

IN THE SUPREME COURT OF THE STATE OF NEVADA

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IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Appellant,

vs.

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

Respondents.

and

READING INTERNATIONAL, INC., a
Nevada corporation,

Nominal Defendant.

Supreme Court Case No. 76981

Case No. A-15-719860-B

Coordinated with:

Case No. P-14-0824-42-E

DOCKETING STATEMENT
CIVIL APPEALS

1. Judicial District Eighth Department XI
County Clark Judge Elizabeth Gonzalez
District Court Case No. A-15-719860-B (coordinated with P-14-0824-42-E).
2. Attorney filing this docketing statement:
Attorney: Akke Levin (9102) Telephone: 702-474-9400
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Client: James J. Cotter, Jr.

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorneys representing respondents:
Attorney: Stan Johnson
Firm: Cohen-Johnson, LLC
Address: 255 East Warm Springs Road, Ste. 110, Las Vegas, Nevada 89119
Clients: Respondents Edward Kane, Douglas McEachern, Judy Coddington, Michael Wrotniak, Ellen Cotter, Margaret Cotter, and Guy Adams.
Attorneys: Christopher Tayback and Marshall Searcy
Firm: Quinn Emanuel Urquhart & Sullivan LLP
Address: 865 South Figueroa Street, 10th Floor, Los Angeles, CA

Clients: Respondents Edward Kane, Douglas McEachern, Judy Coddington, Michael Wrotniak, Ellen Cotter, Margaret Cotter, and Guy Adams.

Attorneys: Donald A. Lattin and Carolyn K. Renner

Firm: Maupin, Cox & LeGoy

Address: 4785 Caughlin Parkway Reno, Nevada 89519

Client: Respondent William Gould (deceased).

Attorneys: Ekwan E. Rhow and Shoshana E. Barnett

Firm: Bird, Marella, Boxer, Wolpert, Nessim, Drooks, Lincenberg & Rhow, P.C.

Address: 1875 Century Park East, 23rd Fl. Los Angeles, CA 90067-25614.

Client: Respondent William Gould (deceased).

4. Nature of disposition below (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of Jurisdiction |
| <input checked="" type="checkbox"/> Summary Judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default Judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify) _____ |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input type="checkbox"/> Other disposition (specify)_____ |

5. Does this appeal raise issues concerning any of the following?

- ☐ Child custody
- ☐ Venue
- ☐ Termination of parental rights

No.

6. **Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

- (1) *James J. Cotter, Jr. v. Eighth Judicial Dist. Ct.*, Petition for Writ of Prohibition or, in the Alternative, Mandamus, Case No. 71267;
- (2) *Margaret Cotter, Ellen Cotter, Guy Adams, Edward Kane, Douglas McEachern, Judy Coddling, and Michael Wrotniak v. Eighth Judicial Dist. Ct.*, Petition for Writ of Prohibition or, in the Alternative, Mandamus, Case No. 72261; and
- (3) *James J. Cotter, Jr. v. Eighth Judicial Dist. Ct.*, Petition for Writ of Mandamus, Case No. 74759.
- (4) *James J. Cotter Jr. v. Edward Kane, Douglas McEachern, Judy Coddling, William Gould, and Michael Wrotniak*, Case No. 75053.

7. **Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

- (1) *James J. Cotter Jr. v. Reading International Inc.*, Case No. A-16-735305-B, Eighth Judicial District Court, Clark County, Nevada, Dept. 11 (coordinated for certain matters with Case No. A-15-719860-B). Date of disposition: October 4, 2016 (order on motion and countermotion for summary judgment)
- (2) *In the Matter of the Estate of James J. Cotter, Sr.*, Case No. P-14-0824-42-E, Eighth Judicial District Court, Clark County, Nevada, Dept. No. XXVI (coordinated for certain matters with Case No. A-15-719860-B in Dept. 11). Date of disposition: N/A.

8. **Nature of the action.** Briefly describe the nature of the action and the result below:

This is a shareholder derivative case against eight directors (two of whom also are officers and controlling shareholders) for breaches of fiduciary duty (duty of care, loyalty, and candor) owed to nominal defendant Reading International, Inc. ("RDI"), a publicly-traded Nevada corporation, and to RDI's shareholders. Plaintiff was and is a substantial shareholder and director and former President and CEO of RDI. The respondents (with the exception of Gould, who passed away on August 6, 2018) are members of the RDI board of directors.

A. The dismissal of five director defendants.

On December 11, 2017, the district court granted summary judgment in favor of five of the eight director respondents—*i.e.*, Edward Kane, Douglas McEachern, Judy Coddling, Michael Wrotniak, and William Gould—on the grounds that there were no genuine issues of material fact related to their interestedness and/or independence. The district court dismissed all Plaintiff's claims against them by order dated December 28, 2017, and on January 4, 2018, certified the dismissal as final under Nev. R. Civ. P. 54(b). Cotter Jr. timely appealed from that order to this Court on February 1, 2018. With the approval of this Court, the parties agreed to stay briefing in this appeal, Case No. 75053, until the instant appeal is consolidated with it.

The district court did not dismiss Cotter Jr.'s fiduciary duty claims against Ellen Cotter, Margaret Cotter and Guy Adams due to the absence of genuine issues of material fact as to their disinterestedness and independence. The main conduct that formed the basis of Cotter Jr.'s claims against the three remaining directors consisted of: (1) the June 12, 2015 decision by directors Adams, Kane, McEachern, and the Cotter sisters to terminate Cotter Jr. as CEO of RDI; and (2) the September 2015 decision of directors Adams and Kane to exercise an option to purchase 100,000 shares of Class B voting stock in RDI held by the Estate of James J. Cotter, Sr. and use Class A Stock to pay for the exercise of the option to give the Cotter sisters voting control at the upcoming annual shareholders meeting (the "main challenged decisions").

B. The ratification.

Trial on Cotter Jr.'s claims was scheduled to start January 8, 2018. On December 21, 2017, however, counsel for nominal defendant RDI met with RDI's special independent committee (SIC) and discussed the subject of ratification with them. Following that meeting, the SIC's three members—Gould, McEachern, and Coddling—requested ratification of the main challenged decisions be put on the December 29, 2017 agenda for a special board meeting. At the December 29 special board meeting, the recently-dismissed five directors voted to ratify both decisions (1) and (2), above (hereafter "Ratification Decisions"). Days later, the remaining three defendants—the Cotter sisters and Adams—filed a Motion for Judgment as a Matter of Law on the grounds that the business judgment rule applied to their main challenged decisions because they were ratified by the five recently-dismissed, so-called independent and disinterested directors. The district court denied the Motion as untimely and, after trial was continued for an unrelated reason, gave Cotter Jr. 90-days to take discovery on the

ratification issue.

C. The dismissal of the three remaining director defendants.

In June 2018 Cotter Jr. filed two discovery motions based, in relevant part, on the untimely production of "ratification" documents by current and former defendants. The three remaining defendants filed a summary judgment motion based on ratification ("Ratification MSJ"). The district court on June 19, 2018 granted in part Cotter Jr.'s discovery motions, and as an evidentiary sanction for purposes of the pretrial motions, the court inferred and made a "rebuttable presumption that the documents if timely produced would support plaintiff's position that the ratification [process] was a sham or fraudulent exercise." The documents produced showed that the ratification process was the product of advice of conflicted counsel. After hearing argument on the Ratification MSJ, however, the court held that the defendants' evidence was sufficient to overcome the presumption that the ratification was "a sham or fraudulent exercise." The district court reasoned that while it would have been preferable for independent counsel to have advised the SIC, RDI's conflicted counsel, Greenberg Traurig, was nevertheless qualified and experienced to advise the independent directors on ratification under 78.138(2)(b). In reaching this conclusion the court also held that the advice to the independent directors from RDI's conflicted but experienced counsel was protected by the attorney-client privilege under *Wynn v. Dist. Ct.*, 399 P.3d 334, 342 (Nev. 2017) and thus by the business judgment rule—even though *Wynn* did not address whether the business judgment rule's presumption would apply if the advice on which allegedly independent directors took action was provided by conflicted counsel.

