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Case No. 2025-0354-KSJM

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

PLUMBERS & FITTERS LOCAL 295 PENSION FUND, Plaintiff, v. DROPBOX, INC., ANDREW W. HOUSTON, DONALD W. BLAIR, LISA CAMPBELL, PAUL E. JACOBS, SARA MATHEW, ABHAY PARASNIS, KAREN PEACOCK, MICHAEL SEIBEL, and ANDREW MOORE, Defendants.	)	C.A. No. 2025-0354-KSJM **PUBLIC VERSION** **EFILED JULY 6, 2026**

VERIFIED AMENDED CLASS ACTION COMPLAINT

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Plaintiff Plumbers & Fitters Local 295 Pension Fund ("Plaintiff"), individually and on behalf of a class (the "Class") of holders of Common Stock of Dropbox, Inc. ("Dropbox" or the "Company") other than the Defendants, brings this Verified Class Action Amended Complaint (the "Complaint") against the Defendants named herein. The allegations of this Complaint are based on Plaintiff's knowledge as to itself, and on information and belief, including the investigation of counsel, including through 8 *Del. C.* § 220 ("Section 220"), and review of publicly available information, as to all other matters. The quotation of or references to a document or portion of a document does not constitute an admission that the contents of the entire document, other portions of the document, or other documents are factually complete and accurate or incorporated into this Complaint.

INTRODUCTION

1. Plaintiff brings this action to challenge breaches of fiduciary duty by (i) Andrew H. Houston ("Houston"), Dropbox's founder, Chief Executive Officer ("CEO"), Chairman of the Board of Directors ("Board"), and controlling stockholder; and (ii) Dropbox's other directors. In response to the Company's deteriorating performance and pressure from an activist investor questioning the Company's strategic policy and Houston's control of Dropbox during 2024 and 2025 Defendants took a series of actions designed to preserve and increase Houston's control, voting power and equity interest and protect themselves from litigation and

liability. Their response to the decline in the Company's core business was a policy of transition to new products involving artificial intelligence ("AI"), which they called a transformation of the Company (the "Transformation"). The activist investor's disagreement with the policy underlying the Transformation created a threat of litigation challenging the Transformation. Through a series of massive stock repurchases, largely funded by a massive $2 billion secured loan (the "Term Loan"), Defendants used Dropbox's cash and credit to increase Houston's voting and equity positions in the Company (the "Stock Repurchases"), even while he was selling more than $100 million of stock, including through repurchases of his stock by the Company (the "Houston Stock Sales"). The massive stock repurchases, which began in 2024 and are a continuing part of the Transformation, are effectively a slow-moving going-private plan. Defendants determined to pursue the reincorporation of the Company into Nevada (the "Reincorporation") as a self-interested defensive measure to insulate themselves from (a) challenges to Houston's control and Dropbox's dual-class structure, and (b) from litigation and liability related to (i) the Transformation, and (ii) their use of Dropbox's assets to increase Houston's voting and equity percentages and facilitate his stock sales. The Reincorporation became effective on March 5, 2025. The Reincorporation virtually eliminated the stockholders' rights to corporate books and records and appraisal, while providing material non-ratable benefits to Houston and his fellow directors, including exempting Houston from restrictions on business combinations (the "Houston Exemption").

2. The Transformation, Stock Repurchases, Houston Stock Sales, Reincorporation and Houston Exemption are all part of Houston's plan to position himself favorably for a future business combination.

SUMMARY OF THE CASE

3. Beginning in early 2024, an activist investor—Half Moon Capital, LLC ("Half Moon")—engaged with Dropbox's Board and management, complaining about the Company losing market share and deemphasizing its "Family Plan," which had been a major source of revenue. Half Moon also objected to Houston's control of Dropbox through its dual-class stock structure. Dropbox's management, including Houston, did not take kindly to a stockholder questioning their strategy to effect the Transformation of the Company from its File Sync and Share ("FSS") business to Dash for Business ("Dash"), Dropbox's development-stage AI product. Houston and Dropbox's Board and management also opposed Half Moon's proposal to gradually eliminate Dropbox's dual-class stock structure. As a defensive strategy against stockholders' ability to challenge Houston's control of Dropbox and to protect against challenges to and liability for the Transformation, Houston and

Dropbox's management team determined to press the Company's Board to pursue the Reincorporation.

4. Dropbox's February 10, 2025 Definitive Information Statement on Schedule 14C (the "Information Statement") issued for the Reincorporation acknowledged that the purpose of the Reincorporation was to insulate Houston and the other directors from challenges to Houston's control and Dropbox's dual-class structure and litigation and potential liability relating to the Transformation. The Reincorporation was a self-interested defensive transaction that, to the detriment of Dropbox's public Class A stockholders, provided Houston and the other individual defendants with material, non-ratable benefits. Among the non-ratable benefits were expanded exculpation, enhanced indemnification rights, lower fiduciary standards, elimination of appraisal rights and elimination of the stockholders' right to obtain documents. Houston also received a material non-ratable benefit from the Dropbox Board's approval of an exemption of Houston from Nevada's business combination statutes, which effectively granted Houston an option to take Dropbox private with the Class A stockholders having no ability to (i) obtain relevant books and records concerning the transaction, (ii) challenge the entire fairness of the transaction, or (iii) exercise appraisal rights.

5. Relying on conflicted advisors, a limited mandate "Evaluation Committee" recommended reincorporation to Nevada and the Board approved the Reincorporation. The Board then abdicated its fiduciary duty by delegating the preparation and dissemination of an Information Statement concerning the Reincorporation to Dropbox officers, including Houston. Houston used his controlling voting power to approve the Reincorporation by stockholder written consent on January 28, 2025.

6. On January 31, 2025, Dropbox filed with the United States Securities and Exchange Commission ("SEC") a preliminary information statement announcing the Reincorporation (the "Pre-14C"). On February 10, 2025, Dropbox filed with the SEC and mailed to the Dropbox stockholders the Information Statement about the Reincorporation which was materially misleading and deliberately incomplete. Houston signed the Notice of Written Consent and misleading Information Statement, breaching his fiduciary duty of disclosure as an officer.

7. On February 13, 2025, Plaintiff served its Section 220 books and records demand (the "Section 220 Demand") on Dropbox, seeking information on the Transformation and Reincorporation. To effectively preclude Dropbox's stockholders from challenging the forcible conversion of their Class A Delaware

shares into Class A shares of a Nevada corporation with inferior rights or selling their Delaware shares before the Reincorporation, Defendants waited until the last moment to issue the Information Statement, which provided materially misleading and incomplete partial disclosure.

