy of an email sent by  
9 Edward Kane to Guy Adams re: "Fw: Update report – confidential," dated May 9, 2015,  
10 previously marked as Exhibit 76 during Guy Adams' deposition, in which the following page is  
11 relevant:

- 12 a.) -5484 (Plaintiff recognizes that "I need a grown-up (who knows how a public  
13 company should operate) in the room with me and my two sisters," "I am OK  
14 with an adult in the room periodically making sure we continue momentum,"  
15 and "I am ok letting this play out until the end of June or whatever date agreed  
16 to and revisit").

17 40. Attached hereto as Exhibit 39 is a true and correct copy of an email sent by Ellen  
18 Cotter to Plaintiff, Margaret Cotter, Edward Kane, Douglas McEachern, Timothy Storey, Guy  
19 Adams, William Gould, and William Ellis re: "Agenda – Board of Directors Meeting – May 21,  
20 2015," dated May 19, 2015, previously marked as Exhibit 124 during Douglas McEachern's  
21 deposition, in which the following page is relevant:

- 22 a.) -5340 (listing "Status of President and CEO" listed as the first subject to be  
23 discussed at the May 21, 2015 Board meeting).

24 41. Attached hereto as Exhibit 40 is a true and correct copy of a "Confidential  
25 Settlement Memo of Understanding" sent by Harry Susman, counsel for Ellen and Margaret  
26 Cotter, to Adam Streisand and Meg Lodise, dated May 27, 2015, previously marked as  
27 Exhibit 98 during Guy Adams' deposition, in which the following pages are relevant:  
28

1 a.) -7576–7579 (version of the tentative agreement-in-principle on certain Cotter-  
2 specific issues, providing that “JJC would continue to serve as CEO and  
3 President under the terms of his existing contract, but in the overall  
4 management structure and subject to the limitations set forth below,”  
5 including (1) an “Executive Committee” with “EMC, AMC, JJC, and Guy  
6 Adams (Chairman)” that had delegated authority extending to the  
7 hiring/firing/compensation of “all senior level consultants/employees,” review  
8 and approval/disapproval “of all contracts/commitments” in excess of \$1  
9 million, and review and approval of RDI’s “annual Budget and Business  
10 Plan”; and (2) investor relations would be handled henceforth “by CFO in  
11 consultation with the GC, not CEO”).

12 42. Attached hereto as Exhibit 41 is a true and correct copy of an email sent by  
13 Plaintiff to Ellen Cotter, Margaret Cotter, Edward Kane, Douglas McEachern, Timothy Storey,  
14 Guy Adams, William Gould, and William Ellis re: “Board Meeting – Tomorrow,” dated June 11,  
15 2015, previously marked as Exhibit 403 during Plaintiff’s deposition, in which the following  
16 pages are relevant:

17 a.) -5519–5520 (email from Ellen Cotter to the Board “reconvening the original  
18 May 21, 2015 meeting” and placing “Item 1 of this Agenda,” “Status of the  
19 President and CEO,” as the primary agenda item for the board meeting  
20 “tomorrow”).

21 43. Attached hereto as Exhibit 42 is a true and correct copy of Plaintiff’s Amended  
22 Responses to Edward Kane’s First Set of Requests for Admission, dated July 27, 2016, in which  
23 the following Responses are relevant:

24 a.) Resp. to RFA No. 15 (Plaintiff admitting that the possibility of his termination  
25 was discussed by the Board in his presence at the May 21, 2015 Board  
26 meeting);  
27 b.) Resp. to RFA No. 16 (Plaintiff admitting that the Board again discussed the  
28 possibility of his termination at a Board meeting held on May 29, 2015); and

1 c.) Resp. to RFA No. 17 (Plaintiff admitting that the Board discussed the  
2 possibility of his termination for the final time on June 12, 2015).

3 44. Attached hereto as Exhibit 43 is a true and correct copy of the Intervening  
4 Plaintiffs' Amended Responses to Margaret Cotter's First Set of Interrogatories, with Exhibits A  
5 and B thereto, dated May 16, 2015, previously marked as Exhibit 232 during the deposition of  
6 Jonathan Glaser, in which the following Responses are relevant:

7 a.) Interrog. Resp. No. 20 & Ex. A thereto (listing relevant RDI stock ownership  
8 and trades made by the entities controlled by Tilson); and

9 b.) Interrog. Resp. No. 20 & Ex. B thereto (listing relevant RDI stock ownership  
10 and trades made by entities controlled by Glaser).

11 45. Attached hereto as Exhibit 44 is a true and correct copy of the historical share  
12 price of RDI's Class A stock for the period from March 20, 2015 to September 21, 2016.

13 46. Attached hereto as Exhibit 45 is a true and correct copy of the Expert Report of  
14 Tiago Duarte-Silva, Plaintiff's expert, dated August 25, 2016.

15 47. Attached hereto as Exhibit 46 is a true and correct copy of James J. Cotter, Jr.'s  
16 Petition for Immediate Suspension of Powers of Ann Margaret Cotter and Ellen Cotter as Co-  
17 Trustees and For Appointment of Temporary Trustee in the related trust litigation, dated  
18 March 24, 2014, in which the following pages are relevant:

19 a.) 1-4 (Plaintiff arguing that he was wrongfully terminated in "a boardroom  
20 coup," that "Ellen [Cotter] deliberately interfered with and corrupted a search  
21 process set in motion by the RDI Board," that Margaret Cotter was promoted  
22 to a position to which she is also wholly unqualified," and that the Board  
23 improperly increased his sisters' compensation).

24 48. This declaration is made in good faith and not for the purpose of delay.  
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I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Executed on the 23rd day of September, 2016, in Los Angeles, California.

/s/ Noah Helpern  
Noah Helpern

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**CERTIFICATE OF SERVICE**

I hereby certify that, on September 23, 2016, I caused a true and correct copy of the foregoing **INDIVIDUAL DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT (NO. 1) RE: PLAINTIFF’S REINSTATEMENT AND TERMINATION CLAIMS** to be served on all interested parties, as registered with the Court’s E-Filing and E-Service System.

/s/ C.J. Barnabi  
An employee of Cohen|Johnson|Parker|Edwards

# EXHIBIT 1



1	DISTRICT COURT		
2	CLARK COUNTY, NEVADA		
3			
4	JAMES J. COTTER, JR., individually and	)	
5	derivatively on behalf of Reading	)	
	International, Inc.,	)	
6	Plaintiff,	)	
7	vs.	)	No. A-15-719860-B
8	MARGARET COTTER, ELLEN COTTER, GUY	)	Coordinated with:
9	ADAMS, EDWARD KANE, DOUGLAS McEACHERN,	)	P-14-082942-E
10	TIMOTHY STOREY, WILLIAM GOULD, and	)	
	DOES 1 through 100, inclusive,	)	
11	Defendants.	)	
12	and	)	
13	READING INTERNATIONAL, INC., a	)	
14	Nevada corporation,	)	
15	Nominal Defendant.	)	
16	DEPOSITION OF TIMOTHY STOREY, a defendant herein,		
17	noticed by LEWIS ROCA ROTHGERBER CHRISTIE LLP, at		
18	1453 Third Street Promenade, Santa Monica,		
19	California, at 9:28 a.m., on Friday, February 12,		
20	2016, before Teckla T. Hollins, CSR 13125.		
21			
22	Job Number 291961		
23			
24			
25			

1 aware that he was doing -- Guy Adams was doing some work  
2 in relation to estate assets, but my understanding was  
3 pretty minimal, something to do with looking at assets  
4 in Texas.

5 MR. KRUM:

6 Q. Did you ever hear or learn or were you ever  
7 told that Mr. Adams had a carried interest in certain  
8 dealings or properties in which the Cotter family -- in  
9 which the Cotter family had an interest?

10 MR. SEARCY: Objection. Vague. Lacks foundation.

11 THE WITNESS: I heard nothing regarding that until  
12 this meeting.

13 MR. KRUM:

14 Q. Take a look at the next page bearing production  
15 number 1102 on Plaintiff's 17. Can you read for us the  
16 handwritten note on the top?

17 A. "Notes from Tim on performance."

18 Q. No, I'm sorry. The prior page.

19 A. Okay. "No harmony with girls and" --

20 THE REPORTER: I'm sorry?

21 THE WITNESS: "No harmony with girls and needed.  
22 Not showing ability to run company." Comments from Ed  
23 Kane.

24 MR. KRUM: Okay.

25 Q. And then further down on that same page,

1     there's the name -- handwritten name "Doug" and there's  
2     a line that follows that. What does that say?

3             A. "Current position untenable."

4             Q. And is that a comment Mr. McEachern made?

5             A. Yes.

6             Q. And do you recall with any greater specificity  
7     what he said? Or failing that, what you understood him  
8     to mean?

9             A. My recollection is that he made a very brief  
10    comment to the intent that the current disharmony within  
11    the business was untenable going forward and needed to  
12    be dealt with.

13            Q. Let's look at the last page of Plaintiff's 17.  
14    What do these notes reflect?

15            A. I think these are the notes I made for myself,  
16    should I give comments on the chief executive's  
17    performance.

18            Q. Okay.

19            Did you have occasion to do that?

20            A. I don't recollect I did.

21            Q. Okay. We're done with this, or at least for  
22    the time being.

23            I have a few documents that I'm going to try to  
24    cover fairly quickly. Mr. Storey, I'll ask you to look  
25    at it and tell me if you recognize the document and can

1 MR. SEARCY: Objection. Vague.

2 THE WITNESS: I think the comment was simply that  
3 they -- that things should be dealt with now. They had  
4 come to a head and there was no point in delaying.

5 MR. KRUM:

6 Q. Are you referring to your prior testimony about  
7 disharmony?

8 MR. SEARCY: Objection. Vague.

9 THE WITNESS: That's my perception, that there  
10 was -- the view was there was disharmony, and therefore  
11 it needed to be dealt with. It was clearly a view  
12 around the board table by a number of people that the  
13 matter needed to be dealt with expeditiously and  
14 rightly.

15 MR. KRUM:

16 Q. Did any of Ellen Cotter, Margaret Cotter, Guy  
17 Adams and/or Doug McEachern ever respond to comments by  
18 you and/or Bill Gould to the effect that the ombudsman  
19 process was supposed to continue into June?

20 MR. SEARCY: Objection. Vague. Lacks foundation.

21 THE WITNESS: I don't recollect -- Excuse me. I  
22 don't recollect any particular comment, other than it  
23 was necessary to get on with matters.

24 MR. KRUM:

25 Q. At the -- At the board meeting at which Ellen

1 Calls for speculation. Calls for improper opinion.

2 THE WITNESS: I don't think that we had yet got to  
3 that stage where the detailed work had to be done.

4 MR. ROBERTSON:

5 Q. And in your view, did that disharmony -- was  
6 that the driving factor in the termination of  
7 Mr. Cotter, Jr.?

8 MR. SEARCY: Objection. Lacks foundation. Calls  
9 for speculation. Calls for opinion.

10 MR. RHOW: I would add vague and ambiguous.

11 THE WITNESS: Well, I can only speak for myself.

12 MR. ROBERTSON:

13 Q. That's all I'm asking.

14 A. My view was that the disharmony wasn't at a  
15 position where it -- where it gave rise to me thinking  
16 that we should change the CEO. I think it all -- pretty  
17 close to that day, that time in May, we were making  
18 reasonable progress in getting plans and budgets put  
19 together, albeit process, but the executives largely  
20 were cooperating with each other.

21 Q. In your view, based on your experience on the  
22 board of directors, but for the existence of the trust  
23 and estate litigation, do you believe that  
24 Mr. Cotter, Jr. would have been terminated as CEO of  
25 Reading?