The district court signed its findings of fact and conclusions of law (FFCL) on August 8, 2018, and they were filed and entered on August 14, 2018. Notice of entry of the FFCL was given on August 16, 2018. Cotter Jr. timely appealed from the FFCL on September 13, 2018.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

1. Did the district court err in holding that the business judgment rule, as stated in NRS 78.138, protected the board's Ratification Decisions from consideration by the district court for reasonableness when the board's Decisions were based on the advice of conflicted counsel?
2. May the board invoke the protection of the presumption of NRS 78.138(3)—that it acted in good faith, on an informed basis—when the evidence shows that it acted on advice of

- conflicted counsel?
3. Were the decisions by directors to terminate Cotter Jr. and to exercise share options to benefit the Cotter sisters "transactions" capable of being ratified under NRS 78.140?
 4. Was the Special Independent Committee entitled to a presumption that it was acting independently in the best interest of RDI when the "ratification" in issue was intended to have the effect of dismissing Cotter Jr.'s derivative action against the corporation for the benefit of the Cotter sisters?
10. **Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket number and identify the same or similar issue raised:

Appellant James Cotter is not aware of any pending proceedings raising the same or similar issues.

11. **Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

- ☒ N/A
☐ Yes
☐ No

If no, explain:

12. **Other Issues.** Does this appeal involve any of the following issues?

- ☐ Reversal of well-settled Nevada precedent (identify the case(s))
☐ An issue arising under the United States and/or Nevada Constitutions.
☒ A substantial issue of first impression
☒ An issue of public policy
☒ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions
☐ a ballot question

13. **Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

The Nevada Supreme Court should retain this appeal under NRAP 17(a)(10) and (11), because it raises substantial issues of first impression and statewide importance that the Court did not reach in either *Wynn v. Dist. Ct.*, 399 P.3d 334, 342 (Nev. 2017) ("*Wynn*") or *In Re Dish Network Deriv. Litig.*, 401 P. 3d 1081, 1088 (Nev. 2017) ("*Dish Network*").

In *Wynn*, the Court held that a decision by the board of directors is entitled to the presumption of the business judgment rule if the board relied on the advice of counsel, and that courts may not inquire into the substance of the legal advice. 399 P.3d at 342. But if a board can prevent court scrutiny of a business decision by relying on the advice of *conflicted* counsel to invoke the business judgment rule—that is, counsel who is simultaneously advising the company (the nominal defendant) and the special independent litigation committee (SIC) recommending the decision—the rebuttable presumption underlying the business judgment rule (NRS 78.138.3) would become an *irrebuttable* presumption.

And if, as here, the SIC was not formally charged with determining "whether pursuing a derivative suit is in the best interest of a company," but was advised by conflicted counsel to recommend ratification of decisions in order to terminate derivative litigation, the SIC could escape its burden under *Dish Network* of proving its independence. This would leave a derivative plaintiff without any recourse and allow corporations and those who control them to appoint friendly counsel to defend their interests above those of the corporation.

14. **Trial.** If this action proceeded to trial, how many days did the trial last? N/A.

Was it a bench or jury trial? N/A

15. **Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/her from participation in this appeal? If so, which Justice?

No.

TIMELINESS OF NOTICE OF APPEAL

16. **Date of entry of written judgment or order appealed from**

August 14, 2018.

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review: N/A.

17. **Date written notice of entry of judgment or order was served**

August 16, 2018.

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. **If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)**

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing:

☐ NRCP _____

Date of filing _____

☐ NRCP 52(b)

Date of filing _____

☐ NRCP 59

Date of filing: _____

N/A

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See *AA Primo Builders v. Washington*, 126 Nev. ___, 245 P.3d 1190 (2010)

(b) Date of entry of written order resolving tolling motion: N/A.

(c) Date written notice of entry of order resolving tolling motion

was served: N/A.

Was service by:

☐ Delivery

☐ Mail/electronic/fax

N/A

19. Date notice of appeal filed

September 13, 2018.

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other:

NRAP 4(a).

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

- | | |
|---|---------------------------------------|
| (a) <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) _____ | |

(b) Explain how each authority provides a basis for appeal from the judgment or order:

Under NRAP 3A(b)(1), an appeal may be taken from a "final judgment entered in an action . . . commenced in the court in which the judgment is rendered." James Cotter Jr. commenced this case in the Eighth Judicial District Court on June 12, 2015. The FFCL entered on August 14, 2018 disposed of all Plaintiff's claims against the only three remaining defendants.

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties: plaintiff James Cotter Jr.; defendants Edward Kane, Douglas McEachern, Judy Coddington, Michael Wrotniak, William Gould, Guy Adams, Margaret Cotter, and Ellen Cotter; and nominal

defendant Reading International Inc.

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

Reading International Inc. is a nominal defendant. Plaintiff James Cotter Jr.'s claims are made on its behalf, not against it. Defendants Edward Kane, Douglas McEachern, Judy Coddling, Michael Wrotniak, and William Gould were dismissed from the case by order dated December 28, 2017, which order was certified as final under NRCF 54(b) on January 4, 2018. Plaintiff earlier appealed from the dismissal of these five defendants. *See* Case No. 75053.

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Plaintiffs' Claims for Relief:

- (1) Breach of Fiduciary Duty-Care
- (2) Breach of Fiduciary Duty-Loyalty
- (3) Breach of Fiduciary Duty-Candor
- (4) Aiding and Abetting Breach of Fiduciary Duty

All four claims for relief were disposed of on August 14, 2018.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below:

- ☒ Yes
☐ No

25. If you answered "No" to question 23, complete the following:

N/A

26. If you answered "No" to any part of question 24, explain the basis

for seeking appellate review (e.g. order is independently appealable under NRAP 3A(b)):

N/A.

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims.
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal.
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

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

Name of Appellant

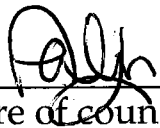
October 9, 2018

Date

Clark County, Nevada
State and county where signed

Akke Levin

Name of counsel of record



Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 9th day of October, 2018, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es) and/or through the court's efilng service:

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*Attorneys for Defendant
William Gould (deceased)*

DATED this 9th day of October, 2018.

By: /s/ Patricia A. Quinn
An employee of Morris Law Group

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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.

15. On or about March 10, 2016, MC was appointed EVP-RED-NYC. In that position, MC became the senior executive at RDI responsible for the development of its valuable New York City properties often referred to as Union Square and Cinemas 1, 2 & 3 (the "NYC Properties"). However, MC has no real estate development experience. She is demonstrably unqualified to hold that senior executive position. 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. Additionally, the Compensation Committee, consisting of Adams, Kane and Coddington, and the Audit and Conflicts Committee, comprised of Kane, McEachern and Wrotniak, in or about March 2016 each approved so-called "additional consulting fee compensation" of \$200,000 to MC. In effect, MC was given a \$200,000 gift. The Compensation Committee also recommended and the RDI Board of Directors (meaning all of the individual director defendants) also approved payment of \$50,000 to Adams for what subsequently was described as "extraordinary services provided to the Company and devotion of time in providing such services." These after-the-fact payments in effect were gifts.

16. On or about May 31, 2016, third parties unrelated to the Cotters made an unsolicited all cash offer to purchase all of the outstanding stock of RDI at a purchase price of \$17 per share. That was approximately thirty-three percent (33%) in excess of the prices at which RDI stock was trading at the time. None of the individual director defendants engaged independent counsel or a financial advisor to advise them with respect to the offer. Nor did they undertake any other independent actions to make an informed, good faith determination of how to respond to the unsolicited offer. Instead, they deferred to EC, who allowed the response date in the offer to pass and who subsequently reported to the full Board of Directors orally that internal management had generated a supposed valuation of the Company, which valuation pegged the value of the company at well in excess of both the price at which RDI stock traded and the above market price the third parties offered to buy all outstanding RDI stock. The individual director defendants 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
16 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 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 29th, 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 18th . . . 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.