8. At the time Defendants pursued, approved, and implemented the Reincorporation, [redacted] Indeed, when the results were announced on February 20, 2025, (*i.e.*, two weeks before the Reincorporation) the stock dropped from $32.67 on February 19 to $26.73 on February 21. To eliminate the growing risk of litigation, Defendants proceeded with the Reincorporation, which became effective on March 5, 2025. Following the Reincorporation, Dropbox's stock has remained lower.

9. Because the exculpation provisions of 8 *Del. C.* § 144(b)(1)-(2) are not satisfied and because the directors and Houston as an officer and controlling stockholder received non-ratable benefits, entire fairness is the applicable standard of review for Defendants' breach of fiduciary duty in effecting the Reincorporation to shield themselves from litigation and potential liability. Moreover, Half Moon's

disagreement with the strategy underlying the Transformation and proposal to have Houston give up control shows that the Reincorporation was a defensive measure taken in response to a perceived threat to corporate policy and touches on control. Therefore, the Reincorporation is subject to enhanced scrutiny.

10. At the time the Reincorporation was approved by the Dropbox Board, approved by Houston via written stockholder consent and presented to the Dropbox stockholders through the Information Statement, Dropbox's Nevada counsel was involved in drafting and promoting numerous amendments to Nevada's corporation law (the "Nevada Amendments") and Dropbox's Delaware counsel were involved in drafting and promoting the substantial amendments to the Delaware General Corporation Law in Delaware Senate Bill 21 ("SB 21" or the "Delaware Amendments"). As explained below, the Nevada Amendments and the Delaware Amendments completely undermined the rationale for the Reincorporation that recent Delaware judicial opinions had created uncertainty in Delaware's uncodified law of fiduciary duty and that Nevada's statutory-based regime was more predictable. It is a fair inference and reasonably conceivable, particularly in light of counsel's obligations to their client, that counsel made Houston and the other directors aware of the Nevada Amendments and the Delaware Amendments, which effectively overruled recent Delaware decisions. Houston and the other directors

breached their continuing fiduciary duty because they never reconsidered the Reincorporation in light of the Nevada Amendments and Delaware Amendments, despite having specifically reserved the right to do so.

11. The directors abdicated their duty of disclosure by completely delegating preparation, filing and dissemination of the Information Statement. Houston breached his fiduciary duties of loyalty, care and disclosure as an officer and his fiduciary duties of loyalty and disclosure as a controlling stockholder. Defendants never corrected, amended or supplemented the Information Statement.

12. Because the Reincorporation was the product of multiple breaches of fiduciary duty, the Reincorporation should be rescinded. If the Reincorporation is not rescinded the Court should award rescissory and compensatory damages, including for loss of stockholder rights and to the extent feasible under Nevada law, order rescission of the improper benefits Defendants received in the Reincorporation.

THE PARTIES

13. Plaintiff Plumbers & Fitters Local 295 Pension Fund is a beneficial owner of Dropbox Class A common stock and held such stock at all material times alleged herein.

14. Defendant Dropbox is a necessary party for the potential rescission of the Reincorporation. Dropbox is a cloud storage service that allows users to store, access and share files online. Because Dropbox's FSS business had matured and growth had declined, Dropbox pursued the Transformation to transition to its unproven Dash product.

15. Defendant Houston co-founded Dropbox as a Delaware corporation in 2007. Since co-founding Dropbox, Houston has served as Dropbox's CEO and a director on the Board, including as Chairman since before Dropbox's March 3, 2018 initial public offering ("IPO") of its one vote per share Class A common stock. Since at least April 1, 2020, when Houston's co-founder sold his Dropbox stock, Houston has controlled Dropbox through his majority ownership of Dropbox's ten-votes-per share Class B common stock, which is not publicly traded.[1] As of January 28, 2025, the record date for the stockholder vote on the Reincorporation, Houston controlled 77.38% of Dropbox's voting power through his (i) 9,427,838 Dropbox Class A shares, constituting 4.2% of the total 224,977,458 shares of one vote per share Class A common stock then outstanding, and (ii) 75,987,893 Dropbox Class B shares, constituting 98.78% of the total 76,925,771 shares of Class B then outstanding. He

[1] Dropbox's Class B common stock is convertible into Class A common stock on a one-for-one basis at the option of the holder.

held only approximately .29% of Dropbox's total outstanding equity. Since 2020, Houston has been a director of Meta Platforms, Inc. ("Meta"). Meta was a participant in the formulation of SB 21 after it threatened to reincorporate out of Delaware. Houston is part of a "billionaire bros'" attack on Delaware corporate law and the Delaware courts.

16. In 2017, the Board approved a restricted stock award to Houston of 10.3 million Class A shares. During 2021, 2,066,677 of those restricted shares awarded to Houston vested because Dropbox's stock achieved a market price over $30 over a consecutive thirty-day trading period. Since 2021, no stock price targets have been reached and none of the remaining tranches covering 8,266,666 shares have vested. However, Houston is still able to vote those shares. The restricted stock award will expire on March 23, 2028 and given the continuing poor performance of Dropbox's stock, it is unlikely any further stock price targets will be reached.

17. Defendant Donald W. Blair ("Blair") joined the Board in December 2017 and served as the Chair of the Audit Committee. Blair was an "*ex officio* member" of the Evaluation Committee formed by the Board to evaluate the Reincorporation (the "Evaluation Committee"). Blair was Dropbox's "lead independent director." Blair held 100,637 shares of Dropbox Class A Common Stock as of January 28, 2025. During 2023, Blair received $362,349 in

compensation from Dropbox. During 2024, Blair received $365,005 in compensation from Dropbox. Blair did not stand for reelection at the 2025 annual meeting.

18. Defendant Lisa Campbell ("Campbell") served on the Board since August 2019. Campbell is a member of the Audit and Nominating and Corporate Governance Committees. She was the Chairperson of the Evaluation Committee. Campbell held 5,538 shares of Dropbox Class A Common Stock as of January 28, 2025. Campbell received $314,849, $317,505 and $334,388 in compensation from Dropbox for 2023, 2024 and 2025 respectively.