1 MR. SEARCY: Objection. Vague. Lacks foundation.  
2 Calls for opinion. Calls for speculation.

3 MR. RHOW: Join all of those.

4 MR. FERRARIO: Me too.

5 MR. RHOW: And I think it's vague and ambiguous  
6 also.

7 THE WITNESS: Well, as I just said, I don't -- that  
8 wasn't my opinion.

9 MR. ROBERTSON:

10 **Q. I'm sorry, that was or was not your opinion?**

11 A. That was not my opinion.

12 **Q. Okay.**

13 A. But, I mean, you know, there are different  
14 opinions that can be had.

15 **Q. Based upon your involvement, why was**  
16 **Mr. Cotter, Jr. terminated as the CEO?**

17 MR. RHOW: Same objections. I think it calls for  
18 speculation. You're asking what --

19 MR. ROBERTSON: What was his understanding of why  
20 Mr. Cotter, Jr. was terminated as CEO of Reading.

21 MR. RHOW: Same objections.

22 MR. SEARCY: Join.

23 THE WITNESS: As you have heard, we had a series of  
24 board meetings which dealt with the matter. I don't  
25 think we dealt with -- At those board meetings, we

# EXHIBIT 2

1 EIGHTH JUDICIAL DISTRICT COURT  
2 CLARK COUNTY, NEVADA  
3  
4 JAMES J. COTTER, JR., )  
5 derivatively on behalf of )  
6 Reading International, Inc., ) Case No.  
7 Plaintiff, ) A-15-719860-B  
8 vs. )  
9 MARGARET COTTER, ELLEN ) Case No.  
10 COTTER, GUY ADAMS, EDWARD ) P-14-082942-E  
11 KANE, DOUGLAS McEACHERN, )  
12 TIMOTHY STOREY, WILLIAM ) Related and  
13 GOULD, and DOES 1 through ) Coordinated Cases  
14 100, inclusive, )  
15 Defendants, )  
16 and )  
17 READING INTERNATIONAL, INC., )  
18 a Nevada corporation, )  
19 Nominal Defendant. )

20 Complete caption, next page.

21 VIDEOTAPED DEPOSITION OF GUY ADAMS  
22 LOS ANGELES, CALIFORNIA  
23 THURSDAY, APRIL 28, 2016  
24 VOLUME I

25 REPORTED BY: LORI RAYE, CSR NO. 7052  
JOB NUMBER: 305144



1	EIGHTH JUDICIAL DISTRICT COURT	)	
2	CLARK COUNTY, NEVADA	)	
3	JAMES J. COTTER, JR.,	)	
4	derivatively on behalf of	)	
5	Reading International, Inc.,	)	Case No.
6		)	
7	Plaintiff,	)	A-15-719860-B
8	vs.	)	P-14-082942-E
9		)	
10	MARGARET COTTER, ELLEN	)	
11	COTTER, GUY ADAMS, EDWARD	)	
12	KANE, DOUGLAS McEACHERN,	)	
13	TIMOTHY STOREY, WILLIAM	)	
14	GOULD, and DOES 1 through	)	
15	100, inclusive,	)	
16		)	
17	Defendants.	)	
18	and	)	
19		)	
20	READING INTERNATIONAL, INC.,	)	
21	a Nevada corporation,	)	
22		)	
23	Nominal Defendant.	)	
24		)	
25	T2 PARTNERS MANAGEMENT, LP,	)	
26	a Delaware limited	)	
27	partnership, doing business	)	
28	as KASE CAPITAL MANAGEMENT,	)	
29	et al.,	)	
30		)	
31	Plaintiffs,	)	
32	vs.	)	
33		)	
34	MARGARET COTTER, ELLEN	)	
35	COTTER, GUY WILLIAMS, EDWARD	)	
36	KANE, DOUGLAS McEACHERN,	)	
37	WILLIAM GOULD, JUDY CODDING,	)	
38	MICHAEL WROTONIAK, CRAIG	)	
39	TOMPKINS, and DOES 1 through	)	
40	100, inclusive,	)	
41		)	
42	Defendants,	)	
43	and	)	
44		)	
45	READING INTERNATIONAL, INC.,	)	
46	a Nevada corporation,	)	
47		)	
48	Nominal Defendant.	)	

1 THE VIDEOGRAPHER: We are off the record --

2 MR. TAYBACK: I don't think that's what he  
3 said.

4 THE VIDEOGRAPHER: Sorry.

5 BY MR. KRUM:

6 Q. So how did that telephone conversation  
7 come about?

8 A. I called Ed or Ed called me. I don't  
9 remember.

10 Q. As best you can recall, what did he say  
11 and what did you say?

12 A. We were talking about Jim Junior's  
13 performance and there being certain issues. And  
14 Tim Storey was coaching him. I think we called him  
15 ombudsman, and we discussed that, how effective  
16 that was. And in the conversation, I said, I'm  
17 going to talk to Bill Gould, the lead director.

18 Q. You said certain issues.

19 To what are you referring?

20 A. Tim Storey's coaching Jim Junior as CEO.

21 Q. Anything else?

22 A. Those issues and just in general, Jim  
23 Junior's abilities as CEO, what we saw there, what  
24 we felt.

25 Q. In particular, to what were you referring

1     **by his abilities, and likewise his performance?**

2           A.     Well, for me, we -- I think Tim Storey  
3     had a check sheet of things he wanted done, one of  
4     which was some strategy for the company, a vision  
5     for the company, where we're going, once we get the  
6     budget, how do we get there. That comes from the  
7     CEO. We wanted to firm up contracts for -- my  
8     recollection is Craig Tompkins and Margaret Cotter.  
9     We wanted to get that done. I think -- I can't  
10    remember what -- the things Ed said. Ed had a list  
11    of things as well.

12           I had -- over the months, I -- we elected  
13    Jim Junior. We all wanted him to succeed. And Tim  
14    Storey said that the only reason he's getting the  
15    job is because his last name is Cotter. And I  
16    said, That might be true. What our job is as a  
17    board is to help him be the best CEO he can be.

18           And we talked as directors about  
19    shortcomings, and I felt he can learn on the job  
20    and get up to speed quickly. And by April, I was  
21    of the opinion that wasn't working out.

22           **Q.     Now, during this telephone conversation**  
23    **with Mr. Kane, was there any discussion of the**  
24    **interpersonal dynamic between Jim Cotter Junior on**  
25    **the one hand and either or both Margaret and Ellen**

1 discussed with Mr. Kane the subject of you serving  
2 as interim CEO, did you say to him, in words or  
3 substance, Have we already concluded that Jim  
4 Cotter Junior will be terminated as CEO?

5 A. There was a notion that we would have a  
6 board meeting and the independent directors would  
7 discuss this and there would be a vote. And I  
8 wasn't -- I wasn't sure how the vote would come  
9 out. I didn't know. But there was a -- everyone  
10 had concerns. Ed and I had a concern about it,  
11 wanted to talk about it.

12 Q. When was the first time you had a  
13 conversation with someone other than Ed Kane about  
14 the subject of the termination or possible  
15 termination of Jim Cotter Junior as CEO?

16 A. Bill Gould.

17 Q. And --

18 A. First week or so of April.

19 Q. Was that in person or by phone?

20 A. In person.

21 Q. Was anyone else present?

22 A. No.

23 Q. Where did that occur?

24 A. I went to his office. We walked across  
25 the street and had lunch. I don't know the name of

1 the restaurant.

2 Q. What did you say and what did he say?

3 A. I told him, We've been down this process  
4 with Jim Junior as CEO. We all wanted him to  
5 succeed. We all wanted him to take the reins and  
6 lead the company forward but there were glaring  
7 deficits. And I recounted to him how we formed  
8 this committee, if you will, resolution committee  
9 or conflicts committee, of which Tim Storey and  
10 Doug McEachern were on for the Cotter siblings to  
11 meet and talk. And McEachern told me that was --  
12 didn't work that well.

13 Then we had Tim Storey acting as Jim  
14 Junior's coach. And later Tim Storey was promoted  
15 to ombudsman for this position and Tim got very  
16 involved in working with Jim Junior and coaching  
17 him. And Tim Storey was giving every month,  
18 glowing, glowing reports about how good things were  
19 going with Jim Junior.

20 And I disagreed with those reports and I  
21 told both Ed Kane on the phone and I told Bill  
22 Gould in person when I met him about that. And  
23 then I told Bill Gould two concerns that I had.  
24 The first concern was at some point, and I don't  
25 remember the exact date, it could have been

1 December, it could have been January, but Jim  
2 Junior had an analysis of movie theatres in  
3 Australia and New Zealand and their margins in  
4 Australia, and movie theatres in the USA, their  
5 margins, and there was a gap. I don't remember the  
6 precise gap but maybe it was -- the margin gap was  
7 maybe 16, 18 percent.

8           And Junior showed me one time in his  
9 office the spreadsheet and said, you know, Look at  
10 the gap, This is terrible. If the USA theatres  
11 operated there and had the same margins, think what  
12 the impact that would be on our earnings,  
13 et cetera, et cetera.

14           So there was a board meeting. I came in  
15 early for the board meeting and I went into  
16 Junior's office. In the board book, they laid out  
17 the margins for Australia and the USA. And if you  
18 adjusted the margins for the film rental in the USA  
19 compared to the film rental in Australia and New  
20 Zealand, two different markets, and you adjusted --  
21 made adjustments for the rental, the lease rentals,  
22 it wasn't a 16 or 18 percent gap. It was like a  
23 2 percent gap.

24           And Jim Junior says, Yeah, well, I don't  
25 care about that now. And this was something he was

1 really concerned about, I mean, for months. And  
2 then he said, Well, I'm not worried about that now.  
3 I'm concerned about the labor. The labor in  
4 Australia and New Zealand is a lot less than labor  
5 costs in the US. And I said, Well, I don't know  
6 anything about that. You're going to have to look  
7 into that.

8 So that was an hour before the board  
9 meeting. We went to the board meeting and Jim  
10 Junior brought up to the board this thing about the  
11 labor costs. USA theatre labor costs versus  
12 Australia and New Zealand labor costs.

13 And Ellen didn't really have an answer at  
14 the time. She -- she said she'd look into it,  
15 et cetera. And I thought, okay, we'll get to the  
16 bottom of it.

17 And later that week or the next week or  
18 the next week, I saw Andrzej Matyczynski, the  
19 ex-CFO of the company, and I said, What is this  
20 about the labor cost? Why is the labor cost so  
21 high for theaters in Australia and New Zealand --  
22 so low in Australia and New Zealand and so high  
23 here? And Andrzej says, Well, that's easy. In the  
24 USA they allocate the G and A down to the theatre  
25 level so the theatre level labor cost looks high,

1 and in Australia and New Zealand, they allocate a  
2 lot of the labor costs up to G and A so the labor  
3 cost looks really low.

4 And I said, Does Jim Junior know this?  
5 He says, Yes, I've told him this before. And I  
6 said, We're looking at this and the board's -- he's  
7 got the board concerned about this. And Andrzej  
8 says, Yeah, I wish you all would have called me in.  
9 I could explain that.

10 So I told Bill Gould that -- the  
11 following: I like Jim Junior, I want him to  
12 succeed as much as anyone, but it's clear, not  
13 understanding the theatre margins, I questioned his  
14 knowledge about the business he's managing and his  
15 management style of bringing to the board this  
16 problem about labor costs.

17 And he hadn't even, in my opinion,  
18 properly investigated that himself. I was forming  
19 the opinion or had formed the opinion that he  
20 wasn't really learning the business and he wasn't  
21 leading us forward. And I told Bill that. I said,  
22 We've been working with Jim Junior all these months  
23 and I don't see progress.

24 **Q. When did you tell Mr. Gould that?**

25 **A. At this lunch meeting.**



1 Q. The lunch meeting in April?

2 A. In April, yes.

3 Q. And this -- you told him in April about  
4 this --

5 A. These two examples.

6 Q. These two examples that were raised at  
7 the board meeting in December of '14 or January of  
8 '15?

9 A. Yeah.

10 Q. And let me be clear. What you just  
11 described, was that the two concerns you talked  
12 about when you prefaced your lengthy answer?

13 MR. TAYBACK: Object to the -- object to the  
14 form of the question to the extent it  
15 mischaracterizes his testimony.

16 You can answer.

17 BY MR. KRUM:

18 Q. Let me ask it this way --

19 A. That's all --

20 Q. -- you used the term "two concerns" that  
21 you described to Mr. Gould, or words to that  
22 effect.

23 A. Yes.

24 Q. Is there anything else that falls into  
25 the category of two concerns beyond what you just

1 **described?**

2 A. There may have been one more concern that  
3 I can recall was about the leadership of the  
4 company and working on the budget. And Jim Junior  
5 complained that Ellen and Margaret weren't getting  
6 their budget in on a timely basis and whatnot.

7 I explained to Bill Gould that for the  
8 CEO, getting the division's budget, that's income  
9 they expect to receive and expenses they expect to  
10 spend. But the vision of where we're going, how  
11 we're going to lead -- where is our CEO leading our  
12 company, I said, We haven't heard a whiff of this.  
13 And I discussed this with Jim Junior several times  
14 over the last three months prior to this, and he  
15 said he's working on it. Nobody saw it; nobody  
16 heard it.

17 And I told Bill Gould, you know, To be a  
18 CEO, you have to lead. And I thought this was  
19 another item that raised my concern. There may  
20 have been other items we discussed over lunch  
21 regarding this matter but I don't remember them at  
22 this time.

23 **Q. And what did Mr. Gould say at that lunch?**

24 A. He said -- he agreed with me that Junior  
25 wasn't progressing fast. He disagreed with me that

1 Tim Storey wasn't doing a good job. He thought Tim  
2 Storey was doing a great job. He disagreed with me  
3 that we should act. He told me let's wait. And I  
4 said, Why are we waiting? He said, Well, let the  
5 thing be adjudicated and we'll find out how it  
6 turns out. And I said, That could take years. I  
7 think we need to make a decision what's best for  
8 the company now. And he says he wanted to wait.  
9 And I said, Bill, you and I have a different  
10 opinion about this.