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

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

10 115. On or about October 9, 2015, EC and MC filed an amended 13D (the "13D2"). The
11 13D2 disclosed for the first time that EC and MC together with the Estate were members of a
12 group for the purposes of Schedule 13D. Plaintiff is informed and believes that EC and MC
13 purposefully failed to disclose the prior existence of this 13D group until such time as they had
14 exercised an option held by the Estate to acquire an additional 100,000 shares of RDI Class B
15 voting stock and until after the October 6 record date had passed, as part of their scheme to
16 attempt to control over fifty percent (50%) of the Class B voting stock (not including such stock
17 held in the name of the Trust) before the record date for the 2015 ASM. They acquired the
18 100,000 shares on or about September 21, 2015.

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

23 117. On or about October 9, 2015, EC and MC caused the Trust to file a Schedule 13D.
24 That Schedule 13D, like the 13D2, states that the Trust is a member of a group for the purposes of
25 Schedule 13D with the Estate, MC and EC. In response to these late filings as well as others made
26 by the Company, one RDI shareholder representative asked the Board, "Why does this board and
27 management choose to continue to be serial abusers of the securities laws?"
28

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

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

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

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

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

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

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

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

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

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

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

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

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

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

141. At that point, McEachern, Gould and MC had no discussions about whether MC should or could continue to serve on the committee, in view of the fact that her sister was a 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."

27
28

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.

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.

(For Breach of Fiduciary Duty – Against All Defendants)

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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

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

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

7
8 **SECOND CAUSE OF ACTION**

9 **(Breach of Fiduciary Duty – Against All Defendants)**

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

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

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

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

- 23 a. Threatening to terminate Plaintiff as President and CEO if he did not strike
24 a resolution of trust and estate disputes with EC and MC on terms
25 satisfactory to the two of them;
- 26 b. Terminating Plaintiff as President and CEO of RDI after he did not strike a
27 resolution of trust and estate disputes with EC and MC on terms satisfactory
28 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

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

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

PRAYER FOR RELIEF

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

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

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

3. For entry of an order that:

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

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

minutes of RDI Board of Directors meeting to be inaccurate, misleading or incomplete, (iv) cause the EC Committee or any other committee of the Board of Directors (other than its audit and compensation committees in the ordinary course of business) to take any actions, to make any decisions or to otherwise act or fail to act in place or in lieu of the full Board of Directors with respect to any and all decisions of the type or nature that can be made by RDI's Board of Directors (rather than by its senior executives), and (v) put any member of RDI's Board of Directors in a position of making any decision on an informed basis, in good faith and with the best interests of all RDI shareholders in mind;

c. Directs RDI and the individual defendants to make such corrective disclosures as are determined by the Court to be appropriate, with such disclosures required to be made in advance of RDI's 2017 ASM or, alternatively, orders that the 2017 ASM to be postponed pending such corrective disclosures;

d. Enjoins the individual defendants and each of them, and their agents, from manipulating the 2017 ASM, including by entering an order sterilizing or voiding any vote they cast at or in connection with the 2017 ASM of the 100,000 shares of Class B voting stock that were the subject of an option purportedly exercised in or about September 2015 and any shares of Class B voting stock held in the name of the Trust on the Company's stock register; and

e. Requires that nominees for RDI's Board of Directors have *bona fide* qualifications to serve on the board of a public company engaged in RDI's two principal business segments, cinemas and real estate development.

4. For judgment against each of the Defendants for breach of their respective fiduciary obligations;

5. For actual and compensatory damages incurred by RDI and/or by Plaintiff and against each of Defendants in an amount according to proof at trial;

6. For costs of suit herein; and

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

Lewis Roca
ROTHGERBER CHRISTIE

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7. For such other and further relief as the Court may deem just and proper.
DATED this 2nd day of September, 2016.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

/s/ Mark G. Krum
Mark G. Krum (Nevada Bar No. 10913)
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5958

Attorneys for Plaintiff
James J. Cotter, Jr.

1 **VERIFICATION OF JAMES J. COTTER, JR. OF**

2 **SECOND AMENDED VERIFIED COMPLAINT**

3 I, James J. Cotter Jr., declare as follows:

4 1. I am over the age of eighteen (18) years and competent to testify to the matters set
5 forth herein. Pursuant to all applicable laws, I swear as follows:

6 2. As a shareholder of Reading International, Inc. ("RDI"), I am plaintiff in the above-
7 captioned action.

8 3. As stated in the Second Amended Verified Complaint (the "First Amended
9 Complaint"), I am and at all times relevant to this action have been a shareholder of nominal
10 defendant RDI.

11 4. I have read the Second Amended Complaint and am familiar with the contents
12 thereof. The factual allegations therein are true based upon my personal knowledge, except for
13 those matters set forth upon information and belief, which I believe to be true, as well.

14 I declare under penalty of perjury that the foregoing is true and correct.

15
16 DATED this 31 day of August, 2016

17 
18 JAMES J. COTTER, JR.
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3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

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

Steven D. Grierson

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4 EIGHTH JUDICIAL DISTRICT COURT

5 CLARK COUNTY, NEVADA

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

9 Plaintiff,

10 v.

11 MARGARET COTTER, *et al.*,
12 Defendants.

13 AND

14 READING INTERNATIONAL, INC., a Nevada
15 corporation,

16 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

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

Date of Hearing: June 19, 2018

16 This matter having come before the Court on June 19, 2018, Defendants Margaret Cotter,
17 Ellen Cotter, and Guy Adams Motion for Summary Judgment and Defendant Reading
18 International, Inc.'s Motion to Dismiss Pursuant to NRCP 12(b)(2), or in the alternative, NRCP
19 12(b)(5) for Lack of Standing, Plaintiff James J. Cotter, Jr. appearing by and through his counsel
20 Mark G. Krum, Esq. of the law firm of Yurko, Salvese & Remz and Akke Levin, Esq. of the
21 Morris Law Group; Defendants Margaret Cotter, Ellen Cotter, and Guy Adams by and through
22 their counsel of record, Kevin M. Johnson, Esq. of the law firm of
23 Cohen|Johnson|Parker|Edwards and Marshall M. Searcy, Esq. and Christopher Tayback, Esq. of
24 the law firm of Quinn Emanuel Urquhart & Sullivan, LLP; Dismissed Defendant William Gould
25 by and through Shoshana Bannett, Esq. of the law firm of Bird, Marella, Boxer, Wolpert,
26 Nessim, Drooks, Lincenberg & Rhow, P.C.; and Defendant Reading International, Inc. appearing
27 by and through Mark E. Ferrario, Esq. and Kara B. Hendricks, Esq. of the law firm of Greenberg
28

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CLERK OF THE COURT

1 Traurig, the Court having read and considered the pleadings filed by the parties; having
2 considered the oral and written arguments of counsel, and with the intent of rendering a decision
3 on all remaining claims before the Court, pursuant to NRCP 56; the Court makes the following
4 findings of fact and conclusions of law:

5 **FINDINGS OF FACT**

6 1. On September 2, 2016, Plaintiff James J. Cotter, Jr. filed his Second Amended
7 Complaint, which asserted derivative claims for breach of the duty of care (Count I), breach of
8 the duty of loyalty (Count II), breach of the duty of disclosure (Count III), and aiding and
9 abetting breaches of fiduciary duty (Count IV). Plaintiff asserted Counts I-III against Margaret
10 Cotter, Ellen Cotter, Guy Adams, Edward Kane, Douglas McEachern, William Gould, Judy
11 Coddington, and Michael Wrotniak (collectively, the "Original Defendants"), each of whom
12 currently serve as directors of Reading International, Inc. ("RDI" or the "Company"). Plaintiff
13 asserted Count IV against only Margaret and Ellen Cotter.