19. Defendant Paul E. Jacobs, Ph.D. ("Jacobs") has served on the Board since April 2016. Jacobs is the Chair of the Nominating and Corporate Governance Committee. He was a member of the Evaluation Committee. Jacobs held 302,981 shares of Dropbox Class A Common Stock as of January 28, 2025. Jacobs received $312,349 in compensation from Dropbox in 2023, $315,005 in 2024 and $320,646 in 2025. Jacobs did not stand for reelection at the 2026 annual meeting.

20. Defendant Sara Mathew ("Mathew") has served on the Board since July 2021. Mathew is a member of the Audit Committee and the Chair of the Talent and Compensation Committee. Mathew held 12,297 shares of Dropbox Class A Common Stock as of January 28, 2025. Mathew received $333,541 in compensation

from Dropbox in 2023 and $332,505 in 2024. Matthew did not stand for reelection at the 2025 annual meeting.

21. Defendant Abhay Parasnis ("Parasnis") has served on the Board since March 2022. Parasnis is a member of the Talent and Compensation Committee. Parasnis held 25,165 shares of Dropbox Class A Common Stock as of January 28, 2025. He received $307,349 in compensation from Dropbox in 2023, $300,107 in 2024 and $309,997 in 2025.

22. Defendant Karen Peacock ("Peacock") has served on the Board since August 2019. Peacock is a member of the Talent and Compensation Committee. She was a member of the Evaluation Committee. Peacock held 13,374 shares of Dropbox Class A Common Stock as of January 28, 2025. She received $309,849 in compensation from Dropbox in 2023, $310,005 in 2024 and $323,298 in 2025. On March 11, 2026, she sold 2,000 Dropbox shares for $53,000. On May 15, 2026, she sold 4,000 Dropbox shares for $104,800.

23. Defendant Michael Seibel ("Seibel") has served on the Board since December 2020. Seibel held 12,297 shares of Dropbox Class A Common Stock as of January 28, 2025. Seibel and Houston have known each other "for many years," with Seibel describing himself as "one of Dropbox's earliest users back in 2007[.]"[2]

[2] Dropbox, Inc., Current Report (Form 8-K) (Dec. 15, 2020).

Seibel was the CEO and Managing Director of Y Combinator ("YC")—the company that helped launch Dropbox—from 2013 to March 2024, and remains a YC partner.[3] In welcoming Seibel to the Dropbox Board, Houston lauded Seibel's "deep connection" to YC.[4] Seibel and Houston are both backers of Black Ops Venture Capital and spoke on a panel together at the 2021 Fast Company Innovation Festival.[5] Seibel received $307,349 in compensation from Dropbox in 2023, $310,005 in 2024, and $309,997 in 2025.

24. Defendant Andrew Moore, Ph.D. ("Moore") has served on the Board since December 2023. Moore held 3,627 shares of Dropbox Class A Common Stock as of January 28, 2025. He received $104,167 in compensation from Dropbox in 2023, though he served as a director for only eight days. His compensation for 2024 was $332,505 and in 2025 was $312,497. On May 18, 2026, Moore sold 8,443 Dropbox shares for $226,441.

25. As used herein, "Defendants" means the directors identified above who are serving on the Board at the time of particular events alleged herein.

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[3] People, Y Combinator, https://www.ycombinator.com/people (last visited June 8, 2026).

[4] Dropbox, Inc., Current Report (Form 8-K) (Dec. 15, 2020).

[5] Our Team, Black Ops VC, www.blackopsvc.com/team (last visited June 8, 2026); Ainsley Harris, *Thanks to Remote Work, Silicon Valley is Now 'A Concept that Can Touch More People,'* Fast Company (Oct. 1, 2021) *available at* https://www.fastcompany.com/90680404/thanks-to-remote-work-silicon-valley-is-now-a-concept-that-can-touch-more-people.

26. The Dropbox directors' compensation is primarily an annual award of restricted stock units with a fair value of $250,000. The RSUs vest on the one-year anniversary of the grant date or, if earlier, the day before the next annual meeting. The directors' annual RSU compensation does not decrease if the Dropbox stock declines – they just get more shares. Each director received another $250,000 of Dropbox stock on May 21, 2026, the date of Dropbox's 2026 annual meeting. The massive repurchases the directors have approved help keep the stock price up and preserve the value of their unvested RSUs. It is also a fair inference and reasonable conceivable that Dropbox purchases the directors' shares pursuant to the repurchase plan the directors approved.

FACTUAL BACKGROUND

A. Dropbox and Its Transformation

27. Dropbox is a California-headquartered global collaboration cloud-based platform that permits users to store, create, search, and organize files and folders. In 2024, Dropbox and Houston publicly acknowledged that Dropbox is in a transitional period. Dropbox's FSS business had matured, and Dropbox has been working in the Transformation to build its next phase of growth, including by investing in products such as Dash, which utilize AI.[6] The Reincorporation was part

[6] Dropbox, Inc., Current Report (Form 8-K) (Oct. 30, 2024), Ex. 99.1; Dropbox, Inc., Current Report (Form 8-K) (Nov. 7, 2024), Ex. 99.1; Information Statement at 3, 5.

of Dropbox's Transformation. The Information Statement admitted that the purpose of the Reincorporation was to protect the Company's directors and officers from litigation and liability for actions taken and events occurring during the Transformation.

B. Wilson Sonsini and Management Push Dropbox Toward Redomestication After Half Moon Surfaces

28. On February 28, 2024, Half Moon sent to the Dropbox Board and published an open letter objecting to Dropbox's deemphasis of increasing its paying users. Half Moon's letter references a "Company response, 2/17/24" indicating there had been an ongoing exchange. During 2024, Half Moon asserted that Dropbox's focus on Dash, its AI tool and the central element of the Transformation, is misplaced.

29. On April 23, 2024, Wilson Sonsini Goodrich and Rosati ("Wilson Sonsini") published a client advisory discussing the possibility of existing clients redomesticating out of Delaware.[7] On May 8, 2024, Wilson Sonsini republished the

[7] Client Advisories, *Delaware's Status as the Favored Corporate Home: Reflections and Considerations*, Wilson Sonsini (Apr. 23, 2024) (the "Wilson Sonsini Client Advisory").