11 Q. Did you ever tell Tim Storey you  
12 disagreed with his glowing reports about Jim  
13 Junior?

14 A. Yes.

15 Q. When?

16 A. It was later on. Probably around March,  
17 I would say, at a March meeting that -- along that  
18 timeline. I don't remember a specific day. But  
19 the --

20 Q. Was it at a board meeting?

21 A. Yeah, after a board meeting, yes.

22 Q. Okay. And what did you say and what did  
23 he say, generally?

24 A. I said, Tim, I appreciate your efforts.  
25 I know you're doing this with the best of

# EXHIBIT 3

1 EIGHTH JUDICIAL DISTRICT COURT  
2 CLARK COUNTY, NEVADA  
3  
4 JAMES J. COTTER, JR., )  
5 derivatively on behalf of )  
6 Reading International, Inc., ) Case No.  
7 Plaintiff, ) A-15-719860-B  
8 vs. )  
9 MARGARET COTTER, ELLEN ) Case No.  
10 COTTER, GUY ADAMS, EDWARD ) P-14-082942-E  
11 KANE, DOUGLAS McEACHERN, )  
12 TIMOTHY STOREY, WILLIAM ) Related and  
13 GOULD, and DOES 1 through ) Coordinated Cases  
14 100, inclusive, )  
15 Defendants, )  
16 and )  
17 READING INTERNATIONAL, INC., )  
18 a Nevada corporation, )  
19 Nominal Defendant. )

20 Complete caption, next page.

21 VIDEOTAPED DEPOSITION OF GUY ADAMS  
22 LOS ANGELES, CALIFORNIA  
23 FRIDAY, APRIL 29, 2016  
24 VOLUME II

25 REPORTED BY: LORI RAYE, CSR NO. 7052  
JOB NUMBER 305149

1	EIGHTH JUDICIAL DISTRICT COURT		
2	CLARK COUNTY, NEVADA		
3	JAMES J. COTTER, JR.,	)	
	derivatively on behalf of	)	
4	Reading International, Inc.,	)	
		)	Case No.
5	Plaintiff,	)	A-15-719860-B
	vs.	)	P-14-082942-E
6		)	
	MARGARET COTTER, ELLEN	)	
7	COTTER, GUY ADAMS, EDWARD	)	
	KANE, DOUGLAS McEACHERN,	)	
8	TIMOTHY STOREY, WILLIAM	)	
	GOULD, and DOES 1 through	)	
9	100, inclusive,	)	
		)	
10	Defendants.	)	
	and	)	
11		)	
	<u>READING INTERNATIONAL, INC.,</u>	)	
12	a Nevada corporation,	)	
		)	
13	Nominal Defendant.	)	
		)	
14	<u>T2 PARTNERS MANAGEMENT, LP,</u>	)	
	a Delaware limited	)	
15	partnership, doing business	)	
	as KASE CAPITAL MANAGEMENT,	)	
16	et al.,	)	
		)	
17	Plaintiffs,	)	
	vs.	)	
18		)	
	MARGARET COTTER, ELLEN	)	
19	COTTER, GUY WILLIAMS, EDWARD	)	
	KANE, DOUGLAS McEACHERN,	)	
20	WILLIAM GOULD, JUDY CODDING,	)	
	MICHAEL WROTONIAK, CRAIG	)	
21	TOMPKINS, and DOES 1 through	)	
	100, inclusive,	)	
22		)	
	Defendants,	)	
23	and	)	
		)	
24	<u>READING INTERNATIONAL, INC.,</u>	)	
	a Nevada corporation,	)	
25		)	
	Nominal Defendant.	)	

1 Q. Did you add any substantive comments to  
2 the document based on feedback from Frank Reddick?  
3 Don't tell me what they are, just yes or no.

4 A. No, not really.

5 Q. Now, directing your attention to Roman  
6 Numeral iii, you refer to apparent anger management  
7 issues and so forth.

8 Do you see that?

9 A. I didn't read Number i, ii and iii to the  
10 board.

11 Q. When you drafted this, to what were you  
12 referring when you used the balance of that  
13 sentence, starting with the word "apparent"?

14 A. There's been more than one conversation  
15 by the non-Cotter board members about Jim Junior's  
16 interpersonal skills and anger management issues.

17 Q. What anger management issues, is what I'm  
18 asking you.

19 A. There were claims in the office that some  
20 people claim he's lost his temper with them.

21 Q. Who?

22 A. I believe Linda Pham is one of them.

23 Q. Anyone else?

24 A. Debbie Watson.

25 Q. Debbie Watson? Who is Debbie Watson?

1           A.     She is an accountant for Jim Cotter's  
2     estate.

3           **Q.     She's in RDI's offices?**

4           A.     Sometimes, occasionally.  Yes, she has a  
5     desk there.

6           **Q.     She has no job at RDI?**

7           A.     No.

8           **Q.     To whom does she work when she renders  
9     services to the estate of James Cotter Senior?**

10          A.     The estate trustees.

11          **Q.     Ellen and Margaret?**

12          A.     Yes.

13          **Q.     Anybody else other than Linda Pham and  
14     Debbie Watson?**

15          A.     Ellen Cotter recited an incident about  
16     Jim Junior's anger.

17          **Q.     When?**

18          A.     Maybe 2014.

19          **Q.     She recited it then, it occurred then or  
20     both?**

21          A.     No, no, no.  She told me about it -- I  
22     don't know.  I don't know when she told me about it  
23     but she told me in past tense about the incident.

24          **Q.     So in 2014 is did you understood the  
25     incident to have occurred?**



1 A. I think it was 2014.

2 Q. Did she give you any context --

3 Here is the question: Did she give you  
4 any context about the incident?

5 A. Yes.

6 Q. Which was what?

7 A. She and Debbie Watson were working late  
8 and Jim Junior came in there and lost his temper to  
9 both of them, and they both told me independently  
10 of this incident.

11 Q. And the incident, you understood,  
12 occurred in 2014?

13 A. It could have been '15. It could have  
14 been '15. I'm not clear on when it happened. I'm  
15 just very not clear on that.

16 Q. And both Ellen and Debbie Watson told you  
17 about it after the fact?

18 A. After the fact, yes.

19 Q. Meaning some number of months after the  
20 fact; correct?

21 MR. SWANIS: Objection; form.

22 THE WITNESS: Debbie Watson told me about it  
23 two days later.

24 BY MR. KRUM:

25 Q. Okay. When was that?

1           A.     Late 2014, early 2015, I'm not sure. And  
2     there was a discussion -- getting back to your  
3     question about anger management, there's been  
4     discussion among the board -- non-Cotter board  
5     members about potentially Jim Junior being coaxed  
6     or demanded to attend anger management classes.

7           **Q.     What was the conclusion reached by the**  
8     **non-Cotter board members about that?**

9           A.     Well, it was split, believe it or not.  
10    My recollection is that I think Bill Gould and Tim  
11    Storey may have had a position that that would have  
12    been a beneficial thing.

13               Ed Kane and I thought that was not  
14    beneficial. It was demeaning. It could be  
15    productive. And I remember -- I do remember at the  
16    independent directors meeting, Doug McEachern  
17    saying you can't teach interpersonal skills, so he  
18    was also not for it.

19           **Q.     Now, the precipitating events of the**  
20    **discussion you just described, what was the**  
21    **precipitating event? Was it the Linda Pham report?**  
22    **The supposed Linda Pham incident? I'm sorry.**

23           A.     I'm sorry. You're referring to the  
24    board -- the independent directors meeting?

25           **Q.     Let me ask a complete question.**

1 MR. TAYBACK: I think you talked past each  
2 other.

3 MR. KRUM: I think we're talking past each  
4 other.

5 Q. Do you see in this paragraph, you say:  
6 "I personally believe we may have cause"?  
7 Do you see that? It's the fifth line of  
8 the eight lines?

9 A. The one under here?

10 Q. The left-hand margin begins, quote:  
11 While I personally believe we may have  
12 cause.

13 A. Yes.

14 Q. But to put it in context for us,  
15 Mr. Adams, you see in the prior line, you're  
16 talking about "removed without case," but I think  
17 that should be "cause"; right?

18 A. Yes.

19 Q. What was the basis for your personal  
20 belief that there may have been cause to remove  
21 Mr. Cotter Junior as president and CEO?

22 MR. TAYBACK: I'll only admonish you not to  
23 divulge communications with lawyers that you may  
24 have had that contributed to that, but you can give  
25 your opinion.

1 THE WITNESS: One is his inabilities to work  
2 with employees and contractors in the office, the  
3 name of those women I just named. Calling up the  
4 chairman of the board and saying he's prepared to  
5 file a derivative suit and conspire with hedge  
6 funds to take over the company. I thought those  
7 were potentially reasons. But you're right, the  
8 paragraph is -- reads "without cause."

9 BY MR. KRUM:

10 Q. So your view, Mr. Adams, was that the  
11 supposed incidents with Linda Pham and Debbie  
12 Watson were a basis upon --

13 A. And Ellen Cotter.

14 Q. -- and Ellen Cotter, were a basis upon  
15 which to terminate Jim Cotter Junior on or about  
16 May 20-something, 2015?

17 A. No, I didn't say that.

18 Q. Was it your view that the supposed  
19 incidents with Linda Pham, Debbie Watson and/or  
20 Ellen Cotter were a basis upon which -- well,  
21 strike that.

22 Did those factor into your  
23 decision-making?

24 A. Yes.

25 Q. How many conversations did you have with

1 your testimony about it.

2 Was anything else said about the supposed  
3 Linda Pham incident or the supposed Ellen Cotter  
4 and Deborah Watson incident beyond that  
5 conversation, other than what you've told me?

6 MR. SWANIS: Objection; form, and I'm going to  
7 lodge an objection to the "supposed" language  
8 there.

9 MR. TAYBACK: Join.

10 THE WITNESS: There was one other thing. A  
11 director made a comment that was anybody ever  
12 seeing or being witnesses to this. Everybody was  
13 dead silent.

14 I raised my hand and I said, Well, once I  
15 had an incident with Jim Junior and he jumped up  
16 from his desk and turned beet red and was screaming  
17 at the top of his lungs at me, and I sat down and  
18 he marched up and down, paced, and was yelling at  
19 me. And finally he sat down and collected himself  
20 and I asked him, you know, was there anything else  
21 he wanted me to do, and he said no and he  
22 apologized. He apologized.

23 But in that board meeting with the  
24 independent directors, when they were saying has  
25 anybody seen this, it happened to me.

1 BY MR. KRUM:

2 Q. But the answer is, nobody had seen or  
3 witnessed the supposed Linda Pham incident;  
4 correct?

5 A. Yes.

6 Q. And nobody had seen or witnessed the  
7 supposed Ellen Cotter or Debbie Watson incident;  
8 correct?

9 A. Yes.

10 Q. Hence, supposed.

11 When was your incident, as you described  
12 it?

13 A. Probably June 2014.

14 Q. And what was the subject matter?

15 A. We were talking about Mr. Cotter Senior's  
16 estate planning. And I didn't really realize how  
17 sick Mr. Cotter was, and Jim Junior was in -- was  
18 not pleased how long things were taking, and that  
19 was the subject matter of that discussion.

20 Q. Okay. You'll be pleased to know,  
21 Mr. Adams, I'm in the process of eliminating lots  
22 of other documents that I might have otherwise  
23 shown to you.

24 I'll ask the court reporter to mark as  
25 Exhibit 88, a multi-page document bearing

1 A. It was unanimous.

2 Q. Was that in August of 2014?

3 A. Yes, it was.

4 Q. And did you and James Cotter Junior work  
5 in the same office from then forward? Did he  
6 come in -- let me back up.

7 After James Cotter Junior became CEO, did  
8 he continue coming into the office at Reading where  
9 you were working three days a week?

10 A. Yes, Junior did, yes.

11 Q. And how much time did he spend in the  
12 office, to your perception?

13 A. From my perception, he worked long hours.  
14 I mean, I don't know what time he got there in the  
15 morning, but he seemed to work till 5:00, 6:00 at  
16 night.

17 Q. Is it fair to say or correct to say that  
18 James Cotter Junior would arrive before you did in  
19 the morning?

20 A. Certainly.

21 Q. And then would be there till 5:00 or 6:00  
22 at night?

23 A. From the times I was there, it appeared  
24 that he was there before me and he stayed after me.

25 Q. Is it an accurate statement -- I know

1 we've been at this for almost two days now and I  
2 don't want to summarize things too simply, but is  
3 it an accurate statement to say that James Cotter  
4 Junior had what you would consider a good work  
5 ethic?

6 A. Yes and no. I'm not trying to evade the  
7 question. There was -- he was in the office, so  
8 yes, he was there. So that's the yes part of the  
9 question. The no part of the question is, his door  
10 was shut a considerable amount of time. I'm not  
11 sure exactly what was going during the time the  
12 door was shut. And so I mean, it -- he seemed very  
13 slow, very hard to make decisions.

14 They were trying to encourage him that  
15 it's okay, he can make -- he's CEO. But he seemed  
16 very reluctant and very slow to make decisions.

17 Q. I'm focusing in on his work ethic, how  
18 hard he was laboring at the task.

19 Based upon that, did it seem that he was  
20 laboring at the task of being CEO?

21 MR. SWANIS: Objection; form.

22 MR. TAYBACK: Object to the form.

23 MR. NATION: I'll rephrase the question.

24 Q. Did it seem that James Cotter Junior was  
25 putting in the time and effort that you would



1 expect of someone in his position trying to take on  
2 the challenges of being CEO?

3 A. Initially, yes.

4 MR. TAYBACK: I'm going to object to that as  
5 vague.

6 You can answer.

7 THE WITNESS: Initially, yes.

8 BY MR. NATION:

9 Q. When you say "initially, yes," you mean  
10 August, September?

11 A. October, November.

12 Q. And on? What about December and January?

13 A. Well, the reason I said "initially" is  
14 because there was some point, and I don't remember  
15 precisely when it was, but three or four months  
16 into the job, where I went to his secretary with  
17 documents and said, Where are those documents I put  
18 on Jim's desk? And she said, Oh, my God, don't  
19 ever put documents on his desk. I said, Well, what  
20 do I do? And she said, Give them to me and I'll  
21 log them and hound him to get them signed and  
22 returned to you. I said, Sure. I just didn't want  
23 to bother you. And she said, Jim's office is a  
24 place where documents go to get lost.

25 Q. Which secretary was that?

1           A.    Antoinette.  I don't remember her last  
2   name.

3           **Q.    Sounds like my office.**

4           A.    And I wasn't sure of the time spent  
5   behind closed doors.  I wasn't sure what's going on  
6   during that time, what's happening there.

7                   He made all the -- I'll tell you this:  
8   To his credit, he made -- like all the management  
9   meetings I was aware of, he made all the management  
10  meetings, every week, two a week, he made them all,  
11  that I know of.

12          **Q.    With regard to the documents going into**  
13 **the office to disappear, as put by his assistant,**  
14 **did you take that to mean that James Cotter Junior**  
15 **did not let documents go without first processing**  
16 **them or did you take it some other way?**

17          MR. TAYBACK:  Objection; vague.

18          THE WITNESS:  I took it from the standpoint  
19  that he must bring them home and read them or he  
20  had a lot of documents in his office and they just  
21  got lost in there.  That's how I took it.