14 2. Nominal Defendant RDI is a Nevada corporation headquartered in Los Angeles,
15 California, and publicly traded on the NASDAQ Stock Exchange.

16 3. Plaintiff James Cotter, Jr. ("Plaintiff") is an RDI stockholder and currently serves
17 as a director on RDI's Board of Directors (the "Board"). On June 1, 2013, Plaintiff was
18 appointed President of RDI. On August 7, 2014, Plaintiff was appointed CEO by RDI's Board.
19 On June 12, 2015, the RDI Board voted to terminate Plaintiff as the Company's President and
20 CEO a 5-2 vote. Directors Kane, McEachern, Adams, Ellen Cotter, and Margaret Cotter voted in
21 favor of Plaintiff's termination, directors Gould and Timothy Storey (a non-party to this
22 litigation) voted against terminating Plaintiff at that time, and Plaintiff abstained from the
23 termination vote.

24 4. Storey left RDI's Board in October 2015. Coddington and Wrotniak joined RDI's
25 Board as directors on October 5, 2015 and October 12, 2015, respectively.
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1 5. Ellen Cotter and Margaret Cotter, as two of three trustees of a trust established by
2 their deceased father, James J. Cotter, Sr., and as co-executors of the estate of James J. Cotter
3 Sr., control in excess of 50% of the class B voting stock of RDI.

4 6. Following various motions for partial summary judgment brought by Kane,
5 McEachern, Coddington, Adams, Ellen Cotter, Margaret Cotter, and Wrotniak, as well as a separate
6 motion for summary judgment filed by Gould, the Court determined at a hearing held on
7 December 11, 2017 that there were no genuine issues of fact related to the disinterestedness
8 and/or independence of directors Kane, McEachern, Coddington, Wrotniak, and Gould (the
9 "Dismissed Defendants" or the "Independent Directors"), and granted summary judgment in
10 their favor. The Court determined that there were genuine issues of material fact related to the
11 disinterestedness and/or independence of directors Guy Adams, Ellen Cotter, and Margaret
12 Cotter (the "Remaining Defendants"), and denied summary judgment. The Court entered its
13 summary judgment ruling pursuant to a written order dated December 28, 2017.
14

15 7. On January 4, 2018, the Court certified as final under NRCP 54(b) the portion of
16 the Court's December 28, 2017 order granting summary judgment to the Dismissed Defendants
17 with respect to all of Plaintiff's claims asserted against them.

18 8. As a result of the Court's December 11, 2017 ruling and December 28, 2017
19 order, all of the corporate actions alleged by Plaintiff in his Second Amended Complaint to be
20 actionable breaches of fiduciary duty were approved by a majority of disinterested, independent
21 directors, except for two: (1) Plaintiff's June 12, 2015 termination as President and CEO of RDI;
22 and (2) the September 21, 2015 decision by directors Kane and Adams, as two of three members
23 of RDI's Compensation and Stock Options Committee (the "Compensation Committee"), to
24 approve the exercise of an option to purchase 100,000 shares of Class B voting stock in RDI held
25 by the Estate of James J. Cotter, Sr.

26 ...

27 ...

28

9. On December 29, 2017, the RDI Board convened a special telephonic meeting for which the agenda included the proposed ratification of (1) Plaintiff's June 12, 2015 termination as President and CEO of RDI; and (2) the September 21, 2015 decision by directors Kane and Adams, as two of three members of RDI's Compensation Committee, to approve the use of Class A Stock to pay for the exercise of an option to purchase 100,000 shares of Class B voting stock in RDI held by the Estate of James J. Cotter, Sr. (collectively, the "Remaining Challenged Decisions"). In advance of this meeting, all members of the Board were provided with documents to review, which included copies of the minutes from the Board meetings held on May 21, 2015, May 29, 2015, and June 12, 2015, which concerned Plaintiff's termination, as well as other materials for consideration in connection with any ratification of the Remaining Challenged Decisions.

10. Lawyers from Greenberg Traurig, counsel for RDI, provided advice relating to ratification of the Remaining Challenged Decisions to members of the RDI Board. Among other things, Greenberg Traurig lawyers participated in (i) a December 21, 2017 meeting of the Special Independent Committee of RDI's Board (the "SIC"), the members of which were directors Gould, McEachern and Coddling, and (ii) the December 29, 2017 special meeting. Pursuant to NRS 78.138(2)(b), the Greenberg Traurig lawyers provided legal advice to the RDI Board relating to the scope of NRS 78.140, as well as legal advice regarding the Board's fiduciary duties under Nevada law, including the duties of due care and loyalty.

11. Director Gould, the Company's Lead Independent Director, summarized the first issue for consideration: ratification of the actions taken by the Board relating to the termination of Plaintiff as President and CEO of RDI.

12. In addition to their review of the Board materials provided, Independent Directors Coddling and Wrotniak, who were not members of the RDI Board at the time of Plaintiff's termination, stated that they were drawing on their "extensive knowledge about the Board's

reasons for the termination of Mr. Cotter, Jr.," including their observations of Plaintiff's "behavior and demeanor in Board meetings" since each joined the Board over two years ago.

13. Director Coddington expressed her view that Plaintiff "did not possess the knowledge, experience, ability, temperament or demeanor to be chief executive officer of the Company," an opinion with which Mr. Wrotniak concurred.

14. Members of the Board also discussed the materials that had been provided to them in advance of the meeting.

15. Director McEachern then made a motion, seconded by Director Coddington, as follows:

BE IT HEREBY RESOLVED that the Board ratifies the actions taken by the Company's board members relating to the termination of James J. Cotter, Jr. as President and CEO as such actions are outlined in the minutes of the Board meetings held on May 21, 2015, May 29, 2015 and June 12, 2015.

16. After an opportunity for further discussion, the proposed resolution was adopted by a 5-1 vote. Directors Coddington, Gould, Kane, McEachern, and Wrotniak voted in favor of the resolution, with Plaintiff casting the sole vote in opposition. The Remaining Defendants—Ellen Cotter, Margaret Cotter and Guy Adams—abstained from the vote.

17. Director Gould then introduced the second issue for consideration: ratification of the 2-0 September 21, 2015 decision by RDI's Compensation Committee (with members Adams and Kane voting in favor) to permit the Estate of James J. Cotter, Sr. to use Class A non-voting stock as the means of payment (as opposed to cash) for the exercise of an option to purchase 100,000 shares of Class B voting stock in RDI.

18. Counsel for RDI summarized the information regarding the matter considered by the Compensation Committee in 2015, including the fact that acceptance of stock was within the discretion of the Compensation Committee as Administrators of the 1999 Stock Option Plan under which the stock option was granted.

1 19. Members of the Board then generally expressed their awareness of the
2 information as well as their review of the Board materials and Compensation Committee
3 minutes, and opened the floor up for discussion.

4 20. The Board noted, among other things, that the Compensation Committee had
5 discretion under the 1999 Stock Option Plan to allow the use of Class A Shares to exercise
6 options to acquire Class B Stock, that the Company was at the time buying in its Class A Shares
7 under its stock repurchase plan, and that the market price of Class A shares has significantly
8 increased since the date of the transaction.

9 21. A motion was made by Director McEachern and seconded by Director Wrotniak,
10 as follows:

11 BE IT HEREBY RESOLVED that the Board ratifies the decision of the
12 Compensation Committee of the Company, as outlined in the minutes of
13 its September 21, 2015 meeting, to permit the Estate of James J. Cotter,
14 Sr. to use Class A non-voting stock as the means of payment for the
15 exercise of an option to purchase 100,000 shares of Class B voting stock
16 of the Company.