Wilson Sonsini Client Advisory on the Harvard Law School Forum on Corporate Governance.[8]

30. In the summer of 2024, Half Moon had private talks with Dropbox in which it disagreed with the Company's strategy of betting on the eventual progress of its Dash AI tool, while deemphasizing its historic FSS business. During a call with Dropbox in June 2024, Half Moon indicated it would be submitting a shareholder proposal to be included in the Company's proxy statement for its 2025 annual meeting.[9]

31. Dropbox was an existing Wilson Sonsini client. It is a fair inference and reasonably conceivable that Dropbox management turned to Wilson Sonsini and they discussed reincorporation partly as a strategy for responding to the Half Moon demands.

C. Wilson Sonsini and Management Formulate and Promote a Strategy to Reincorporate in Nevada

32. The Information Statement asserts that "members of the Company's management have generally considered matters related to Delaware law and the differences among jurisdictions for corporate domiciliation and have apprised our

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[8] Amy Simmerman, William B. Chandler III & David Berger, *Delaware's Status as the Favored Corporate Home: Reflections and Considerations*, Harvard Law School Forum on Corporate Governance (May 8, 2025).

[9] October 31, 2024 email from Half Moon to Dropbox.

board of directors of those matters, in particular at a board meeting in September, 2024."[10] This vague statement does not reveal (i) the identity of the management members, (ii) what Delaware law matters and domiciliation differences those management members considered and apprised the Board of and when, (iii) whether Wilson Sonsini took part in discussions, or (iv) the day in September 2024 when the Board meeting occurred. However, the statement admits that members of management initiated the reincorporation effort and that at least as early as September 2024, the Board was discussing redomestication.

33. Through its Section 220 Demand, Plaintiff obtained the minutes of a September 25, 2024 Dropbox Board meeting (the "September 25 Minutes") and a September 25, 2024 Board presentation (the "September 25 Presentation"). These documents demonstrate that the Information Statement's vague description of "a board meeting in September 2024" where unidentified "members of the Company's management" apprised the Board of general "matters relating to Delaware law and the differences among jurisdictions for corporate domiciliation"[11] was materially misleading and incomplete.

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[10] Information Statement at 3.

[11] *Id.*

34. The September 25 Minutes show that [redacted]

35. The Information Statement does not disclose that Dropbox's primary legal officers and Houston's chief of staff were present and did not describe the [redacted] The Information Statement misleadingly says management "generally considered" and "apprised" the Board of "matters relating to Delaware law and the differences" among corporate

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[12] DBX220_000062 at '064–65.

[13] *Id.* at '064.

[14] *Id.* at '065.

[15] *Id.*

domiciles. In fact, as the minutes and September 25 Presentation confirm, Dropbox's primary in-house counsel had done an analysis of reincorporation and determined that Dropbox should reincorporate from Delaware to Nevada.[16] If the September 25 Presentation had been fully and accurately described, a reasonable stockholder could have concluded that a decision had been made by management, including Houston, to reincorporate in Nevada before any consideration by the Evaluation Committee and Board.

36. The September 25 Presentation represents that the [redacted]

> [redacted][17]

The evidence the September 25 Presentation provides to support the existence of such a trend and the reasons for it was [redacted][18] It is a fair inference and reasonably conceivable that Wilson Sonsini participated in management's consideration of reincorporation

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[16] DBX220_000098 at '102–125.

[17] *Id.* at '103.

[18] *Id.* at '112–125.

and contributed to management's analysis, preliminary views, and the September 25 Presentation. It is also reasonably conceivable that [redacted] was actually a few high-profile departures, such as Musk's Tesla and SpaceX, [redacted] to create pressure on Delaware and other states to weaken fiduciary accountability and stockholder rights.

37. The September 25 Presentation asserted management's view that Dropbox should reincorporate from Delaware to Nevada. [redacted] though portions of its reasoning are redacted, supposedly for attorney-client privilege.[20] The September 25 Presentation stated various reasons for reincorporation into Nevada:[21]

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[19] *Id.* at '105.

[20] *Id.* Given that much of the presentation by Dropbox's primary legal officers contains legal advice, it is difficult to see how privilege has not been waived for four redacted lines concerning Texas and California and three redacted lines concerning litigation risk. *Id.* at 105, 107.

[21] *Id.* at '106.

[redacted]

38. The September 25 Presentation also laid out [redacted][22] Thus, it was originally contemplated that the Reincorporation would involve a full proxy statement and a meeting of stockholders, not approved by Houston's written consent and a brief, post-approved Information Statement. It is a fair inference and reasonably conceivable that the later decision to have Houston approve the Reincorporation by written consent with only after-the-fact issuance of the Information Statement was (i) a further defensive measure in response to Half Moon's planned shareholder proposal designed to limit the ability of Half Moon or

[22] *Id.* at '107.

any other stockholder to seek injunctive relief against the Reincorporation, (ii) an attempt to limit disclosure concerning the Reincorporation, and (iii) intended to squelch any stockholder opposition and prevent ISS and Glass Lewis from opposing the Reincorporation by making it a *fait accompli*.

39. The September 25 Presentation's discussion of the *TripAdvisor* litigation[23] supports the inference that Houston's written consent approving the Reincorporation was designed to prevent, as a practical matter, the stockholders from seeking to enjoin the Reincorporation. The September 25 Presentation stated:[24]

[redacted]

40. In *TripAdvisor*, a proxy statement was issued and a stockholder vote at a meeting was scheduled. In the *TripAdvisor* litigation, plaintiffs had withdrawn their motion for a preliminary injunction based on a stipulation and order that

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[23] *Palkon v. Maffei* 311 A.3d 255 (Del. Ch. 2024), *rev'd*, 339 A.3d 705 (Del. 2025) ("*TripAdvisor*").

[24] DBX220_000092 at '107. Again, given the extensive disclosure of legal advice in the September 25 Presentation, the basis for the redaction is unclear. Dropbox has not provided Plaintiff a redaction log.

provided that Tripadvisor, Inc. ("Tripadvisor") would not effectuate the reincorporation until there was a final and nonappealable order dismissing the action or the parties agreed to dismissal with Court approval. Unlike in *TripAdvisor*, Houston had the votes as controlling stockholder to approve the Reincorporation unilaterally, thereby eliminating the need for a proxy statement and meeting. This procedure would also avoid the potential for a delay in consummation, as occurred in *TripAdvisor*.

41. The September 25 Presentation confirms that as of September 25, 2024, Dropbox already had an [redacted][25]

42. It is a fair inference and reasonably conceivable that the support of Houston, Dropbox's founder, CEO, and controlling stockholder, was critical to the decision to reincorporate in Nevada. Given his control of Dropbox, no reincorporation would or could be pursued without his support and approval. Houston was also integrally involved in the Transformation.