22          BY MR. NATION:

23          **Q.    Did you ever have a document that you**  
24 **provided get lost?**

25          A.    Yes.

1 He was gaining experience. So the vetting, as you  
2 referred to, there's some amount of vetting seeing  
3 the guy work as president. There's some vetting  
4 process we see, interacting and whatnot with him at  
5 that time.

6 So to the extent we would have a formal  
7 vetting process, no. We knew him and saw him -- I  
8 saw him a short period of time. The other  
9 directors saw him much longer. So there was some  
10 amount of vetting but it wasn't a vetting process.

11 BY MR. NATION:

12 Q. Did you receive any input from the other  
13 directors about the appropriateness of electing  
14 James Cotter Junior to be CEO in August of 2014?

15 MR. SWANIS: Objection; form.

16 MR. TAYBACK: Join.

17 THE WITNESS: Yes. We had an independent  
18 directors meeting after this meeting or the meeting  
19 afterwards. I don't remember which one. And at  
20 that time, Tim Storey voiced the opinion that if  
21 his last name wasn't Cotter, he wouldn't be CEO.  
22 And I said, Yes, but he is and now our job is to  
23 support him and help him and help make him a great  
24 CEO.

25 ///

1 MR. TAYBACK: Object to the extent that calls  
2 for speculation as to what other board members may  
3 have thought or expected.

4 But you may answer.

5 THE WITNESS: If Jim Cotter Junior had  
6 expectations?

7 BY MR. NATION:

8 Q. I'm asking about -- let me rephrase the  
9 question.

10 A. Okay.

11 Q. It takes a little while to get warmed up  
12 sometimes in these things.

13 A. Okay.

14 Q. I'm focusing around the time that James  
15 Cotter Junior was elected as CEO.

16 Did you, as a member of the board, have  
17 expectations how he was going to perform as CEO  
18 going forward from there?

19 A. I had expectations. I don't know about  
20 the other members of the board, what theirs were.  
21 But my expectations were that he was young, he  
22 didn't have that much experience and that he would  
23 be improving as he went. And I was expecting  
24 improvement as the months and years flew by. I was  
25 very optimistic that he would be a really good CEO.

1 Q. Why?

2 A. He's smart. He has experience. He spent  
3 what, three years as president prior to this? It  
4 appeared from that first meeting, his sisters  
5 supported him. They voted for him. I imagine his  
6 father wanted him to progress and run the company  
7 and I figured he'd settle in and learn his way,  
8 feel his way and be CEO and improve as he went.

9 Q. Did it start -- at some point, Tim Storey  
10 began, as referred to in some other documents, as  
11 shadowing James Cotter Junior in his job as CEO in  
12 order to try and help him out.

13 A. Yes.

14 Q. And is that something that was initiated  
15 right at the beginning in August of 2014?

16 A. No.

17 Q. How long before that was it initiated?

18 A. I think -- my answer is as follows:

19 I think Tim, bless his heart, appointed  
20 himself that, maybe after three months, maybe after  
21 four, and then he started communicating to the  
22 board things he would find having spent time with  
23 Jim Junior. And then we -- we called it Tim  
24 coaching Jim Junior.

25 The point is, within two or three months,

1 it became clear to the board that Jim Junior needed  
2 help in his role, not only as CEO in running the  
3 company but trying to make amends or find bridges  
4 that he could work with his sisters. And that was,  
5 in part, Tim Storey's duties, to help him in the  
6 CEO function and find ways to make new bridges with  
7 his sisters.

8 Q. Was it your perception that the issue of  
9 improving at the CEO function and bridging the gap  
10 with his sisters were hand in hand as two sides of  
11 the same problem?

12 MR. SWANIS: Objection; form.

13 THE WITNESS: No. I didn't -- me personally,  
14 Guy Adams, I didn't see that as the same thing.

15 BY MR. NATION:

16 Q. So you saw it as two --

17 A. Yes.

18 Q. -- two discrete kind of issues, one is  
19 growing into the job and the other is getting along  
20 with the other players?

21 A. Yes.

22 MR. NATION: All right. Always good when you  
23 reach for a document and the one you expect comes  
24 up.

25 Okay. Exhibit 92.

# EXHIBIT 4

DISTRICT COURT

CLARK COUNTY, NEVADA

4 JAMES J. COTTER, JR., )  
individually and )  
5 derivatively on behalf of) )  
Reading International, )  
6 Inc., )

Plaintiff,

vs.

MARGARET COTTER, et al., )

Defendants.

and

READING INTERNATIONAL, )  
INC., a Nevada )  
corporation, )

Nominal Defendant)

15

DEPOSITION OF: EDWARD KANE

TAKEN ON: MAY 2, 2016

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REPORTED BY:

PATRICIA L. HUBBARD, CSR #3400



1                   Was that the trust and estate disputes  
2   in litigation?

3           A.   Not necessarily, no.

4           Q.   Well --

5           A.   I think I was referring to what was  
6   becoming a toxic office and polarization of the  
7   office.

8                   And I'm not laying -- I did not lay  
9   blame on either Mr. Cotter or his sisters, but it  
10   needed to be better.

11           Q.   You're referring to the second paragraph  
12   under the subsection that begins with,

13                   "The second issue is, of course" --

14           A.   Right.

15           Q.   -- "the atmosphere in the L.A.  
16               office which I'm told is toxic"?

17           A.   Right.

18           Q.   I'll get to that in a minute, sir.

19           A.   Okay.

20           Q.   Do you recall anything else to which you  
21   were referring in the first paragraph when you said  
22   "resolving current disputes"?

23                   MR. SEARCY:  Objection.  Asked and  
24   answered.

25                   THE WITNESS:  I can't recall what I had

1 in mind, but it wasn't -- I don't think it was the  
2 litigation.

3 BY MR. KRUM:

4 Q. Very well. So, going back to where we  
5 were a moment ago and the sentence that uses the  
6 word "toxic" --

7 A. Uh-huh.

8 Q. -- what was the source or what were the  
9 sources of your information that led you to say  
10 that?

11 A. I think the office was -- I was told was  
12 becoming polarized and there had been incidents  
13 between Jim, Jr., I think, prior to this and Bill  
14 Ellis's secretary, Linda Pham, and also with Debbie  
15 Watson and with Ellen.

16 And Linda Pham had contacted Doug  
17 McEachern, I think, and someone else about her  
18 concern for her actual physical safety. Debbie  
19 Watson was carrying mace to the office, and they  
20 were alleging Jimmy had yelled at them to the point  
21 that they were afraid physically. And Ellen  
22 reported the same thing. And --

23 Q. You think that's to what this is  
24 referring?

25 A. I think that the -- it may be. I don't

1 A. If I said it, yes.

2 Q. Okay. So, I'm referring to that  
3 testimony --

4 A. Okay.

5 Q. -- Mr. Kane. I'm not trying to put  
6 words in your mouth. So when you said --

7 A. I thought you were referring to  
8 something else.

9 MR. SEARCY: You have to let him finish  
10 his question. Okay?

11 BY MR. KRUM:

12 Q. When you -- when you said in words or  
13 substance something about employees taking sides, my  
14 question is, was Linda Pham one of the employees who  
15 had taken a side?

16 MR. SEARCY: Objection. Vague.

17 THE WITNESS: I think Linda Pham had  
18 filed a complaint against Jim. And whether that  
19 amounted to taking sides, it was more personal. She  
20 was physically afraid of him.

21 And that was turned over to  
22 Mr. McEachern and Storey.

23 BY MR. KRUM:

24 Q. Well, you don't know if she was  
25 physically afraid.

1                   You just know she filed a complaint and  
2   said whatever she said, correct?

3           A.    I believe --

4           MR. SEARCY:  Objection.  
5   Mischaracterizes his testimony.

6           THE WITNESS:  I believe in her complaint  
7   she talked about she was physically afraid.

8   BY MR. KRUM:

9           Q.    You understand that Linda Pham was  
10   terminated, right?

11          A.    Yes, I do.

12          Q.    You understand that she was terminated  
13   for taking confidential emails between Jim  
14   Cotter, Jr., and Bill Ellis and forwarding them to  
15   Margaret Cotter.

16                   Did you know that?

17          MR. SEARCY:  Objection.  Lacks  
18   foundation, calls for speculation.

19          THE WITNESS:  That's not my  
20   understanding.

21   BY MR. KRUM:

22          Q.    What's your understanding?

23          A.    My understanding is that after her first  
24   complaint, she issued a second complaint saying  
25   nothing has been done and she was still afraid of

1 Mr. Cotter when she was there after-hours.

2 And then Tim Storey took it upon himself  
3 to fire her.

4 Q. How do you come to have that  
5 understanding?

6 A. Because he did fire her. And he  
7 certainly didn't run that by the so-called  
8 independent committee.

9 And I don't know what authority he had  
10 to do that, but he did it.

11 Q. Why did he fire her?

12 A. He never said why he fired her.

13 Q. Did you ask?

14 A. It was too late.

15 Q. Did you ask?

16 A. I think I knew -- well, she had already  
17 been fired and they had already settled on an amount  
18 to give her to leave.

19 Q. Okay. Did you think --  
20 You didn't ask Mr. Storey what happened,  
21 correct?

22 A. All he said was he fired her.

23 Q. What did you say?

24 A. I didn't say anything. It had been  
25 done.

1 And if he did fire her, I should have  
2 said -- I didn't say -- "who gave you the authority  
3 to do it?"

4 But I didn't because she was already  
5 fired.

6 Q. So, what further communications did you  
7 have with anyone with respect to the termination of  
8 Linda Pham, if any?

9 A. I was told, and I don't know who told me  
10 this, that at that time she was working for Bill --  
11 Bill Ellis as his secretary. And she was -- the  
12 termination was such that he ended up crying in his  
13 office, he was so upset.

14 Q. Who told you that?

15 A. I don't remember.

16 Q. Did you ever hear or learn or were you  
17 ever told that Bill Ellis was with Mr. Storey when  
18 Ms. Pham was terminated?

19 MR. SEARCY: Objection. Vague.

20 THE WITNESS: I don't remember.

21 BY MR. KRUM:

22 Q. Did you ever speak to Bill Ellis about  
23 the termination of Linda Pham?

24 A. No.

25 Q. Did you ever speak to anyone other than

1 THE WITNESS: I can't -- I just can't  
2 remember.

3 BY MR. KRUM:

4 Q. When was the first time you told anyone,  
5 whether Ellen or Margaret or Guy Adams, that you  
6 would support the removal of Jim Cotter, Jr., as  
7 president, C.E.O. or both?

8 A. I just can't remember what that time  
9 line was.

10 Q. Do you recall a circumstance? Can you  
11 put it in context between events?

12 A. There were a number of events that  
13 evolved over a period of time based upon his  
14 actions.

15 Q. What actions are you referencing?

16 A. The first issue I had was when he went  
17 to Hawaii on vacation and -- it was near Christmas  
18 of 2014. And he -- he sent me some email pictures  
19 of a few of the theaters that he thought were in  
20 disrepair. And he was going to show them to the  
21 board.

22 I said to him, "Don't show them to the  
23 board. If she wasn't your sister, would you be  
24 sending them to the board?"

25 And he said "no," he acknowledged that

1 he wouldn't. But later on he did.

2 Then I suggested to him before he did  
3 that, "Why don't you say to Ellen, 'Come with me, I  
4 want -- I have some issues with the Hawaiian  
5 theaters, and just go with me and I'll point out my  
6 concerns and see how we can rectify them.'"

7 He didn't do that.

8 And in fact I started thinking Ellen was  
9 the fall person for this. She had nothing to do  
10 with the issues, if there were any, in those  
11 theaters, and there were reasons for that why she  
12 didn't.

13 Then there were -- there was other  
14 issues. We went to a board meeting, and he demanded  
15 that he have the authority to spend \$10 million on  
16 any project without the approval of the board. And  
17 he said "My father had it."

18 Well, he was not then nor now is he his  
19 father.

20 And he actually said he should get more  
21 authority to spend that kind of money because  
22 inflation had occurred and his father had that  
23 \$10 million right, which his father I don't believe  
24 ever exercised.

25 It didn't make any sense to me. But I



1 voted for it, although Tim Storey was opposed to it,  
2 because I knew he would never pull the trigger, he  
3 couldn't pull the trigger on anything.

4 Then there was the issue of the Stomp  
5 situation where Stomp sent a letter that they were  
6 going to leave the Orpheum Theatre, and that was a  
7 big money-maker for the company.

8 What he should have done is to get on a  
9 plane and go back and sit with Margaret and say,  
10 "Margaret, How can I help in solving this issue?"

11 Instead he used it as a tool to  
12 embarrass her in front of the board. That was a big  
13 problem for me, because that's not what a C.E.O.  
14 would do when you have two experienced executives.  
15 You work with them. And if it comes to the point  
16 you need to get rid of them, then that's another  
17 situation.

18 But he did not handle it appropriately  
19 at all.

20 And actually as a side, he -- it's in  
21 his Complaint against me and others about the Stomp  
22 and how bad she did.

23 Well, we had an arbitration, and the  
24 arbitrator said that Margaret had done everything  
25 required and more than everything required, and that

1 Stomp had an agenda to leave because they thought  
2 they could make more money in another theater.

3 The net result is that Margaret by  
4 herself handled this arbitration with her lawyers,  
5 and we just got an award for more than \$2.2 million.

6 So, instead of attacking his sister, he  
7 should have supported her at least to a point.

8 I think he was not treating his sisters  
9 as executives. This was my thought at the time. He  
10 was treating them as the opposition, which was  
11 inappropriate.

12 There were other issues. I can't recall  
13 all of them right now. But he was not acting like a  
14 C.E.O. would act.