17 22. The proposed resolution was then adopted by a 5-1 vote. Directors Coddington,
18 Gould, Kane, McEachern, and Wrotniak voted in favor of the resolution, with Plaintiff casting
19 the sole vote in opposition. The Remaining Defendants—Ellen Cotter, Margaret Cotter and Guy
20 Adams—abstained from the vote.

21 23. The Board then moved, without objection, that its resolutions include the
22 “authorization to take such other actions as may be necessary to accomplish the matters approved
23 herein.”

24 24. After denying without prejudice the Remaining Defendants’ prior motion for
25 summary judgment based on ratification of the Remaining Challenged Decisions at the
26 December 29, 2017 RDI Board meeting, the Court in January 2018 allowed discovery with
27 respect thereto. On May 2, 2018, following an evidentiary hearing, the Court granted a motion
28 filed by Plaintiff to compel RDI and the Dismissed Defendants to produce and/or list on
privilege logs all documents relating to (i) the December 21, 2017 meeting of the SIC, during
which potential ratification of the Remaining Challenged Decisions was discussed; (ii) a

1 December 27, 2017 email sent by Gould on behalf of the Independent Directors requesting that
2 ratification of the Remaining Challenged Decisions be added to the agenda for the December 29,
3 2017 meeting; and (iii) the subject of ratification, not limited by time.

4 25. On June 1, 2018, the Remaining Defendants filed a motion seeking summary
5 judgment in their favor (the "Motion for Summary Judgment"). The Remaining Defendants
6 argued, *inter alia*, that the Remaining Challenged Decisions had been properly ratified by a
7 majority of disinterested, independent directors pursuant to NRS 78.140.

8 26. Plaintiff filed a Motion to Compel and a Motion for Relief, in which he argued
9 that RDI, the Dismissed Directors and the Remaining Defendants had not fully complied with
10 the Court's May 2, 2018 rulings. Plaintiff's motions sought relief in the form of, *inter alia*, the
11 provision of revised privilege logs, *in camera* inspection by the Court of certain documents, the
12 production of additional documents, renewed depositions of certain previously-deposed
13 individuals, delay of the scheduled July 9, 2018 trial on Plaintiff's claims against the Remaining
14 Defendants, and the preclusion of any ratification defense by the Remaining Defendants.

15 27. On June 19, 2018, the Court held a hearing on Plaintiff's Motion to Compel and
16 Motion for Relief, as well as the Remaining Defendants' Motion for Summary Judgment. The
17 Court first heard argument on Plaintiff's motions, which is granted in part.¹ For purposes of any
18 pretrial motions, as an evidentiary sanction, the Court infers and makes a rebuttable presumption
19 that the documents at issue, if timely produced, would support Plaintiff's position that the
20 ratification was a sham or fraudulent exercise.

21 28. The Court then heard argument on the Remaining Defendants' Motion for
22 Summary Judgment. For the reasons outlined at the June 19, 2018 hearing and as set forth
23 below, the Court grants the Remaining Defendants' Motion for Summary Judgment.

24 29. After consideration of the evidence presented by the parties in response the
25 Remaining Defendants' Motion for Summary Judgment, the Court concludes that such evidence
26

27 ¹ The order related to those motions was filed on July 12, 2018.
28

1 is sufficient to overcome the inferences and rebuttable presumption that the ratification process
2 was a sham or fraudulent exercise.

3 30. The Court finds all of the requirements for the application of NRS 78.140, and the
4 business judgment rule, are met with respect to the RDI Board's actions ratifying Plaintiff's
5 termination and the approval of using Class A stock for the contested option exercise (the
6 Remaining Challenged Decisions).

7 31. The RDI Board ratified each of the remaining challenged transactions, with the
8 five affirmative votes being those directors whose disinterestedness and independence the Court
9 had previously determined in its December 11, 2017 ruling and December 28, 2017 order.

10 32. The December 29, 2017 ratification vote was "in good faith," as required by NRS
11 78.140(2)(a). The directors who were not present at the time these matters were initially
12 decided—directors Wrotniak and Coddington—reasonably informed themselves of the relative
13 merits of the decisions, including by reviewing contemporaneous materials and drawing on their
14 personal knowledge gleaned in their two years of Board service; corporate counsel was present
15 and advised the entire Board of its fiduciary duties under Nevada law, as well as the history of
16 each decision; no ratifying director had a personal stake in the derivative litigation brought by
17 Plaintiff or in the particular transaction ratified; and discussion and debate occurred prior to the
18 final votes, with all directors—including Plaintiff—afforded the chance to ask questions or make
19 comments.

20 33. With respect to the Remaining Challenged Decisions and the RDI Board's
21 subsequent ratification of them, all of the preconditions necessary for a "valid interested director
22 transaction" under NRS 78.140(2)(a) are present.

23 34. The independent majority of RDI's Board who voted in favor of ratification of the
24 Remaining Challenged Decisions on December 29, 2017 had a rational business purpose for
25 doing so and exercised their good faith business judgment.

26 35. The Court also takes into consideration that RDI's Independent Directors engaged
27 the Company's counsel, Greenberg Traurig, which provided legal advice regarding ratification.
28 While it would have been better practice for the Independent Directors to have engaged

1 independent advisers to provide information to the Board and/or any special committees under
2 NRS 78.138, it is uncontested that Greenberg Traurig is qualified and experienced.

3 36. Any finding of fact stated above that is more appropriately deemed a conclusion
4 of law shall be deemed so.

5 CONCLUSIONS OF LAW

6 37. The business judgment rule is a “presumption that in making a business decision
7 the directors of a corporation acted on an informed basis, in good faith and in the honest belief
8 that the action taken was in the best interests of the company.” *Shoen v. SAC Holding Corp.*, 122
9 Nev. 621, 632, 137 P.3d 1171, 1178-79 (2006).

10 38. “The business judgment rule does not only protect individual directors from
11 personal liability, rather, it expresses a sensible policy of judicial noninterference with business
12 decisions and is designed to limit judicial involvement in business decision-making so long as a
13 minimum level of care is exercised in arriving at the decision.” *Wynn Resorts, Ltd. v. Eighth
14 Judicial Dist. Court in & for Cnty. of Clark*, 399 P.3d 334, 342 (Nev. 2017).

15 39. Nevada Revised Statute 78.140 provides that a “contract or other transaction is
16 not void or voidable solely because” it is between a Nevada “corporation and [o]ne or more of its
17 director or officers[,]” or because an interested or non-independent director “is present during a
18 meeting of the board of directors or a committee thereof which authorizes or approves the
19 contract or transaction,” or the votes of an interested director are counted for the purpose of
20 authorizing or approving the contract or transaction, if “[t]he fact of the common directorship,
21 office or financial interest is known to the board of directors or committee, and the directors or
22 members of the committee, other than any common or interested directors or members of the
23 committee, approve or ratify the contract or transaction in good faith.” NRS 78.140(2)(a).

24 40. Citing NRS 78.140, the Nevada Supreme Court has made clear that the business
25 judgment rule applies “in the context of valid interested director action, or the valid exercise of
26 business judgment by disinterested directors in light of their fiduciary duties.” *Shoen*, 122 Nev.
27 at 636, 137 P.3d at 1181.
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41. Nevada Revised Statute 78.138(b)(2) provides that, “[i]n exercising their respective powers, directors and officers may, and are entitled to, rely on information, opinions, reports, books of account or statements, including financial statements and other financial data, that are prepared or presented by . . . [c]ounsel . . . as to matters reasonably believed to be within the preparer’s or presenter’s professional or expert competence.” Here, the Court finds that RDI’s Board, including the Independent Directors, were entitled to rely upon Greenberg Traurig’s advice in making their decisions to ratify the Challenged Remaining Decisions.