D. The Board Forms an "Evaluation Committee"

43. Recognizing that Half Moon opposed Dropbox's policy to shift from FSS to Dash and objected to Houston's control, the Board continued to pursue reincorporation as a defensive strategy. According to the Information Statement, on

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[25] *Id.*

October 23, 2024, the Board "met to discuss a number of matters."[26] The minutes of the October 23, 2024 Board meeting (the "October 23 Minutes") show that [redacted][27] Redacted portions of the October 23 Minutes concerning [redacted] indicate that the Board discussed the Transformation.[28] The Information Statement only said that at the October 23 meeting, the Board discussed "a potential reincorporation" and created an "evaluation committee of directors" comprised of Campbell (chairperson), Jacobs, and Peacock as members and Blair as an *ex officio* member (*i.e.*, the Evaluation Committee).[29] The Information Statement states that Peacock was placed on the Evaluation Committee because of her significant experience "in organizations navigating business transformations similar to that confronting the Company."[30]

44. The October 23 Minutes reflect a different history. They state that [redacted]

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[26] Information Statement at 3.

[27] DBX220_000066–68.

[28] *Id.* at '067–68.

[29] Information Statement at 3–4.

[30] *Id.* at 4.

[redacted][31] Given Wilson Sonsini's presence and participation at the meeting, it is a fair inference and reasonably conceivable that Wilson Sonsini was among the advisors management had already consulted. The Wilson Sonsini lawyers made a presentation [redacted][32] They referred to [redacted][33] Dropbox belatedly claimed the October 25, 2024 Wilson Sonsini presentation, which is not mentioned in the Information Statement, is privileged and refused to produce the presentation in response to Plaintiff's Section 220 Demand. Once again, the Information Statement downplayed the role of management and omitted information which a reasonable stockholder would consider important.

45. The Evaluation Committee was not given authority to decide whether Dropbox should reincorporate. Rather, it was to "function as a working group to study and evaluate the relevant information and considerations and receive input from advisors, experts, members of the Company's management and any other

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[31] DBX220_000066 at '067.

[32] *Id.*

[33] *Id.*

persons it deemed appropriate, and make a recommendation to the board of directors with respect to a potential reincorporation."[34] The Committee was only authorized to make a recommendation to the Board. The Committee was required to get input, not just from independent counsel, but also from the Company's advisors and from the Company's management, including Houston.[35]

46. The Evaluation Committee was not independent. Its members included Jacobs and Blair, who have been on the Board since before Dropbox's IPO. They, like the rest of the Board, had participated in formulating, approving, and pursuing the Transformation and, therefore, were seeking protection from potential lawsuits and liability arising from their role in the Transformation.

E. Further Steps in the Transformation: Dropbox's Dash and the Workforce Reduction

47. On October 15, 2024, Houston promoted Dropbox's AI-powered Dash as the key element of the Transformation.[36] On October 30, 2024, Houston announced a further step in the Transformation. He sent Dropbox employees an

[34] Information Statement at 3, Appendix A-1; *see also* DBX220_000066 at '067.

[35] Information Statement at 3.

[36] Drew Houston + Dropbox Dash for Business, Dropbox, YouTube (Oct. 15, 2024), *available at* https://www.youtube.com/watch?v=AAPWSIKIXNY.

email notifying them that Dropbox had "decided to reduce our global workforce by approximately 20% or 528 Dropboxers."[37] Houston wrote:

> As CEO, I take full responsibility for this decision and the circumstances that led to it, and I'm truly sorry to those impacted by this change.[38]

48. Houston acknowledged the Company's "transitional period" and wrote: "Our FSS business has matured, and we've been working to build our next phase of growth with products like Dash." Houston admitted that Dropbox faced continuing "softening demand and macros headwinds in our core business."[39] He wrote that Dropbox was making "significant cuts" because "navigating this transition while maintaining our current structure and investment levels is no longer sustainable."[40] Thus, Houston signaled that the Transformation included changing the "current structure" of Dropbox. Houston's email made clear that the mass layoff was part of the Transformation. The email underscored Dropbox's intention to proceed with the strategy that Half Moon opposed.

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[37] Houston, An update from Drew, Dropbox (Oct. 30, 2024), *available at* https://blog.dropbox.com/topics/company/an-update-from-drew.

[38] *Id.*

[39] *Id.*; *see also* Dropbox, Inc., Current Report (Form 8-K) (Oct. 30, 2024), Ex. 99.1.

[40] Houston, An update from Drew, Dropbox (Oct. 30, 2024), *available at* https://blog.dropbox.com/topics/company/an-update-from-drew.

49. Houston also addressed the "opportunity ahead," signaling that further changes were coming. He wrote:

> The changes we're making today, while difficult, come at a pivotal moment when the market is accelerating precisely where we've placed our biggest bets . . . . But we're not operating on our own schedule. <u>This market is moving fast and investors are pouring hundreds of millions of dollars into this space. This both validates the opportunity we've been pursuing and underscores the need for even more urgency, even more aggressive investment, and decisive action.</u> The steps we're taking today are necessary to both strengthen our core product and <u>accelerate the growth</u> of our new products.[41]

50. In the Information Statement, Dropbox adopted the underlined language of Houston's October 30, 2024 email when purporting to explain Dropbox's reasons for pursuing the Reincorporation.

51. Also on October 30, 2024, Dropbox issued a Form 8-K, stating:

> On October 30, 2024, Dropbox announced a reduction of its global workforce by approximately 20% to streamline the Company's team structure to better align with its long-term growth initiatives and profitability objectives. Dropbox estimates that it will make total cash expenditures of approximately $63 million to $68 million in connection with the reduction in force, primarily consistent of severance payments, employee benefits and related costs.[42]

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[41] *Id.* (formatting altered).

[42] Dropbox, Inc., Current Report (Form 8-K) (Oct. 30, 2024).