15 Q. So was it your view, Mr. Kane, that Jim  
16 Cotter, Jr., needed to act as a C.E.O. but Margaret  
17 Cotter, Jr., could act as an adversary on account of  
18 the disputes the two of them had both at RDI and in  
19 the trust and estate case?

20 MR. SEARCY: Objection. Argumentative,  
21 mischaracterizes testimony, lacks foundation.

22 THE WITNESS: Absolutely not.

23 I don't --

24 BY MR. KRUM:

25 Q. What did you do, if anything, to

1 board that was mediating and -- or supposedly, Tim  
2 Storey.

3 BY MR. KRUM:

4 Q. When was Mr. Storey charged with  
5 mediating between Jim Cotter, Jr., on the one hand  
6 and Ellen -- either or both Ellen and Margaret  
7 Cotter on the other hand?

8 A. When Bill Gould thought we should have  
9 this non-Cotter committee, he -- I think  
10 Mr. McEachern and Mr. Storey I believe met with  
11 Ellen and Margaret and Jimmy to try to create an  
12 office relationship that was -- that would move the  
13 company forward.

14 Then later Mr. Storey was, in my  
15 judgment -- or at least my understanding, he was  
16 there to get them to work together. So, that was an  
17 ongoing thing.

18 Q. Was Mr. Storey when he was doing this as  
19 a committee of one, in effect, referred to as the  
20 ombudsman?

21 A. Yes.

22 Q. Do you recall ever being present where  
23 one or the other or both of Ellen and Margaret  
24 Cotter called Jim Cotter, Jr., a liar?

25 A. I don't remember being present.

# EXHIBIT 5

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DISTRICT COURT  
CLARK COUNTY, NEVADA

JAMES J. COTTER, JR.,	)	
individually and	)	
derivatively on behalf of)	)	
Reading International,	)	
Inc.,	)	
	)	Case No. A-15-719860-B
Plaintiff,	)	
	)	Coordinated with:
vs.	)	
	)	Case No. P-14-082942-E
MARGARET COTTER, et al.,	)	
	)	
Defendants.	)	
and	)	
	)	
READING INTERNATIONAL,	)	
INC., a Nevada	)	
corporation,	)	
	)	
Nominal Defendant)	)	
	)	

VIDEOTAPED DEPOSITION OF EDWARD KANE  
TAKEN ON MAY 3, 2016  
VOLUME 2

Job no. 305191  
REPORTED BY:  
PATRICIA L. HUBBARD, CSR #3400

1 Q. Directing your attention to the end of  
2 your March 27, 2015 email to Jim Cotter, Jr. --

3 A. Uh-huh.

4 Q. -- as part of Exhibit 110, I  
5 particularly direct your attention to the text six  
6 lines from the bottom that begins you will -- quote,  
7 "You will go a long way toward  
8 obviating a need for Tim's  
9 intrusion," and so forth.

10 A. Yes.

11 Q. You see that?

12 A. Yes, I do.

13 Q. Were each of the non-Cotter members and  
14 the RDI board of directors, including Tim Storey in  
15 particular, spending extra time dealing with the  
16 issues raised by the disputes among the Cotters,  
17 meaning Ellen and Margaret Cotter on one hand and  
18 Jim Cotter, Jr., on the other?

19 MR. SEARCY: Objection. Vague.

20 THE WITNESS: The independent committee  
21 or so-called independent committee, non-Cotter  
22 committee, spent an inordinate amount of time trying  
23 to come up with ways of ameliorating the -- the way  
24 the company -- the Cotters interacted with each  
25 other.

1 BY MR. KRUM:

2 Q. Directing your attention, Mr. Kane, to  
3 the last two lines of your May 27 email to Jim  
4 Cotter, Jr., as part of Exhibit 110.

5 A. Yes.

6 Q. They read, quote,  
7 "There is no downside to this.  
8 There is potential downside to  
9 letting things fester. Think about  
10 it," period.

11 What were you communicating or  
12 attempting to communicate to him when you said  
13 there's potential downside to letting things fester.

14 A. I think -- and I can't be specific, but  
15 I think there was a feeling among most, if not all  
16 of the non-Cotter directors that if things didn't  
17 improve, we might have to terminate one or more of  
18 them.

19 Q. Well, that would be effective only if  
20 the person or persons terminated did not control the  
21 RDI/Cotter-related class B voting stock, right?

22 MR. SEARCY: Objection. Argumentative,  
23 lacks foundation.

24 THE WITNESS: It might. But it would  
25 send a message to everyone that there was an

1 alternative that -- I'll point out -- you didn't ask  
2 me, but you'll will find out later that  
3 Mr. McEachern actually sent around saying all of the  
4 directors should resign, all the non-Cotter  
5 directors. That was an alternative; either we fire  
6 one of them or we all resign.

7 Q. And you understood the point of  
8 Mr. McEachern's comment about everyone resigning to  
9 acknowledge that some or all of -- well, either  
10 Margaret or Margaret and Jim ultimately -- Jim, Jr.,  
11 ultimately were going to control the voting stock  
12 and be able to elect the board, right?

13 A. Yes.

14 MR. SEARCY: Objection. Lacks  
15 foundation.

16 THE WITNESS: Yes.

17 BY MR. KRUM:

18 Q. Take a look back at Exhibit 110.

19 On the second page do you see that it  
20 reflects that on March 30 you forwarded to someone,  
21 but it doesn't indicate, your March 27 email to Jim  
22 Cotter, Jr.?

23 I'm referring, Mr. Kane, to just past  
24 halfway down on the second page. It reads on --

25 "On Mar 30, 2015, at 4:39 P.M."



1 Q. Who is the "us" to which you just  
2 referred?

3 A. I think that all of the so-called  
4 independent directors saw that.

5 Q. When did that become clear to you?

6 A. I can't remember exactly.

7 Q. Can you approximate when that became  
8 clear to you whether by a date or by reference to  
9 some other event or events?

10 A. I can't.

11 Q. What did any of the other non-Cotter  
12 directors say to you or communicate to you that led  
13 you to the conclusion that you just articulated to  
14 the effect that they had concluded that a resolution  
15 of the disputes between the Cotters could not be  
16 reached?

17 A. I think all five of us knew that there  
18 was no resolution at that point.

19 Q. Isn't it the case that Mr. Gould  
20 articulated a position to the effect that the  
21 disputes between the Cotters should be resolved in  
22 the pending litigation?

23 MR. SEARCY: Objection. Vague, assumes  
24 facts.

25 THE WITNESS: I think -- and I'm not

1 entirely clear, I think he wanted to wait until that  
2 litigation was concluded. That was his position.

3 BY MR. KRUM:

4 Q. Did you ever tell him that you disagreed  
5 other than when you chose to vote to terminate Jim  
6 Cotter, Jr.?

7 A. If -- if we had a discussion, I would  
8 have told him that -- and I don't know if I did --  
9 that we could not wait that long. We had to come to  
10 some resolution. If the Cotter -- Cotters couldn't  
11 come to one among themselves, we would have to.

12 Q. Why was that?

13 A. Because, as I just said, the company was  
14 not moving forward. There was a polarization in the  
15 office among the employees, and it had to be  
16 resolved one way or another.

17 That was my opinion.

18 Q. So as of the date of -- excuse me.

19 As of the date and time of Exhibit 80,  
20 you had determined that, if necessary to carry the  
21 vote, you would vote in favor of the termination of  
22 Jim Cotter, Jr., as president and C.E.O., correct?

23 A. I don't know if at that time I had that  
24 decision. As I said before, I wouldn't have invited  
25 him to come to my house if I had had a firm decision

# EXHIBIT 6

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DISTRICT COURT  
CLARK COUNTY, NEVADA

JAMES J. COTTER, JR.,	)	
individually and	)	
derivatively on behalf of)	)	
Reading International,	)	
Inc.,	)	
	)	Case No. A-15-719860-B
Plaintiff,	)	
	)	Coordinated with:
vs.	)	
	)	Case No. P-14-082942-E
MARGARET COTTER, et al.,	)	
	)	
Defendants.	)	
and	)	
	)	
READING INTERNATIONAL,	)	
INC., a Nevada	)	
corporation,	)	
	)	
Nominal Defendant)	)	
	)	

VIDEOTAPED DEPOSITION OF EDWARD KANE  
TAKEN ON JUNE 9, 2016  
VOLUME 3

Job No.: 315759  
REPORTED BY:  
PATRICIA L. HUBBARD, CSR #3400

1                   And you sent it to him on May 9, 2015,  
2    right?

3           A.    Uh-huh, yes.

4           Q.    And your email reads as follows, quote,  
5                   "I've had it with Bill Gould and  
6                   Tim Storey. I am seriously  
7                   considering getting off the  
8                   so-called independent committee.  
9                   Your thoughts," question mark.

10                  What prompted you to send this email?

11           A.    I thought that -- again, that Tim Storey  
12    had moved from his role as mediator between the  
13    Cotter family to placing himself in management. And  
14    I had had complaints throughout the time both from  
15    Jim Cotter, Jr., Ellen and Margaret in that regard.  
16    And he certainly didn't have experience in cinema or  
17    live theaters, as far as I know.

18                  And the committee wasn't working. Bill  
19    Gould and Tim Storey were doing things without the  
20    input or permission of the rest of us. And I didn't  
21    see any need to continue on it.

22           Q.    What were they doing without the  
23    permission of the rest of you?

24           A.    Well, for one thing they did is go out  
25    and see a psychologist or psychiatrist and wanted us

1 to mandate that Jim Cotter, Jr., visit this  
2 psychologist or psychiatrist.

3 Q. That was Bill Gould's second go-around  
4 with the psychologist as a -- as a proposed advisor  
5 to RDI, wasn't it?

6 MR. SEARCY: Objection.

7 THE WITNESS: This had to do -- this is  
8 the only one I know of, and it had to do with Jim  
9 Cotter, Jr.

10 BY MR. KRUM:

11 Q. What else, if anything?

12 A. What else -- pardon?

13 Q. What else, if anything, referring to  
14 your answer -- go ahead.

15 A. I think they had -- they seemed to have  
16 an agenda, and I didn't feel I was part of that  
17 agenda.

18 Q. Why do you say that?

19 A. Because they said, for example, that  
20 we'll make a decision on Jim Cotter, Jr., on  
21 June 30.

22 I never agreed to that. They said we  
23 had agreed to it. Guy never remembered that.

24 They were -- I had the feeling they were  
25 excluding us from their discussions and they had

1 hostile at the time.

2 Q. "At the time" being when?

3 A. When we had the meetings.

4 Q. Which meetings were hostile? Were they  
5 in 2014? 2015?

6 A. Around this time and going forward.

7 Q. May 9th and going forward?

8 A. Yes, yes.

9 Q. So we're clear on the record, May 9th,  
10 and going forward?

11 A. Yes, yes.

12 Q. What happened about that time that  
13 created, in your view, what you viewed as hostility?

14 A. Well, when we -- when I said -- and I  
15 don't know if others said it, but we had never set a  
16 date of June 30 for our intervention -- so-called  
17 intervention of it -- and Jim Cotter, Jr., 's  
18 situation, the tenure. They -- they were upset that  
19 I said that, but it happened to be the case.

20 And then it turned out that there was no  
21 reason for us to wait until June 30. Our -- our  
22 counsel told us --

23 MR. SEARCY: Hold on.

24 THE WITNESS: All right. There was no  
25 reason. And we had never agreed to it.

1                   So I thought that Bill Gould and -- and  
2 Tim Storey were not including the three of us in  
3 their discussions and their agenda, so to speak.

4 BY MR. KRUM:

5               Q.    Did some -- were there some exigent  
6 circumstances that arose in or about May of 2015  
7 that required a decision to be made regarding Jim  
8 Cotter, Jr.'s remaining C.E.O. or not remaining  
9 C.E.O.?

10               MR. SEARCY: Objection. Vague.

11               MR. VERA: Join.

12               THE WITNESS: There were issues. I  
13 can't recall -- recall the time line. But there  
14 were various issues with regard to Jim Cotter, Jr.,  
15 and his remaining as C.E.O.

16 BY MR. KRUM:

17               Q.    Did any of those issues arise in or  
18 after April 2015?

19               A.    I can't remember the date. I can  
20 remember some of the issues, but I can't remember  
21 the date.

22               Q.    Okay. I'm not going to ask you to  
23 repeat testimony from your prior sessions. So,  
24 subject to that, if you would, please, just identify  
25 the issues to which you were referring.



1           A.    Okay.  One issue was Jim Cotter, Jr.,  
2   going to Hawaii, taking pictures of the theaters and  
3   trying to use them to show that Ellen was not doing  
4   a proper job.

5           Q.    That occurred in about December of 2014,  
6   correct?

7           A.    I don't remember when it occurred.

8           Q.    Okay.  And what other issues were there?

9           A.    I didn't like the way Jim Cotter, Jr.,  
10   was handling the Stomp.  It appeared -- issue.  It  
11   appeared to me that he was focusing on Ellen --  
12   excuse me -- Margaret in front of the board.  I  
13   thought that was inappropriate.

14          Q.    And by that you're referring to the  
15   purported notice of termination by the Stomp  
16   producers at the board meeting about which you  
17   testified earlier today?

18          A.    Yes.

19          Q.    Okay.  What other issues?

20          A.    Then there were issues of -- try to best  
21   describe it.  What three female employees called  
22   harassment by Jim Cotter, Jr.

23          Q.    Those were the -- and you're referring  
24   to Linda Pham, non-employee Deborah Watson and Ellen  
25   Cotter; is that correct?