42. The substance of the advice provided by Greenberg Traurig to RDI's Board and its Independent Directors is protected by the attorney-client privilege and may not be considered by the Court. *See Wynn*, 399 P.3d at 341-42.

43. As the Remaining Challenged Decisions were ratified by a majority of independent, disinterested directors, the Court grants the Remaining Defendants' Motion for Summary Judgment.

44. Any conclusion of law stated above that is more appropriately deemed a finding of fact shall be so deemed.

ORDER

Based upon the forgoing, the Court grants the Remaining Defendants' Motion for Summary Judgment. Judgment is entered in favor of Defendants Ellen Cotter, Margaret Cotter, and Guy Adams on all claims asserted by Plaintiff.

Due to the fact that the Court's ruling moots RDI's Motion to Dismiss Pursuant to NRCP 12(b)(2), or in the Alternative, NRCP 12(b)(5) for Lack of Standing, the Court further denies without prejudice RDI's Motion to Dismiss.

As here are pending issues remaining in the probate matter, the cases are ordered deconsolidated.

Dated this 8 day of August 2018.

Elizabeth Gonzalez, District Court Judge

Certificate of Service

I hereby certify that on or about the date filed, this document was Electronically
Served to the Counsel on Record on the Clark County E-File Electronic Service List:


James L Edwards, Esq. (Cohen Johnson, et al)

Mark E Ferrario, Esq. (Greenberg Traurig)

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

MARGARET COTTER, *et al.*,
Defendants.

AND

READING INTERNATIONAL, INC., a Nevada
corporation,

Nominal Defendant.

Case No.: A-15-719860-B

Dept. No.: XI

BUSINESS COURT

**NOTICE OF ENTRY OF FINDINGS OF
FACT AND CONCLUSIONS OF LAW**

1 **NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW**

2 NOTICE IS HEREBY GIVEN that the Findings of Fact and Conclusions of Law were
3 entered in the above-captioned case on the 8th day of August, 2018, a copy of which is attached
4 hereto.

5 Dated: August 16, 2018

6 **COHEN|JOHNSON|PARKER|EDWARDS**

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27 *Attorneys for Defendants Margaret Cotter, Ellen*
28 *Cotter, and Guy Adams*

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CERTIFICATE OF SERVICE

I hereby certify that, on August 16, 2018, I caused a true and correct copy of the foregoing
NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW to be
served on all interested parties, as registered with the Court's E-Filing and E-Service System.

/s/ Sarah Gondek
An employee of Cohen|Johnson|Parker|Edwards



1 FFCL

2
3
4 EIGHTH JUDICIAL DISTRICT COURT

5 CLARK COUNTY, NEVADA

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

9 Plaintiff,

10 v.

MARGARET COTTER, *et al.*,
Defendants.

11 AND

12 READING INTERNATIONAL, INC., a Nevada
13 corporation,

14 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

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

Date of Hearing: June 19, 2018

15
16 This matter having come before the Court on June 19, 2018, Defendants Margaret Cotter,
17 Ellen Cotter, and Guy Adams Motion for Summary Judgment and Defendant Reading
18 International, Inc.'s Motion to Dismiss Pursuant to NRCP 12(b)(2), or in the alternative, NRCP
19 12(b)(5) for Lack of Standing, Plaintiff James J. Cotter, Jr. appearing by and through his counsel
20 Mark G. Krum, Esq. of the law firm of Yurko, Salvese & Remz and Akke Levin, Esq. of the
21 Morris Law Group; Defendants Margaret Cotter, Ellen Cotter, and Guy Adams by and through
22 their counsel of record, Kevin M. Johnson, Esq. of the law firm of
23 Cohen|Johnson|Parker|Edwards and Marshall M. Searcy, Esq. and Christopher Tayback, Esq. of
24 the law firm of Quinn Emanuel Urquhart & Sullivan, LLP; Dismissed Defendant William Gould
25 by and through Shoshana Bannett, Esq. of the law firm of Bird, Marella, Boxer, Wolpert,
26 Nessim, Dooks, Lincenberg & Rhow, P.C.; and Defendant Reading International, Inc. appearing
27 by and through Mark E. Ferrario, Esq. and Kara B. Hendricks, Esq. of the law firm of Greenberg
28

RECEIVED

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CLERK OF THE COURT

//

1 Traurig, the Court having read and considered the pleadings filed by the parties; having
2 considered the oral and written arguments of counsel, and with the intent of rendering a decision
3 on all remaining claims before the Court, pursuant to NRCP 56; the Court makes the following
4 findings of fact and conclusions of law:

5 **FINDINGS OF FACT**

6 1. On September 2, 2016, Plaintiff James J. Cotter, Jr. filed his Second Amended
7 Complaint, which asserted derivative claims for breach of the duty of care (Count I), breach of
8 the duty of loyalty (Count II), breach of the duty of disclosure (Count III), and aiding and
9 abetting breaches of fiduciary duty (Count IV). Plaintiff asserted Counts I-III against Margaret
10 Cotter, Ellen Cotter, Guy Adams, Edward Kane, Douglas McEachern, William Gould, Judy
11 Coddington, and Michael Wrotniak (collectively, the "Original Defendants"), each of whom
12 currently serve as directors of Reading International, Inc. ("RDI" or the "Company"). Plaintiff
13 asserted Count IV against only Margaret and Ellen Cotter.

14 2. Nominal Defendant RDI is a Nevada corporation headquartered in Los Angeles,
15 California, and publicly traded on the NASDAQ Stock Exchange.

16 3. Plaintiff James Cotter, Jr. ("Plaintiff") is an RDI stockholder and currently serves
17 as a director on RDI's Board of Directors (the "Board"). On June 1, 2013, Plaintiff was
18 appointed President of RDI. On August 7, 2014, Plaintiff was appointed CEO by RDI's Board.
19 On June 12, 2015, the RDI Board voted to terminate Plaintiff as the Company's President and
20 CEO a 5-2 vote. Directors Kane, McEachern, Adams, Ellen Cotter, and Margaret Cotter voted in
21 favor of Plaintiff's termination, directors Gould and Timothy Storey (a non-party to this
22 litigation) voted against terminating Plaintiff at that time, and Plaintiff abstained from the
23 termination vote.

24 4. Storey left RDI's Board in October 2015. Coddington and Wrotniak joined RDI's
25 Board as directors on October 5, 2015 and October 12, 2015, respectively.
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1 5. Ellen Cotter and Margaret Cotter, as two of three trustees of a trust established by
2 their deceased father, James J. Cotter, Sr., and as co-executors of the estate of James J. Cotter
3 Sr., control in excess of 50% of the class B voting stock of RDI.

4 6. Following various motions for partial summary judgment brought by Kane,
5 McEachern, Coddington, Adams, Ellen Cotter, Margaret Cotter, and Wrotniak, as well as a separate
6 motion for summary judgment filed by Gould, the Court determined at a hearing held on
7 December 11, 2017 that there were no genuine issues of fact related to the disinterestedness
8 and/or independence of directors Kane, McEachern, Coddington, Wrotniak, and Gould (the
9 “Dismissed Defendants” or the “Independent Directors”), and granted summary judgment in
10 their favor. The Court determined that there were genuine issues of material fact related to the
11 disinterestedness and/or independence of directors Guy Adams, Ellen Cotter, and Margaret
12 Cotter (the “Remaining Defendants”), and denied summary judgment. The Court entered its
13 summary judgment ruling pursuant to a written order dated December 28, 2017.
14

15 7. On January 4, 2018, the Court certified as final under NRCP 54(b) the portion of
16 the Court's December 28, 2017 order granting summary judgment to the Dismissed Defendants
17 with respect to all of Plaintiff's claims asserted against them.