52. The Company attached a copy of Houston's October 30, 2024 email to employees to the Form 8-K.

53. Dropbox's Form 10-K for the year ended December 31, 2024 (the "2024 10-K"), which was filed with the SEC on February 21, 2025, concedes that the rate of growth of Dropbox's business and revenues has declined and it expects negative growth in the near term.[43]

F. Half Moon Makes a Proposal to Eliminate Dropbox's Dual-Class Structure

54. On October 31, 2024, Half Moon submitted by email and letter a proposal for one-third of Dropbox's Class B shares to convert into Class A shares in each of the three years following adoption of the proposal, if the market price of the Class A stock remained below \$30 per share after the first year, below \$35 per share after the second year, and below \$40 per share after the third year (the "Proposal").[44] Half Moon explained its proposal as follows:

> **Issue:** We believe the dual-class structure has created a misalignment between the majority owners (*i.e.*, Class A holders) of Dropbox and the insiders who control the super voting Class B shares. We believe this has prevented shareholders from holding insiders accountable as significant missteps continue to erode shareholder value.

[43] Dropbox, Inc., Annual Report (Form10-K) at 18, 29 (Feb. 21, 2025) ("2024 10-K").

[44] October 31, 2024 email from Half Moon to Dropbox; October 31, 2024 letter from Half Moon addressed to Donald W. Blair as Lead Independent Director.

Supporting Reasons:

- Since Dropbox's IPO, Class A shares have grossly underperformed, generating a 3.19% annualized return compared to 20.93% for the S&P 500 Index with dividends reinvested through 9/30/24.
- Peers such as BackBlaze (Nasdaq: BLZE) and Nutanix (Nasdaq: NTNX) have eliminated their dual-class share structures in the public markets as a best practice for corporate governance.
- Additional benefits potentially include improved strategic value, corporate governance, ESG ratings, broader shareholder base and possible index inclusions.[45]

While Half Moon's letter was addressed to Blair, Half Moon's October 31, 2024 email indicates it was sent to "Tim" at Dropbox. While the recipient of the email was redacted by Dropbox, the context and reference to "Tim" indicates the email and letter were sent to Timothy Regan, then Dropbox's Chief Financial Officer. Because Dropbox has not provided minutes of all Board and committee meetings in the period prior to the Reincorporation, the minutes it has provided contain substantial redactions, and the Information Statement does not mention Half Moon, it is reasonably conceivable that the Board approved the Reincorporation in part as a defensive measure against Half Moon.

[45] October 31, 2024 letter from Half Moon to Donald W. Blair.

G. The November 4, 2024 Evaluation Committee Meeting

55. The Evaluation Committee first met on November 4, 2024. Once again, the Information Statement provides a brief, misleading and incomplete description of the meeting:

> The evaluation committee met on November 4, 2024 to discuss various considerations regarding a potential reincorporation. Representatives of Wilson Sonsini, the Company and BHFS participated in a substantial portion of the meeting, after which the evaluation committee met in executive session without external representatives for the balance of the meeting.[46]

The minutes of the meeting (the "November 4 Minutes") establish that [redacted][47] The Information Statement describes BHFS as "the Company's Nevada counsel, with regard to matters of Nevada law."[48] BHFS does not appear in any Dropbox filings with the SEC prior to Dropbox's January 31, 2025 preliminary information statement issued in connection with the Reincorporation. Dropbox is incorporated in Delaware, headquartered in California and does not have operations in Nevada. It is a fair

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[46] Information Statement at 4.

[47] DBX220_000001–02. The Information Statement indicates that Company representatives attended four of the six Evaluation Committee meetings; Wilson Sonsini attended three.

[48] Information Statement at 4.

inference and reasonably conceivable that the unexplained presence of Nevada counsel at this initial meeting indicates that reincorporation to Nevada was foreordained.

56. The minutes reflect that the Evaluation Committee [redacted][49] The Information Statement misleadingly stated that "the evaluation committee elected to engage a corporate law and governance expert, Professor Steven Davidoff Solomon," without disclosing that Wilson Sonsini actually retained Solomon.[50] Wilson Sonsini [redacted][51] Wilson Sonsini also expressed its opinion [redacted][52] Wilson Sonsini and BHFS also discussed the impact of Nevada reincorporation on the Company's bylaws and certificate of incorporation.[53] Wilson Sonsini's immediate focus on

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[49] DBX220_000001 at '001.

[50] Information Statement at 4.

[51] DBX220_000001 at '001.

[52] *Id*.

[53] *Id*. at '001–02. As its March 31, 2025 Privilege Log shows, Dropbox withheld the presentation Wilson Sonsini provided to the Board regarding reincorporation as privileged. The Information Statement contains no description of a presentation by Wilson Sonsini stating only that Wilson Sonsini "participated in a substantial portion of the meeting." Information Statement at 4.

Nevada at the Evaluation Committee's first meeting reconfirms that reincorporation to Nevada was preordained.

57. The Information Statement's description of the November 4, 2024 Board meeting was materially misleading and incomplete. The November 4, 2024 minutes reflect that Wilson Sonsini talked about the [redacted][54] Wilson Sonsini [redacted][55] Wilson Sonsini also described [redacted][56] The Information Statement omitted information that could cause a reasonable stockholder to conclude that reincorporation to Nevada was foreordained.

H. Wilson Sonsini Objects to Half Moon's Proposal

58. On November 13, 2024, Wilson Sonsini conveyed to Half Moon by email a letter contending there were deficiencies with Half Moon's proposal.[57] Some recipients of the email were redacted by Dropbox. Volkmer, Dropbox's General Counsel, and other members of management are copied.

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[54] DBX220_000001–02.

[55] *Id*.

[56] *Id*.

[57] November 13, 2024 email and letter of Lisa Stimmell, Esquire.

59. In response, Half Moon on November 19, 2024 sent a follow-up email with a Rule 14a-8 submission.[58]

I. The November 14, 2024 Evaluation Committee Meeting

60. The Information Statement contained an uninformative two-sentence description of the Evaluation Committee's November 14, 2024 meeting. It said unidentified "[r]epresentatives of the Company" briefly participated, but the Information Statement did not say why they were there.[59] Once again, the minutes of the November 14, 2024 Evaluation Committee meeting (the "November 14 Minutes") demonstrate that the Information Statement's disclosure was materially misleading and incomplete. The minutes state that [redacted] without explaining what those matters were.[60] The November 14 Minutes say that [redacted][61] It is a fair inference and reasonably conceivable that [redacted] in consultation with Wilson

[58] November 19, 2024 email to Lisa Stimmell from Half Moon; November 21, 2024 email chain confirming receipt.

[59] Information Statement at 4.

[60] DBX220_000044 at '044.