# EXHIBIT 7

DISTRICT COURT

CLARK COUNTY, NEVADA

CLARK COUNTY, NEVADA

Case No. A-15-719860-B

Coordinated with:

Case No. P-14-082942-E

Case No. P-14-082942-E

OF DOUGLAS McEACHERN

JUN 6, 2016

#3400

1 I didn't think they went anywhere, and I  
2 was getting sick and tired of the whole lot of  
3 everybody in this whole deal, quite frankly.

4 At some point -- I don't know -- in  
5 February or March, sometime in that time frame, I  
6 was ready to quit the board and just get out of  
7 Dodge and say I'm done with all this, and concluded  
8 at some point, Mr. Krum -- and I can't tell you  
9 when -- in my mind I thought we had to do something.

10 I thought that either we -- we had to do  
11 nothing about the situation, we had to terminate  
12 Jim, we had to terminate Ellen and Margaret, or fire  
13 all three of them and move forward with the company  
14 in the best interest of the shareholders, because we  
15 weren't getting anywhere.

16 And so when you say -- and by the way, I  
17 vocalized that view of the world.

18 And things continued to evolve in my own  
19 mind. Started to have further discussions with Jim  
20 over his performance as a C.E.O.

21 Mr. Storey was appointed by Mr. Gould,  
22 the best I can tell -- I don't think the board ever  
23 did this -- to work with Jim to try to help make him  
24 a C.E.O.

25 Bear in mind we made -- hope this

1 doesn't get anybody mad -- we made a mistake making  
2 Jim Cotter C.E.O. in August of 2014. We made an  
3 individual who had no real estate experience, no  
4 international experience, no management experience,  
5 no cinema experience and no live theater experience.  
6 Other than that, in retrospect he was very  
7 qualified.

8 (Whereupon Mr. Swanis entered the  
9 deposition proceedings at this  
10 time.)

11 THE WITNESS: When we met with Jim in  
12 the fall it became very, very clear after hearing  
13 from some of the executives in the company that Jim  
14 was doing an analysis of the cinema operation. That  
15 sounded like a pretty good thing to go do.

16 BY MR. KRUM:

17 Q. I'm sorry. I'm sorry. Wait a minute.  
18 Where are you in time?

19 A. In the fall of 2014.

20 Jim was doing an examination of the  
21 cinema operations. He was going around Ellen Cotter  
22 to get information from our then C.F.O. Andrzej  
23 Matyczynski and Robert Smerling and others about  
24 financial performance of the cinemas.

25 Tim and I found out about this and said,

1 "Jim, we understand you're doing this analysis of  
2 the cinemas. Jim, but you're going around Ellen's  
3 back. This is not what a C.E.O. should be doing. A  
4 C.E.O.'s time is too valuable than to be spending it  
5 doing financial analysis of individual cinemas. Go  
6 hire a consultant to do this. And by the way, if  
7 you continue down the same path you're on, you're  
8 going to get perceived as only doing this to try to  
9 nail your sister."

10 And by the way, put those words down and  
11 attribute it to me, because I think I did say that  
12 to him.

13 He continued on doing this and in fact  
14 in December went to Hawaii with his family and did a  
15 similar review of something -- some of the theaters  
16 in Hawaii.

17 The only reason I know about that is I  
18 approve his expenses, and the expense came through.

19 But during that time he went and visited  
20 cinemas; didn't talk to anybody, just went and took  
21 pictures of the cinemas.

22 Now, the comments and the counsel to Jim  
23 were, "Jim, it's could quite conceivably be that our  
24 cinemas need to be enhanced and operations improved,  
25 but we're not going to get there with you going and

1     trying to undercut the person who's doing it."

2                     That then translated into other comments  
3     to Jim. Jim had a habit of coming into the office,  
4     sitting in his office and shutting the door, by  
5     himself and being there all day.

6             **Q.     How do you know that?**

7             A.     Because I saw it. And I counseled with  
8     him and I talked to him about it.

9             **Q.     How many times did you see that?**

10            A.     Every time I went to the office.

11            **Q.     How often was that?**

12            A.     I couldn't tell you. I didn't keep  
13     track. I don't have a calendar that would tell you  
14     when.

15                     But I also heard from executives in the  
16     company that he was doing that.

17            **Q.     Let me ask the questions, though.**

18                     So, you reside a Rancho Santa Fe,  
19     correct?

20            A.     I didn't at the time.

21            **Q.     Where did you reside?**

22            A.     Arcadia.

23            **Q.     I lived in Los Angeles for 20 years and**  
24     **I'm sorry, sir, I don't know where that is.**

25                     Where is Arcadia?

1 ground.

2 Q. When did you first decide,  
3 Mr. McEachern, that you would seek or support the  
4 termination of Jim Cotter, Jr., as C.E.O.?

5 A. Could you read that question to me  
6 again. I'm sorry.

7 MR. KRUM: Sure. I'll have the court  
8 reporter read it back.

9 (Whereupon the question was read  
10 as follows:

11 "Question: When did you first  
12 decide, Mr. McEachern, that you  
13 would seek or support the  
14 termination of Jim Cotter, Jr., as  
15 C.E.O.?"

16 THE WITNESS: I do not have a specific  
17 date to give you, Mr. Krum, but it was sometime in  
18 mid to late May of 2015.

19 BY MR. KRUM:

20 Q. Can you place it in time relative to an  
21 event, conversation or anything else?

22 A. No, I can't.

23 Q. When was the first time you communicated  
24 to anyone that you were prepared to support or seek  
25 the termination of Jim Cotter, Jr., as C.E.O.?



1     **technique or something in between?**

2             A.     I'm trying to think of how I do --  
3     sometimes I try to do the normal typing. That's --  
4     that may be about 50 percent of the time. And then  
5     the other 50 I have to go and find out where the  
6     letters are or the numbers.

7             Q.     Well, as I said, I'm old enough to ask  
8     that question.

9                     Did you ever communicate to Jim Cotter,  
10    Jr., that you were assessing whether he should  
11    remain C.E.O. of RDI?

12                    MR. SEARCY: Objection. Vague, vague as  
13    to time.

14                    THE WITNESS: Sometime in May Jim  
15    Cotter, Jr., and I had a discussion about replacing  
16    him as C.E.O. And I remember the discussion, I  
17    think it was in his office, and he told me that I  
18    could not fire him as C.E.O. And he told me that if  
19    I were to vote to fire him, he would sue me and ruin  
20    me financially, to which my response was "Jim, we  
21    have D and O insurance."

22                    His response was "I don't think it  
23    covers this."

24                    "Well, Jim, we have an indemnification  
25    from the company."

1 "It's not any good. I'm going after  
2 everybody."

3 And that -- because of that discussion,  
4 we did talk about it and I remember it. I can't  
5 tell you when it happened.

6 BY MR. KRUM:

7 Q. Was it after the first supposed RDI  
8 board of directors meeting at which the subject of  
9 his termination was raised?

10 MR. SWANIS: Objection. Form.

11 MR. SEARCY: Join.

12 THE WITNESS: I'm sorry. What?

13 MR. SEARCY: He objected to form.

14 THE WITNESS: Oh. I do not know if it  
15 was before or after.

16 BY MR. KRUM:

17 Q. So you believe that you may have spoken  
18 to Jim Cotter, Jr., and indicated to him that you  
19 were prepared to vote to terminate him prior to the  
20 subject being raised at an RDI board of directors  
21 meeting?

22 MR. SWANIS: Objection. Form.

23 MR. SEARCY: Join. Object that it's  
24 vague.

25 THE WITNESS: I don't know that I had

1 THE WITNESS: I don't -- I don't know  
2 how to answer the question.

3 BY MR. KRUM:

4 Q. What is --

5 A. You're referring --

6 Q. What is it you investigated -- strike  
7 that.

8 What is it that you found troublesome?

9 A. Linda Pham made, I think it was, a phone  
10 call to the employee hotline about concerns and  
11 issues about what was going on or it was treated as  
12 a call to a hotline reporting a trouble.

13 I do recall speaking with Bill Gould  
14 about the situation and telling him that I thought  
15 that I should meet with Linda Pham and understand  
16 what her concerns were, and I did.

17 Q. When?

18 A. That's why I say it's October, November  
19 2014.

20 I went to the office. She and I -- she  
21 felt very, very uncomfortable. I had not met her  
22 before. And we went to the Starbucks across the  
23 street and spent an hour or two hours listening to  
24 what her concerns were about Jim Cotter, Jr.

25 She asked me to speak with Debbie Watson

1 and a Rick Bruce, who were in the office, about her  
2 concerns to validate what she was telling me.

3 A month or so later I had not spoken  
4 with Debbie -- two or three weeks later or Rick  
5 Bruce, and she chastised me for not following up.

6 I subsequently had a discussion with  
7 Debbie Watson and with Rick Bruce. Rick had nothing  
8 to add. He said he was not there at the time --  
9 period of time.

10 But Debbie Watson, as I recall, her  
11 comments were supportive of Linda Pham's concerns.

12 **Q. When did you speak to Ms. Watson?**

13 A. It was an afternoon of a Tuesday or  
14 Thursday on my way to a class at Claremont McKenna,  
15 and it was by phone. I want to say sometime late  
16 November, early December.

17 **Q. What was the resolution of the situation**  
18 **with Linda Pham?**

19 A. To the best of my knowledge, we did  
20 nothing.

21 **Q. Well, what did you do after you -- if**  
22 **anything, after you did what you just described?**

23 A. I reported it back to Bill Gould, the  
24 lead director.

25 **Q. And in the course of your conversations**

1 with Linda Pham, what discussions, if any, did you  
2 have concerning her relationship with either Ellen  
3 or Margaret Cotter?

4 A. I do not recall.

5 Q. And what was her complaint?

6 A. What was her complaint?

7 She felt that Jim was being abusive in  
8 his behavior towards her and going through -- as I  
9 recall, he was going through her files -- I had  
10 difficulty understanding this, but she -- she felt  
11 he was going through her files and/or doing things  
12 secretively behind his closed doors.

13 She was very, very -- her office was  
14 right next to Jim's, and she was very critical of  
15 his behavior in the office.

16 Q. Did she say anything substantive to  
17 substantiate the claim that he was abusive to her?

18 MR. SEARCY: Objection. Vague.

19 THE WITNESS: I cannot recall.

20 BY MR. KRUM:

21 Q. And your best recollection is that you  
22 concluded your -- that you spoke to -- strike that.

23 So your recollection is you spoke to  
24 Linda Phan herself --

25 A. Pham, P-h-a-m.

1 president and he didn't have the C.E.O. position, I  
2 was fine with that.

3 I recall Margaret at one of these  
4 meetings when we -- and this is where it gets  
5 muddled. I don't remember what happened at what  
6 meeting -- said there would be a position where we  
7 hired a C.E.O., bring him in, Jim would be in some  
8 role.

9 And Margaret said, "Jim, let's go along  
10 with this and in five years maybe figure out how to  
11 be a C.E.O., and you can take over as C.E.O. of the  
12 company?"

13 Q. Do you recall what -- anybody saying in  
14 words or substance during the early evening call on  
15 the Friday that we've been discussing that Jim  
16 Cotter, Jr., could or would remain as C.E.O., but  
17 that in practice or reality he would simply be one  
18 member of an executive committee?

19 MR. SEARCY: Objection. Vague.

20 THE WITNESS: I remember discussions  
21 about how to not embarrass Jim Cotter, Jr., how to  
22 get something transitioned, something that would be  
23 palatable, something that we could move forward  
24 with.

25 But I do recall some group of people

1 that Jim would be participating in something. I was  
2 comfortable with that.

3 I was not comfortable with him having  
4 the authority and responsibilities on his own as  
5 C.E.O. of Reading.

6 BY MR. KRUM:

7 Q. Do you recall who the group of people  
8 was?

9 A. Well, I know I wasn't part of whatever  
10 that group was going to be. I suspect it was  
11 Margaret and Ellen and potentially Ed or -- or Guy  
12 Adams.

13 Q. Let me prompt your -- attempt to prompt  
14 your memory.

15 Do you recall that it was Guy Adams  
16 along with Margaret, Ellen and Jim, Jr., and that  
17 Guy Adams was to be the chair or chairman of this  
18 committee?

19 A. I get confused as to who was doing what  
20 and what executive committee when. Because we  
21 formed a subsequent executive committee after Jim  
22 was terminated.

23 That Guy would be on the committee I'm  
24 not surprised about. That Guy would share it I'm  
25 not surprised about.

1 answered.

2 THE WITNESS: No.

3 BY MR. KRUM:

4 Q. What else, if anything, do you recall  
5 from your conversation or conversations with  
6 Mr. Adams regarding the termination of Jim Cotter,  
7 Jr., prior to the vote to do so, if anything?

8 A. I believe I discussed with him my  
9 conversations about voting to terminate Jim Cotter,  
10 Jr., with Bill Gould, which I found a little  
11 perplexing.

12 As I said, we had four choices: Do  
13 nothing, fire Jim, fire the girls, fire all three of  
14 the Cotters.

15 And in my discussions with Bill Gould,  
16 Bill stated he wanted to do nothing. Bill wanted to  
17 sit with the situation as it was, which I found very  
18 frustrating, for upwards of two years until some  
19 court decided who voted the voting stock.

20 I told Bill that that was not our job to  
21 figure out who voted the stock; our responsibility  
22 was to the shareholders of this corporation and to  
23 do what was in the best interest of the shareholders  
24 and that I did not believe waiting two years with  
25 the situation we had was -- was possible.



1 THE WITNESS: I think Jim, Jr., knew  
2 that his position as C.E.O. was in jeopardy for a  
3 longer period of time than just May 21st.

4 BY MR. KRUM:

5 Q. Well, do you base conclusion that on any  
6 conversation you had with him?

7 A. Based upon assigning Tim Storey to work  
8 with him because of his C.E.O. skills, one would  
9 think that he would have figured that out.