18 8. As a result of the Court's December 11, 2017 ruling and December 28, 2017
19 order, all of the corporate actions alleged by Plaintiff in his Second Amended Complaint to be
20 actionable breaches of fiduciary duty were approved by a majority of disinterested, independent
21 directors, except for two: (1) Plaintiff's June 12, 2015 termination as President and CEO of RDI;
22 and (2) the September 21, 2015 decision by directors Kane and Adams, as two of three members
23 of RDI's Compensation and Stock Options Committee (the “Compensation Committee”), to
24 approve the exercise of an option to purchase 100,000 shares of Class B voting stock in RDI held
25 by the Estate of James J. Cotter, Sr.

26 ...

27 ...

1 9. On December 29, 2017, the RDI Board convened a special telephonic meeting for
2 which the agenda included the proposed ratification of (1) Plaintiff's June 12, 2015 termination
3 as President and CEO of RDI; and (2) the September 21, 2015 decision by directors Kane and
4 Adams, as two of three members of RDI's Compensation Committee, to approve the use of Class
5 A Stock to pay for the exercise of an option to purchase 100,000 shares of Class B voting stock
6 in RDI held by the Estate of James J. Cotter, Sr. (collectively, the "Remaining Challenged
7 Decisions"). In advance of this meeting, all members of the Board were provided with
8 documents to review, which included copies of the minutes from the Board meetings held on
9 May 21, 2015, May 29, 2015, and June 12, 2015, which concerned Plaintiff's termination, as
10 well as other materials for consideration in connection with any ratification of the Remaining
11 Challenged Decisions.
12

13 10. Lawyers from Greenberg Traurig, counsel for RDI, provided advice relating to
14 ratification of the Remaining Challenged Decisions to members of the RDI Board. Among other
15 things, Greenberg Traurig lawyers participated in (i) a December 21, 2017 meeting of the Special
16 Independent Committee of RDI's Board (the "SIC"), the members of which were directors
17 Gould, McEachern and Coddling, and (ii) the December 29, 2017 special meeting. Pursuant to
18 NRS 78.138(2)(b), the Greenberg Traurig lawyers provided legal advice to the RDI Board
19 relating to the scope of NRS 78.140, as well as legal advice regarding the Board's fiduciary
20 duties under Nevada law, including the duties of due care and loyalty.

21 11. Director Gould, the Company's Lead Independent Director, summarized the first
22 issue for consideration: ratification of the actions taken by the Board relating to the termination
23 of Plaintiff as President and CEO of RDI.

24 12. In addition to their review of the Board materials provided, Independent Directors
25 Coddling and Wrotniak, who were not members of the RDI Board at the time of Plaintiff's
26 termination, stated that they were drawing on their "extensive knowledge about the Board's
27
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1 reasons for the termination of Mr. Cotter, Jr.," including their observations of Plaintiff's
2 "behavior and demeanor in Board meetings" since each joined the Board over two years ago.

3 13. Director Coddington expressed her view that Plaintiff "did not possess the
4 knowledge, experience, ability, temperament or demeanor to be chief executive officer of the
5 Company," an opinion with which Mr. Wrotniak concurred.

6 14. Members of the Board also discussed the materials that had been provided to
7 them in advance of the meeting.

8 15. Director McEachern then made a motion, seconded by Director Coddington, as
9 follows:

10 BE IT HEREBY RESOLVED that the Board ratifies the actions taken by
11 the Company's board members relating to the termination of James J.
12 Cotter, Jr. as President and CEO as such actions are outlined in the
minutes of the Board meetings held on May 21, 2015, May 29, 2015 and
June 12, 2015.

13 16. After an opportunity for further discussion, the proposed resolution was adopted
14 by a 5-1 vote. Directors Coddington, Gould, Kane, McEachern, and Wrotniak voted in favor of the
15 resolution, with Plaintiff casting the sole vote in opposition. The Remaining Defendants—Ellen
16 Cotter, Margaret Cotter and Guy Adams—abstained from the vote.

17 17. Director Gould then introduced the second issue for consideration: ratification of
18 the 2-0 September 21, 2015 decision by RDI's Compensation Committee (with members Adams
19 and Kane voting in favor) to permit the Estate of James J. Cotter, Sr. to use Class A non-voting
20 stock as the means of payment (as opposed to cash) for the exercise of an option to purchase
21 100,000 shares of Class B voting stock in RDI.

22 18. Counsel for RDI summarized the information regarding the matter considered by
23 the Compensation Committee in 2015, including the fact that acceptance of stock was within the
24 discretion of the Compensation Committee as Administrators of the 1999 Stock Option Plan
25 under which the stock option was granted.

1 19. Members of the Board then generally expressed their awareness of the
2 information as well as their review of the Board materials and Compensation Committee
3 minutes, and opened the floor up for discussion.

4 20. The Board noted, among other things, that the Compensation Committee had
5 discretion under the 1999 Stock Option Plan to allow the use of Class A Shares to exercise
6 options to acquire Class B Stock, that the Company was at the time buying in its Class A Shares
7 under its stock repurchase plan, and that the market price of Class A shares has significantly
8 increased since the date of the transaction.

9 21. A motion was made by Director McEachern and seconded by Director Wrotniak,
10 as follows:

11 BE IT HEREBY RESOLVED that the Board ratifies the decision of the
12 Compensation Committee of the Company, as outlined in the minutes of
13 its September 21, 2015 meeting, to permit the Estate of James J. Cotter,
14 Sr. to use Class A non-voting stock as the means of payment for the
15 exercise of an option to purchase 100,000 shares of Class B voting stock
16 of the Company.

17 22. The proposed resolution was then adopted by a 5-1 vote. Directors Coddington,
18 Gould, Kane, McEachern, and Wrotniak voted in favor of the resolution, with Plaintiff casting
19 the sole vote in opposition. The Remaining Defendants—Ellen Cotter, Margaret Cotter and Guy
20 Adams—abstained from the vote.

21 23. The Board then moved, without objection, that its resolutions include the
22 “authorization to take such other actions as may be necessary to accomplish the matters approved
23 herein.”

24 24. After denying without prejudice the Remaining Defendants’ prior motion for
25 summary judgment based on ratification of the Remaining Challenged Decisions at the
26 December 29, 2017 RDI Board meeting, the Court in January 2018 allowed discovery with
27 respect thereto. On May 2, 2018, following an evidentiary hearing, the Court granted a motion
28 filed by Plaintiff to compel RDI and the Dismissed Defendants to produce and/or list on
privilege logs all documents relating to (i) the December 21, 2017 meeting of the SIC, during
which potential ratification of the Remaining Challenged Decisions was discussed; (ii) a

1 December 27, 2017 email sent by Gould on behalf of the Independent Directors requesting that
2 ratification of the Remaining Challenged Decisions be added to the agenda for the December 29,
3 2017 meeting; and (iii) the subject of ratification, not limited by time.

4 25. On June 1, 2018, the Remaining Defendants filed a motion seeking summary
5 judgment in their favor (the "Motion for Summary Judgment"). The Remaining Defendants
6 argued, *inter alia*, that the Remaining Challenged Decisions had been properly ratified by a
7 majority of disinterested, independent directors pursuant to NRS 78.140.

8 26. Plaintiff filed a Motion to Compel and a Motion for Relief, in which he argued
9 that RDI, the Dismissed Directors and the Remaining Defendants had not fully complied with
10 the Court's May 2, 2018 rulings. Plaintiff's motions sought relief in the form of, *inter alia*, the
11 provision of revised privilege logs, *in camera* inspection by the Court of certain documents, the
12 production of additional documents, renewed depositions of certain previously-deposed
13 individuals, delay of the scheduled July 9, 2018 trial on Plaintiff's claims against the Remaining
14 Defendants, and the preclusion of any ratification defense by the Remaining Defendants.

15 27. On June 19, 2018, the Court held a hearing on Plaintiff's Motion to Compel and
16 Motion for Relief, as well as the Remaining Defendants' Motion for Summary Judgment. The
17 Court first heard argument on Plaintiff's motions, which is granted in part.¹ For purposes of any
18 pretrial motions, as an evidentiary sanction, the Court infers and makes a rebuttable presumption
19 that the documents at issue, if timely produced, would support Plaintiff's position that the
20 ratification was a sham or fraudulent exercise.