[61] *Id.*

Sonsini, identified the three firms and their views on the firms were part of the discussion of [redacted]"

61. The November 14 Minutes indicate that the Evaluation Committee decided to retain Stephen Fraidin ("Fraidin") and his firm Cadwalader, Wickersham & Taft LLP ("Cadwalader") as counsel.[62] The Information Statement simply said Cadwalader was the Evaluation Committee's counsel.[63] The minutes also state that the members of the Evaluation Committee, none of whom are lawyers, held a discussion of:

> [redacted][64]

J. The Solomon Governance Report and Solomon Memorandum

62. Neither the Information Statement nor the November 14, 2024 Minutes make reference to materials provided to the Evaluation Committee dated November 14, 2024 (the "November 14 Materials").[65] The agenda for the November 14

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[62] *Id*.

[63] Information Statement at 4.

[64] DBX220_000044 at '044.

[65] DBX220_000044.

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meeting indicates there was to be a [redacted][66] That report (the "Solomon Governance Report"), dated November 11, 2024, was by Professor Steven Davidoff Solomon ("Solomon").[67] The November 14 Materials also included a five page Memorandum from Solomon to the Evaluation Committee (the "Solomon Memorandum").[68] Apparently, the Solomon Governance Report and Solomon Memorandum were not reviewed until the November 21, 2024 Evaluation Committee meeting.

63. The Solomon Governance Report lists as one of Professor Solomon's credentials:

> [redacted]

The Professor acknowledges that Dropbox's business is undergoing a shift in strategy and products.[70]

64. The Solomon Governance Report provided support for reincorporation into Nevada. The report's heavy focus on Nevada reconfirms that the decision to

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[66] DBX220_000003 at '004.

[67] *Id*. at '008–31.

[68] DBX220_000037–42.

[69] DBX220_000003 at '010.

[70] *Id*. at '011, '023.

reincorporate there had already been made. The Evaluation Committee was mere window dressing.

65. Solomon's report stated that [redacted][71] The report does not indicate the number of reincorporations <u>into</u> Delaware in this period nor how many of the reincorporations into Nevada were from states other than Delaware. [redacted][72]

66. The Solomon Governance Report states that [redacted][73] It does not acknowledge that nine of those companies, unlike Dropbox, have their principal place of business in Nevada.[74] Many of the rest have their principal place of business in nearby states such as Texas.

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[71] *Id*. at '014.

[72] *Id*. at '029–30.

[73] *Id.* at '014.

[74] *Id*. at '027–28 (Las Vegas Sands Corp.; U-Haul Holding Company; Wynn Resorts, Limited; Light & Wonder Inc.; Boyd Gaming Corp; CleanSpark, Inc.; Monarch Casino & Resort, Inc.; Allegiant Travel Company; Employers Holdings, Inc.).

67. The Solomon Governance Report concludes that [redacted][75] He does not cite specific evidence and admits studies have limitations.

68. The Solomon Governance Report states Professor Solomon [redacted]

> [redacted]

The report provides no description of the purported case studies other than:

> [redacted][77]

The Solomon Governance Report provides no supporting evidence for its case studies conclusions.

69. There are ample additional reasons to question the legitimacy of Professor Solomon's purported "case studies." First, Fidelity National Financial, Inc. did not reincorporate from Delaware to Nevada because the reincorporation proposal failed to achieve the required vote.[78] Second, there was substantial

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[75] *Id*. at '013.

[76] *Id*. at '015.

[77] *Id*.

[78] *See id*.; Fidelity National Financial, Inc., Current Report (Form 8-K) (June 14, 2024).

stockholder opposition to other reincorporation proposals, suggesting that many stockholders believed reincorporation was contrary to their economic interests. Though Cannae Holdings, Inc. ("Cannae") has its principal executive offices in Las Vegas, Nevada, its reincorporation proposal received the vote of only 53.7% of the outstanding shares.[79] Moreover, the proposal would not have passed at all but for (a) Cannae's repurchase of 13.4% of its outstanding stock in a self-tender offer just before the proposal,[80] and (b) the votes of William P. Foley, II, Cannae's Chairman, CEO and Chief Investment Officer and the other Cannae directors and officers, who controlled a combined 10.9% of the voting power.[81] Only 5.4% of the Tripadvisor minority stockholders voted in favor of the reincorporation to Nevada, so it was largely voted through by self-interested controllers.[82] The proposal for The Trade Desk Inc. ("Trade Desk") received 73.8% of the votes outstanding.[83] However, Jeff

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[79] *See* DBX220_000003 at '015 (citing Cannae Holdings, Inc.); Cannae Holdings, Inc., Current Report (Form 8-K) (June 20, 2024).

[80] Press Room, *Cannae Holdings, Inc. Announces Final Results of Modified Dutch Auction Tender Offer*, Cannae Holdings, Inc., (Apr. 4, 2024), *available at* https://www.cannaeholdings.com/news-releases/news-release-details/cannae-holdings-inc-announces-final-results-modified-dutch.

[81] Cannae Holdings, Inc., Proxy Statement (Schedule 14A) (Apr. 26, 2024), at 92, 109–10.

[82] *See* DBX220_000003 at '015 (citing TripAdvisor).

[83] *See id*. (citing Trade Desk); The Trade Desk, Inc., Current Report (Form 8-K) (Nov. 18, 2024).

T. Green, Trade Desk's Chairman and CEO, controls approximately 48% of the outstanding voting power and a retired officer controls another 1.2%.[84]

70. Professor Solomon provides no supporting analysis for his purported examination of stock price movements for Trade Desk and Tripadvisor [redacted][85] Tripadvisor filed a preliminary proxy statement on April 10, 2023, a definitive proxy statement on May 3, 2023, and held the stockholder vote on June 6, 2023. Litigation challenging the reincorporation was filed on April 21, 2023, the Court of Chancery denied a motion to dismiss on February 20, 2024, an interlocutory appeal was certified in March 2024, and the Delaware Supreme Court issued its opinion on February 4, 2025.[86] As of the end of March 2025, Tripadvisor had still not effectuated the reincorporation. Obviously, there have been dozens of events that may have affected Tripadvisor's stock price in the nearly two years since the reincorporation proposal was announced. The possibility of a valid event study is unlikely, if not impossible.

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[84] The Trade Desk, Inc., Proxy Statement (Schedule 14A) (Oct. 3, 2024), at 42–43.

[85] DBX220_000003 at '015.

[86] Professor Solomon does not identify his [redacted] *Id.* at '025.