10 Q. That's your understanding of what  
11 Mr. Storey's role was?

12 A. Yes.

13 Q. And the basis of that understanding is  
14 what?

15 A. Discussions with Bill Gould.

16 Q. Do you recall a meeting of the five  
17 non-Cotter directors at which Mr. Storey was charged  
18 with a function that came to be referred to as  
19 ombudsman?

20 A. No, I do not.

21 Q. Do you recall a meeting of five  
22 non-Cotter directors of which Mr. Storey was charged  
23 with working with Jim Cotter, Jr., as C.E.O. and, in  
24 particular, working with him and the Cotter sisters  
25 to attempt to enable them to work together as

1     **professionals instead of siblings with fights?**

2                   MR. SEARCY:  Objection.  Vague,  
3     compound, argumentative.

4                   MR. SWANIS:  Object to form.

5                   THE WITNESS:  He was to figure out how  
6     to do things that were in the best interest of the  
7     shareholders.  And I recall emails from -- email or  
8     emails from Tim about the holes in -- and that's my  
9     phrase, not Tim's -- in Jim's expertise or ability  
10    to function as a C.E.O. and where he needed further  
11    handling.

12    BY MR. KRUM:

13                Q.    **When was this?**

14                A.    Sometime after he started working with  
15    him.

16                Q.    **When was that?**

17                A.    Sometime after the -- I think the end of  
18    March.

19                Q.    **Did you ever hear or learn or were you**  
20    **ever told that the role of Mr. Storey commencing in**  
21    **or after March, whatever it was, was to -- was to**  
22    **continue into June 2015?**

23                   MR. SWANIS:  Objection.  Form.

24                   THE SEARCY:  Join.  Also lacks  
25    foundation.

1 BY MR. KRUM:

2 Q. Well, we were talking about evaluating  
3 the C.E.O. That was my first question. So let me  
4 go back to that.

5 What process had been put in place at  
6 any time prior to Exhibit 124 to assess or evaluate  
7 the performance of the C.E.O. of RDI?

8 MR. SWANIS: Objection. Form.

9 MR. SEARCY: Objection. Also assumes  
10 facts.

11 THE WITNESS: The evaluation of  
12 performance by executives in a company is an ongoing  
13 activity. This is no different than any of the  
14 other companies I've been associated with.

15 Typically at the end of the year there  
16 is an evaluation done, a process to evaluate the  
17 performance, look at compensation and decide how to  
18 reward somebody for bonus or not for performance.

19 Here when you've got an individual who  
20 we're very concerned about, process or evaluation is  
21 constantly going on.

22 BY MR. KRUM:

23 Q. Who was doing that?

24 A. I think the entire board.

25 Q. Well, what was Mr. Kane doing?

1 Q. But you never had any communications  
2 with either of them about the subject or the notion  
3 that the C.E.O. position was to be reviewed in June?

4 A. I recall some discussion with Tim about  
5 an end of June time frame or 90-day time frame when  
6 he started, yes.

7 Q. What do you recall about --

8 A. Just that.

9 Q. Nothing else?

10 A. No.

11 Q. That was a bad question and an unclear  
12 answer because of the question.

13 Other than what you just said, do you  
14 recall anything from your discussion with Tim Storey  
15 about an end of June or 90 daytime frame?

16 A. No.

17 Q. Now, there came a point in time,  
18 Mr. McEachern, when you became a member of a  
19 so-called special nominating committee; is that  
20 correct?

21 A. Yes.

22 Q. How did that happen?

23 A. Are we talking about the nominating  
24 committee for a member of the board of directors?

25 Q. Well, let me ask the first -- another

1 went around to the theaters, didn't introduce  
2 himself to any of the theaters, taking pictures of  
3 the state of our theaters in Hawaii where we have a  
4 fairly big footprint.

5 I think he was coming back, planning to  
6 make some sort of presentation about the ugliness of  
7 the theaters which hadn't had any capital put into  
8 them for quite a while. That never happened.

9 But as Ed Kane tells me, he had  
10 discussions with Jim who showed Ed these pictures,  
11 said, "Jim, what are you doing with this? Are you  
12 trying to undercut your sister with the board of  
13 directors? Why don't you sit down and go to Hawaii  
14 with your sister, look at the operations and what  
15 can be done to enhance them."

16 At the same time in the fall, hearing  
17 that Jim is operating behind closed doors, but,  
18 really, how can that possibly be and how do you  
19 create trust? And I mentioned that earlier.

20 Jim, as would be reported, would come to  
21 the office, go into his office and shut the door and  
22 spend all day behind closed doors.

23 The message that he was told by me that  
24 he was sending was one of not being engaged with the  
25 employees of the company.

1 I said, "Jim, you got to open the door  
2 to the office."

3 This went on for a month or two.  
4 Finally Jim opens the door to his office, he opens  
5 the door to his office one inch. And nominally can  
6 you report that the door is open? Yes. In form it  
7 is. In substance is it? Not.

8 That really caused some great angst.  
9 You go back and start evaluating and you say, "Well  
10 we made this guy the C.E.O., and you reflect upon  
11 what he had done."

12 Now, my exposure to Jim -- I hope I'm  
13 not going on too much.

14 **Q. I want a complete list.**

15 A. My exposure to Jim -- I joined the board  
16 in June of 2012 -- had been exposure to him for a  
17 couple of years in meetings. He sat in the board  
18 meetings. I recall nothing that Jim Cotter, Jr.,  
19 ever had to say in any board meeting at all.

20 And when his dad died in early September  
21 of 2014, I went to Jim and said, "Listen, Jim, my  
22 relationship was with your dad. I knew him for a  
23 long period of time. I don't know your three kids,  
24 who now seem to be the ones who are running the  
25 company. I'll be happy to resign from the board if

1     you want."

2                   And he said, "No. Stay on the board.  
3     We need you," and some other stuff. So I stayed on  
4     the board.

5                   But we had these interactions in  
6     meetings, and you try to mentor and help somebody  
7     move their self along. From that point -- and this  
8     is now moving into January, February of 2015,  
9     getting to a point where this is just -- I'm pulling  
10    my hair out, and I think the other directors were  
11    too, a point where it's like why don't we just all  
12    resign and call it a day and move on. We're not  
13    getting any progress, we're not helping the  
14    shareholders of this organization, we're not causing  
15    value to be created.

16                  And upon reflection, we put a C.E.O. in  
17    place who had, as I said earlier, no real estate  
18    experience, no management experience, no live  
19    theater experience, no cinema experience and no  
20    international experience.

21                  Yeah, he traveled around with his dad  
22    looking at things in Australia and possibly New  
23    Zealand, but in terms of any real operational effect  
24    or activities impact, nothing.

25                  And then we moved into this Stomp

1 situation. The Stomp situation, Jim initially  
2 wanted to use that, in my judgment, to case Margaret  
3 Cotter in a very negative light with the board. At  
4 the same time she was looking to try to get hired by  
5 the company and get an employment contract and move  
6 from her contractor or outside contractor status to  
7 an employee of reading.

8           Talked about what she wanted to do, but  
9 that's what she wanted to have happen. That I  
10 recall from the fall of 2014.

11           And Ellen wanted to have a similar  
12 contract.

13           Jim's comments constantly were to me "I  
14 know what my dad wants. I know what my dad wants."  
15 It's like the specter of Jim Cotter, Sr., is hanging  
16 over all this. I don't know. He never told me what  
17 his dad wants. But he would say it on a regular  
18 basis.

19           It got to the point where now Ellen and  
20 Margaret are trying to get their employment status  
21 squared away. And sometime in maybe -- I don't  
22 know -- March or April Jim finally sends a contract  
23 to Margaret, an employment contract, a draft. And  
24 it wasn't long, it was three or four pages as I  
25 recall.



1 But as a preamble to it was a cover memo  
2 that -- an email that had 23 or 4 or 17 or 20  
3 reasons why Margaret should not get an employment  
4 contract with the company.

5 And it was like, "Jim, if you're trying  
6 to get -- mend fences and move forward. You don't  
7 sit there and throw hand grenades in something that  
8 you're trying to do on a positive basis."

9 But I know Jim had to do that. And then  
10 Stomp happened. And I think that the employment  
11 contract business happened before Stomp.

12 And Stomp came to his attention at some  
13 point in April, May, and we ended up with a lot of  
14 consternation about what went on. People were  
15 jumping to conclusions before they had any facts,  
16 which Bill Gould, bless his heart, he -- he had us  
17 meet -- I don't know if it was the entire board, but  
18 we met around the board room.

19 I had a granddaughter did that to me.  
20 Scared me.

21 (Whereupon Mr. Rhow left the  
22 deposition proceedings at this  
23 time.)

24 THE WITNESS: He met around the board  
25 room and had a discussion with Margaret on the phone

1 discussions that he had had.

2 The company from August of 2014 until  
3 Jim's termination, I cannot tell you one thing that  
4 we did that created value for the company, one thing  
5 that Jim Cotter, Jr., managed to do. Nothing.

6 He ended up going to Australia and New  
7 Zealand sometime in maybe February, but Ed Kane was  
8 the one banging on the table saying "You know, you  
9 got to get out of the office. We got to get this --  
10 this toxic environment where everyone's just at  
11 wit's end out of here. And he had numerous  
12 discussions telling Jim, "Go to Australia and New  
13 Zealand and get out of here."

14 And so now -- Australia and New Zealand  
15 was 50 percent of our activities, maybe. Maybe 60.  
16 I'm not sure what the percentage is. It's in the  
17 10-K.

18 But we had him in place in August.  
19 August, September, October, November, December,  
20 January, February -- six months goes on and he  
21 hasn't gone to visit anybody who has -- connected  
22 our big activities that are taking place, which are  
23 doing exceedingly in Australia and New Zealand. And  
24 we had a lot of great opportunities.

25 All of those things. No -- making no

1 progress. Inability to work with executives.

2 Does that include Ellen and Margaret?

3 Absolutely it includes Ellen and Margaret, but as  
4 executives. And I had concluded, Rob, that I did  
5 not think that in my judgment Jim Cotter, Jr., was  
6 C.E.O. capable. Some of the emails I recall  
7 receiving from Tim Storey alluded to that, that we  
8 have somebody who was very weak as a C.E.O. or as a  
9 manager.

10 Tim at one point said that Jim wants to  
11 go to U.C.L.A. to learn how to manage -- get an  
12 M.B.A. -- I think it was U.C.R. Get an M.B.A. and  
13 learn how to manage people.

14 The comet was waiting. You're 45 or 46  
15 years old and you're going to go to school to learn  
16 how to manage people?

17 You're not going to change somebody at  
18 that point in time. Maybe people are going to alter  
19 their behavior five or ten percent, but you're not  
20 going to have an entire mind meld to try and get  
21 somebody to change their basic DNA in how they  
22 relate to people.

23 And you add all these things up -- the  
24 Linda Pham, as I said earlier, that was maybe five  
25 percent. It wasn't a major component. But it was

1 an inability to operate as a manager, an inability  
2 to create trust, an inability to communicate with  
3 people. That lack of experience that he had all  
4 painted a picture that we're not making progress  
5 that our shareholders expect us to make in this  
6 organization, and we got to get somebody in here who  
7 can help us move the company forward. And I voted  
8 to terminate him. So --

9 Q. Just to put this one on a time line, the  
10 point in time by which you had reached your  
11 conclusion based upon the factors you just described  
12 was sometime in late April or May of 2015; is that  
13 right?

14 A. I'd say it's probably mostly in the May  
15 time frame, I think.

16 I mean I had discussions with -- as I  
17 said, with Bill Gould about our options that we had  
18 to do something. I discounted one that Bill wanted  
19 to pursue as just -- the whole company would have  
20 imploded if we had gone down that path.

21 Q. Okay.

22 MR. SEARCY: Let me just -- before you  
23 ask another question, Robert, I just want to put on  
24 the record that Mr. Rhoads left, and when he left it  
25 caused the door to make that startling sound that we

1 THE WITNESS: Analyzing the theater  
2 operations, absolutely nothing was wrong with doing  
3 that. Nothing.

4 I didn't believe -- I thought it was  
5 inappropriate that Jim was wasting -- inappropriate  
6 in that Jim was wasting his individual C.E.O. time  
7 doing it and that his time was better spent in other  
8 activities to move the company forward.

9 I felt we could hire a consultant to go  
10 do that, to work with Ellen to figure out how do we  
11 make it better.

12 BY MR. NATION:

13 Q. And also on that topic, I believe you  
14 also mentioned going to Bob -- directly to Bob  
15 Smer- -- Smerling rather than going to Ellen, right?

16 A. Yes. And to Andrzej Matyczynski.

17 Q. All right. So, I realize I haven't  
18 summarized this, but in the time that we've been  
19 asking and discussing this, is there anything else  
20 that you would add to the list?

21 A. One thing that came to mind, Jim felt  
22 that we should change the food and beverage  
23 activities going on at the cinemas.

24 I don't know if you've been to the  
25 cinema lately. Popcorn seems to be -- and a Coke

1 seems to be the old passe thing. Now it's gourmet  
2 hot dogs and beer and wine and alcohol and all kinds  
3 of other things being served, which I think was an  
4 appropriate thing.

5 He wanted and was endeavoring to go hire  
6 a food and beverage manager around Ellen Cotter,  
7 who's in charge of the operations.

8 It's like, well, now, wait a minute. We  
9 decide we need to go do this, the individual running  
10 that operation is the person that we -- should be in  
11 charge of going and figuring out where to go; not  
12 the C.E.O. going and undercutting an individual  
13 running that operation.