21 28. The Court then heard argument on the Remaining Defendants' Motion for
22 Summary Judgment. For the reasons outlined at the June 19, 2018 hearing and as set forth
23 below, the Court grants the Remaining Defendants' Motion for Summary Judgment.

24 29. After consideration of the evidence presented by the parties in response the
25 Remaining Defendants' Motion for Summary Judgment, the Court concludes that such evidence

26
27 ¹ The order related to those motions was filed on July 12, 2018.
28

1 is sufficient to overcome the inferences and rebuttable presumption that the ratification process
2 was a sham or fraudulent exercise.

3 30. The Court finds all of the requirements for the application of NRS 78.140, and the
4 business judgment rule, are met with respect to the RDI Board's actions ratifying Plaintiff's
5 termination and the approval of using Class A stock for the contested option exercise (the
6 Remaining Challenged Decisions).

7 31. The RDI Board ratified each of the remaining challenged transactions, with the
8 five affirmative votes being those directors whose disinterestedness and independence the Court
9 had previously determined in its December 11, 2017 ruling and December 28, 2017 order.

10 32. The December 29, 2017 ratification vote was "in good faith," as required by NRS
11 78.140(2)(a). The directors who were not present at the time these matters were initially
12 decided—directors Wrotniak and Coddington—reasonably informed themselves of the relative
13 merits of the decisions, including by reviewing contemporaneous materials and drawing on their
14 personal knowledge gleaned in their two years of Board service; corporate counsel was present
15 and advised the entire Board of its fiduciary duties under Nevada law, as well as the history of
16 each decision; no ratifying director had a personal stake in the derivative litigation brought by
17 Plaintiff or in the particular transaction ratified; and discussion and debate occurred prior to the
18 final votes, with all directors—including Plaintiff—afforded the chance to ask questions or make
19 comments.

20 33. With respect to the Remaining Challenged Decisions and the RDI Board's
21 subsequent ratification of them, all of the preconditions necessary for a "valid interested director
22 transaction" under NRS 78.140(2)(a) are present.

23 34. The independent majority of RDI's Board who voted in favor of ratification of the
24 Remaining Challenged Decisions on December 29, 2017 had a rational business purpose for
25 doing so and exercised their good faith business judgment.

26 35. The Court also takes into consideration that RDI's Independent Directors engaged
27 the Company's counsel, Greenberg Traurig, which provided legal advice regarding ratification.
28 While it would have been better practice for the Independent Directors to have engaged

1 independent advisers to provide information to the Board and/or any special committees under
2 NRS 78.138, it is uncontested that Greenberg Traurig is qualified and experienced.

3 36. Any finding of fact stated above that is more appropriately deemed a conclusion
4 of law shall be deemed so.

5 CONCLUSIONS OF LAW

6 37. The business judgment rule is a “presumption that in making a business decision
7 the directors of a corporation acted on an informed basis, in good faith and in the honest belief
8 that the action taken was in the best interests of the company.” *Shoen v. SAC Holding Corp.*, 122
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10 38. “The business judgment rule does not only protect individual directors from
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12 decisions and is designed to limit judicial involvement in business decision-making so long as a
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17 director or officers[,]” or because an interested or non-independent director “is present during a
18 meeting of the board of directors or a committee thereof which authorizes or approves the
19 contract or transaction,” or the votes of an interested director are counted for the purpose of
20 authorizing or approving the contract or transaction, if “[t]he fact of the common directorship,
21 office or financial interest is known to the board of directors or committee, and the directors or
22 members of the committee, other than any common or interested directors or members of the
23 committee, approve or ratify the contract or transaction in good faith.” NRS 78.140(2)(a).

24 40. Citing NRS 78.140, the Nevada Supreme Court has made clear that the business
25 judgment rule applies “in the context of valid interested director action, or the valid exercise of
26 business judgment by disinterested directors in light of their fiduciary duties.” *Shoen*, 122 Nev.
27 at 636, 137 P.3d at 1181.
28

41. Nevada Revised Statute 78.138(b)(2) provides that, “[i]n exercising their respective powers, directors and officers may, and are entitled to, rely on information, opinions, reports, books of account or statements, including financial statements and other financial data, that are prepared or presented by . . . [c]ounsel . . . as to matters reasonably believed to be within the preparer’s or presenter’s professional or expert competence.” Here, the Court finds that RDI’s Board, including the Independent Directors, were entitled to rely upon Greenberg Traurig’s advice in making their decisions to ratify the Challenged Remaining Decisions.

42. The substance of the advice provided by Greenberg Traurig to RDI's Board and its Independent Directors is protected by the attorney-client privilege and may not be considered by the Court. *See Wynn*, 399 P.3d at 341-42.

43. As the Remaining Challenged Decisions were ratified by a majority of independent, disinterested directors, the Court grants the Remaining Defendants' Motion for Summary Judgment.

44. Any conclusion of law stated above that is more appropriately deemed a finding of fact shall be so deemed.

ORDER

Based upon the forgoing, the Court grants the Remaining Defendants' Motion for Summary Judgment. Judgment is entered in favor of Defendants Ellen Cotter, Margaret Cotter, and Guy Adams on all claims asserted by Plaintiff.

Due to the fact that the Court's ruling moots RDI's Motion to Dismiss Pursuant to NRCP 12(b)(2), or in the Alternative, NRCP 12(b)(5) for Lack of Standing, the Court further denies without prejudice RDI's Motion to Dismiss.

As here are pending issues remaining in the probate matter, the cases are ordered deconsolidated.

Dated this 8 day of August 2018.


Elizabeth Gonzalez, District Court Judge

Certificate of Service

I hereby certify that on or about the date filed, this document was Electronically
Served to the Counsel on Record on the Clark County E-File Electronic Service List:

James L Edwards, Esq. (Cohen Johnson, et al)

Mark E Ferrario, Esq. (Greenberg Traurig)

Steve Morris, Esq. (Morris Law Group)



Dan Kutinac

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Location : District Court Civil/Criminal [Help](#)

REGISTER OF ACTIONS

CASE NO. A-15-719860-B

James Cotter, Jr., Plaintiff(s) vs. Margaret Cotter, Defendant(s)

§
§
§
§
§
§
§

Case Type: **NRS Chapters 78-89**

Date Filed: **06/12/2015**

Location: **Department 11**

Cross-Reference Case **A719860**

Number:

Supreme Court No.: **75053**

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Defendant Coddling, Judy

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Defendant Cotter, Ellen

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Defendant Gould, William

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Defendant Kane, Edward

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Defendant McEachern, Douglas

Harold Stanley Johnson
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Defendant Wrotniak, Michael

Harold Stanley Johnson
Retained
 702-823-3500(W)

EVENTS & ORDERS OF THE COURT

08/20/2018 | **Motion For Reconsideration (9:00 AM)** (Judicial Officer Gonzalez, Elizabeth)
Plaintiff's Motion for Reconsideration and Application for Order Shortening Time

Minutes

08/20/2018 9:00 AM

- Mr. Searcy appeared by telephone. Ms. Levin argued in support of the motion, noting that even with Mr. Krum's comments an agreement had been made with the other side to submit documents for the Court's review; their purpose was to decrease the burden on the Court, and they simply want to do this in one go and not have anything hanging out there. Mr. Ferrario stated he had nothing to add except to clarify that he could never get an answer from Mr. Krum as to what would be accomplished by the review. Mr. Searcy and Mr. Johnson advised they had nothing to add as well. COURT ORDERED, given the representations made by Mr. Krum in court to this Court, the Court will not conduct an in camera review that Mr. Krum said the Court did not have to do.

Parties Present

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