14 **Q. Anything else you can think of?**

15 A. Probably as I leave tonight a couple  
16 things will hit me.

17 **Q. We've hit the high spots, I take it.**

18 A. I think so.

19 **Q. Did you become aware from any source**  
20 **that Tim Storey disagreed with that assessment? In**  
21 **other words, that Tim Storey was giving reports,**  
22 **portraying James Cotter, Jr.'s, performance in a**  
23 **more favorable light?**

24 MR. SEARCY: Objection. Assumes facts,  
25 lacks foundation, it's vague.

# EXHIBIT 8

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DISTRICT COURT  
CLARK COUNTY, NEVADA

JAMES J. COTTER, JR.,	)	
individually and	)	
derivatively on behalf of	)	
Reading International,	)	
Inc.,	)	
	)	Case No. A-15-719860-B
Plaintiff,	)	
	)	Coordinated with:
vs.	)	
	)	Case No. P-14-082942-E
MARGARET COTTER, et al.,	)	
	)	
Defendants.	)	
and	)	
	)	
READING INTERNATIONAL,	)	
INC., a Nevada	)	
corporation,	)	
	)	
Nominal Defendant	)	
	)	

VIDEOTAPED DEPOSITION OF MARGARET COTTER  
TAKEN ON MAY 12, 2016  
VOLUME I

REPORTED BY:  
PATRICIA L. HUBBARD, CSR #3400



1 MR. SEARCY: So, Mark, if you're close  
2 to finishing, it's about 6:22 right now.

3 MR. KRUM: Yeah. We should finish up by  
4 6:30 if not before.

5 BY MR. KRUM:

6 Q. Ms. Cotter, directing your attention to  
7 your testimony of a moment ago to the effect that  
8 your brother already had been told by the board that  
9 he would be terminated, do you have that in mind?

10 A. Do I have my statement in mind?

11 Q. Yeah. I just want to direct your  
12 attention to that.

13 A. Yes.

14 Q. And what was it you understood your  
15 brother needed to do, if anything, as of June 4,  
16 2015, to avoid being terminated?

17 A. I believe at that point there was a --  
18 we had collectively agreed that we would resolve  
19 this dispute and the lawyers put together a  
20 settlement.

21 We told the board that we resolved it  
22 and that we're going to put it in the hands of the  
23 lawyers. And we revised the settlement.

24 I don't know if it was -- I don't know  
25 if we revised it because my brother asked for

1 additional things or if we just decided to throw in,  
2 you know, additional elements of the settlement, but  
3 that's where we were on June 4th.

4 Q. When you refer to "this dispute," you're  
5 referring to the trust disputes?

6 MR. SEARCY: Objection. Vague.

7 BY MR. KRUM:

8 Q. Well, let me ask an open-ended question.

9 In your last response you referred to  
10 resolving this dispute.

11 To what were you referring when you said  
12 "this dispute"?

13 A. There were elements of the trust dispute  
14 and there were also some terms regarding going  
15 forward in the company in the settlement.

16 Q. So what had transpired is that at a  
17 reconvened -- a supposed reconvened telephonic board  
18 meeting, Ellen reported that you and Ellen had  
19 reached a resolution with your brother and that the  
20 lawyers were going to prepare the paperwork; is that  
21 correct?

22 MR. SEARCY: Objection. Vague.

23 THE WITNESS: Which -- when are you  
24 referring to?

25 ///

1 BY MR. KRUM:

2 Q. Okay. Do you recall that there was a  
3 Friday where there was a board meeting that convened  
4 in the morning or early afternoon and that that  
5 supposed board meeting adjourned and supposedly  
6 reconvened in a telephonic meeting at about  
7 6 o'clock in the evening?

8 A. That's correct.

9 Q. And do you recall that on the  
10 telephonic -- or on the telephone call, Ellen  
11 reported that a tentative agreement had been struck  
12 by you and her on one hand and by your brother on  
13 the other?

14 A. I don't know if she said "tentative."

15 Q. Okay. Do you recall that she reported  
16 that an agreement had been reached?

17 A. Yes.

18 Q. And the agreement was between you and  
19 her on one hand and your brother on the other hand?

20 A. Yes.

21 Q. And that in Exhibit 156, when you asked  
22 your brother, quote, "What is the status of the  
23 paperwork we sent you yesterday," close quote,  
24 you're referring to the paperwork that Sussman sent  
25 to Streisand about the agreement that Ellen had

1 reported during the 6:00 P.M. telephone call we just  
2 discussed, right?

3 MR. SEARCY: Objection. Vague, lacks  
4 foundation.

5 THE WITNESS: No.

6 BY MR. KRUM:

7 Q. Okay. To what are you referring, then?

8 A. This is the revised settlement. This  
9 was not -- this settlement offer that I'm referring  
10 to in this email was not the settlement that my  
11 sister was referring to on that telephonic board  
12 meeting.

13 Q. Okay.

14 MR. SEARCY: So, Mr. Krum, I can tell by  
15 the way my witness is slouching in her seat that  
16 we're reaching the end here.

17 MR. KRUM: We'll be there in a minute.

18 BY MR. KRUM:

19 Q. So, that settlement -- that  
20 documentation was not accepted by your brother,  
21 correct?

22 MR. SEARCY: Objection. Vague.

23 MR. FERRARIO: Obviously. We're here.

24 THE WITNESS: That's correct.

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# EXHIBIT 9

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DISTRICT COURT  
CLARK COUNTY, NEVADA

JAMES J. COTTER, JR.,	)	
individually and	)	
derivatively on behalf of	)	
Reading International,	)	
Inc.,	)	
	)	Case No. A-15-719860-B
Plaintiff,	)	
	)	Coordinated with:
vs.	)	
	)	Case No. P-14-082942-E
MARGARET COTTER, et al.,	)	
	)	
Defendants.	)	
and	)	
	)	
READING INTERNATIONAL,	)	
INC., a Nevada	)	
corporation,	)	
	)	
Nominal Defendant	)	
	)	

VIDEOTAPED DEPOSITION OF MARGARET COTTER  
TAKEN ON MAY 13, 2016  
VOLUME II

REPORTED BY:  
PATRICIA L. HUBBARD, CSR #3400

1 as follows:

2 "Question: Well, independent of  
3 what you meant on that particular  
4 day, in or about the end of March  
5 2015 or early April, 2015, did you  
6 have a view or an opinion that  
7 your brother had some strategy or  
8 some particular purpose that was  
9 why he had not then acted to make  
10 you an employee of RDI?")

11 BY MR. KRUM:

12 Q. Can you answer that?

13 A. I can speculate as to what I meant on  
14 this day. I mean I just felt from the start that my  
15 brother was trying to push me off to the side and  
16 not be part of this company.

17 Q. Well, there came a time in May of 2015  
18 when he sent you a draft of an employment agreement,  
19 right?

20 A. I -- I don't know if that was the date,  
21 but he sent me a draft, yes.

22 Q. Okay. Did that change your view of  
23 whether he was willing to make you an employee of  
24 RDI?

25 A. No.

1 Q. Why not?

2 A. I believe that the email had 23 reasons  
3 why he shouldn't be giving me this employment  
4 agreement. And the employment agreement was very  
5 restricted, where if I didn't hand in a report at  
6 some particular time, I could be terminated.

7 Q. At any point in time from the time in  
8 August of 2014 when your brother became C.E.O. until  
9 he was terminated on June 12, 2015, did you develop  
10 a view that he wanted or was looking for excuses or  
11 reasons to terminate your consulting arrangement?

12 A. You're asking me if I knew of reasons?

13 Q. No. I'm asking you if you had that  
14 thought in that time frame.

15 So let me ask the court reporter to read  
16 the question back.

17 (Whereupon the question was read  
18 as follows:

19 "Question: At any point in time  
20 from the time in August of 2014  
21 when your brother became C.E.O.  
22 until he was terminated on  
23 June 12, 2015, did you develop a  
24 view that he wanted or was looking  
25 for excuses or reasons to



1 you talking about when you received the Stomp  
2 producer's letter purporting to terminate the  
3 agreement and then sent that along to your brother?

4 A. That's correct.

5 Q. What is it you recall happened  
6 between -- if anything that happened between when  
7 you sent that letter to your brother and the board  
8 meeting with respect to the Stomp matter?

9 A. Just my brother would call, and he  
10 wanted all these particulars about this February  
11 letter.

12 And at that point we were putting  
13 together a preliminary injunction motion to go into  
14 the Supreme Court. And he wasn't listening to  
15 the -- to me on this injunction saying that we have  
16 to get this filed. He was more concerned about why  
17 he wasn't notified back in February.

18 And I told him, "Jim, you're missing the  
19 point."

20 And he just wanted to find all the fault  
21 in what I had done rather than deal with the  
22 situation at hand and getting this motion filed to  
23 prevent the show from leaving the theater.

24 Q. Ms. Cotter, when you say he wanted to  
25 find fault, why do you say that?

1 A. I don't recall.

2 Q. Did you ever have a communication with  
3 Guy Adams about him serving as interim C.E.O. of  
4 RDI?

5 A. I don't recall that.

6 Q. Did you ever have a conversation with  
7 any non-Cotter director about an interim C.E.O. of  
8 RDI?

9 A. Prior to June 16th --

10 Q. Prior to June --

11 A. Or 12th?

12 Q. Prior to June 12, 2015, yes.

13 A. I don't recall.

14 Q. What's your best recollection as to how  
15 many board meetings, which I'll call supposed board  
16 meetings, occurred at which a subject or the subject  
17 was the possible termination of your brother as  
18 president and C.E.O.?

19 A. I recall three.

20 Q. And if you would, please, whether by  
21 date or such other reference as you see fit,  
22 describe or identify each of the three.

23 A. There was the first one at some point in  
24 May that termination of my brother was discussed.  
25 And I believe at that board meeting there was a

1 suggestion by one of the directors, Bill Gould might  
2 have said, "Jim, how about we keep you as president  
3 and we get a new C.E.O.?"

4 And I then said, "Jim, and then you can  
5 get your training over the next five years and gain  
6 more experience and possibly you become C.E.O. in  
7 another five years."

8 And I remember my brother thanked  
9 everyone and said he'll think about it.

10 Q. That's your recollection as to how that  
11 meeting ended?

12 A. Yes.

13 Q. And then the next meeting occurred how  
14 much later?

15 A. I don't recall the date or how far it  
16 was. But I believe at that meeting that there was  
17 more discussion on his termination and the reasons  
18 why.

19 And there came a time when there was  
20 a -- a discussion about possibly ending it all,  
21 meaning we would end the trust litigation, we would  
22 end, you know, our disputes within the company.

23 And we dismissed the non-Cotters at some  
24 point, and my brother, I and my sister sat in a room  
25 and we talked about the company, working together.

1 We talked about the -- the trust dispute that we  
2 had.

3 And we -- I mean I think this was going  
4 on for like three or four hours.

5 And we reached a settlement that we all  
6 agreed upon. We called the board back -- or the  
7 board told us that we would reconvene at 6:00. And  
8 at 6 o'clock we told the board that we all reached  
9 an agreement.

10 And the board congratulated us and said  
11 let's move forward.

12 **Q. And then what happened?**

13 A. I think that our -- my lawyer, my  
14 sister's lawyer and I -- mine, our trust attorney  
15 put together a settlement offer that -- that we had  
16 given him in writing saying this is what we all  
17 decided.

18 He put it -- he put together an  
19 agreement, and he forwarded it over to my brother's  
20 attorney, to his trust attorney.

21 **Q. Sussman to Streisand, yours to his?**

22 A. Sussman to Streisand, correct.

23 **Q. I'm sorry. Please continue.**

24 A. And I don't -- I don't know what  
25 happened with that settlement, but then there was a

1 revised settlement where we, meaning my sister and  
2 I, provided things to my brother, additional  
3 benefits for my brother. I think we forgave --  
4 agreed to forgive a \$1.5 million note, and we  
5 allowed him to continue receiving his \$200,000 a  
6 year director's fee from Cecelia in that settlement.

7 **Q. Then what happened?**

8 A. And then I don't know if I had a  
9 conversation with my brother, and he said, "Let's  
10 mediate."

11 **Q. You think that was a conversation?**

12 A. It might have been a conversation, yeah.

13 **Q. What was your response?**

14 A. "Jim, we've given you everything we can.  
15 Take this. We've done mediation."

16 **Q. Who else said what, if anything, during  
17 that conversation?**

18 A. I don't recall anything else.

19 **Q. So, what happened next?**

20 A. I just -- I remember my sister being in  
21 New York with me. And there was a board meeting  
22 that was -- that was put on the calendar.

23 **Q. An RDI board meeting?**

24 A. Yes.

25 **Q. Then what happened?**

1           A.    And at that board meeting all the  
2   directors spoke, and my brother was terminated.

3           Q.    So how did it come to pass that the --  
4   that supposed board meeting was put on the calendar?

5           A.    I don't recall.

6           Q.    Who put it on the calendar?

7           A.    My sister as chairman.

8           Q.    Was the purpose of calling that meeting  
9   to vote on the termination of your brother?

10          A.    That's correct.

11          Q.    What's your understanding as to why your  
12   sister put that on the calendar at that time?

13          A.    I don't think that the settlement was  
14   agreed to after we had all agreed.

15          Q.    In other words, your brother didn't  
16   agree to the settlement proposal that -- the revised  
17   settlement proposal that you had had your lawyer  
18   Sussman provide to Streisand? Is that what you're  
19   saying?

20          A.    That's correct.

21          Q.    Directing your attention, Ms. Cotter,  
22   back to what you've described as the second meeting,  
23   do you have in mind your testimony about you and  
24   Ellen spending three or four hours with Jim talking  
25   about the trust and estate disputes and the disputes