71. Trade Desk held the votes on reincorporation and consummated the reincorporation on November 14, 2024. Its stock closed at $127.25 on November 13, and at $125.88 on November 14, before falling to $118.15 on November 15, 2024, a decline of $7.73 per share or about 6.1%. That would appear to be a "statistically significant negative price movement" and indicate Trade Desk stockholders assigned a negative value to the reincorporation and "viewed the move as value-diminishing."[87] An event study might well show the effectuation of the reincorporation may have caused the stock to decline.

72. The legal analysis in the Solomon Governance Report is also questionable. Its repeated assertions that [redacted][88] conflicts with the narrative that Delaware law is so bad and unclear that Dropbox must reincorporate. It is also inconsistent with Nevada statutory and case law.

73. Professor Solomon's legal analysis incorrectly states that the fiduciary duty standard [redacted] Nevada has a different liability standard for

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[87] *Id*. at '015, '026.

[88] *Id*. at '016, '017, '018, '019.

breach of fiduciary duty that requires (a) rebuttal of the business judgment presumption, and (b) proof of (i) a breach of fiduciary duty and (ii) intentional misconduct, fraud or a knowing violation of law. Solomon erroneously [redacted]

[redacted]

Solomon misdescribes [redacted]

[redacted][89]

The Professor acknowledges [redacted][90]

74. The Solomon Governance Report claims that Nevada has had [redacted][91] However, like others, he only cites the same Nevada case where a derivative claim survived a motion to dismiss

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[89] *Id*. at '018.

[90] *Id*. at '020.

[91] *Id*. at '022.

and settled for $41 million.[92] That case was based on allegations in litigation filed in February 2018 that a board knew for years of serious and repeated sexual abuse of employees by the Chairman and CEO. The case settled in 2019. The settlement of one case involving incredibly egregious conduct six years ago hardly establishes [redacted][93]

75. The Solomon Memorandum focuses exclusively on Nevada and contains many of the same flaws as his presentation. The Solomon Memorandum acknowledges [redacted]

> [redacted][94]

76. This statement is misleading and inaccurate. Delaware's exculpation statute, 8 *Del. C.* § 102(b)(7), also does not permit exculpation for any breach of duty of loyalty, acts or omissions not in good faith, any transaction involving an improper personal benefit of officers in actions by or in the right of the corporation. Moreover, Nevada's statutory exculpation is automatic; Delaware requires a

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[92] *Id.* (citing Wynn Resorts, Ltd. litigation).

[93] Professor Davidoff repeats many of the points in the Solomon Governance Report in a November 11, 2024 Memorandum to the Evaluation Committee. DBX220_000038–42.

[94] DBX220_000041.

certificate provision. Furthermore, Dropbox's Section 102(b)(7) certificate provision did not include officers.

77. Further illustrating Solomon's bias against Delaware, the Solomon Memorandum asserts that [redacted] Solomon obviously intended such blatant and erroneous exaggeration to help convince the Dropbox directors to support reincorporation to Nevada.

K. The November 21, 2024 Evaluation Committee Meeting

78. The Evaluation Committee's meeting on November 21, 2024 was attended by a gang of lawyers, [redacted][95] The Evaluation Committee received a presentation from Fraidin of Cadwalader. The Information Statement only said that Fraidin "provided a brief explanation of recent developments in Delaware case law and explained various legal concepts relevant to the evaluation committee's deliberations."[96] The November 21, 2024 Evaluation Committee minutes (the "November 21 Minutes")

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[95] DBX220_000046.

[96] Information Statement at 4.

say [redacted][97] The Information Statement said Professor Solomon presented on "the value attributable to a company's situs of incorporation, perspectives on potential states to which the Company could reincorporate and legal and policy distinctions between Delaware and Nevada."[98] It did not disclose anything he said about that "value," those "perspectives" or those "distinctions." The November 21 Minutes indicate that the Professor reviewed the issues discussed in the Solomon Governance Report and memorandum.[99] The Information Statement makes no mention that Professor Solomon provided the Evaluation Committee with the Solomon Governance Report. The BHFS lawyer discussed Nevada law.[100]

L. The November 25, 2024 Evaluation Committee Meeting

79. On November 25, 2024, the Evaluation Committee discussed a Cadwalader presentation on [redacted][101] The Information Statement contains no description of the [redacted]" Because the Company was then incorporated

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[97] DBX220_000046 at '046.

[98] Information Statement at 4.

[99] DBX220_000046 at '046.

[100] *Id*.

[101] Information Statement at 4. The Information Statement did not provide any reason for the inclusion of Maryland in the analysis. Dropbox is not a REIT.

in Delaware, there were no [redacted] The Information Statement also contains no description of Fraidin's [redacted]

80. The November 25, 2024 Evaluation Committee minutes (the "November 25 Minutes") say that Fraidin told the Evaluation Committee that [redacted][102]

81. Dropbox withheld both Wilson Sonsini's November 4, 2024 presentation to the Evaluation Committee and Cadwalader's November 25, 2024 presentation to the Evaluation Committee as attorney-client privileged. Dropbox also withheld as privileged Wilson Sonsini's October 23, 2024 presentation to the Board. Thus, Defendants are claiming that Wilson Sonsini was counsel to both the Company and the Evaluation Committee. Cadwalader was not at the November 4 meeting, so it was likely provided with Wilson Sonsini's November 4, 2024 presentation. Fraidin also said the Cadwalader presentation [redacted]

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[102] DBX220_000048 at '048.

[redacted][103] which Dropbox has produced. Defendants' inconsistency indicates attorney-client privilege has been waived.

82. Fraidin also [redacted][104] This suggested that the Dropbox Reincorporation could avoid entire fairness review even if Houston approved the Reincorporation by written consent. The focus was not on whether the Reincorporation was in the best interests of the stockholders, but whether the Reincorporation could be insulated from judicial scrutiny without approval by disinterested stockholders.

83. In discussing [redacted] It is a fair inference and reasonably conceivable that Fraidin's review and the subsequent questions and discussion by the Board

[103] *Id*.

[104] *Id*.

included the directors' concern over potential liability for their decisions concerning the Transformation and the Reincorporation.[105]

84. Fraidin also discussed [redacted][106] The Evaluation Committee discussed [redacted] but the upshot of that discussion has been redacted based on purported attorney-client privilege.[107] Basically, Defendants have chosen to reveal some advice from counsel for strategic reasons while withholding other advice.

85. The Evaluation Committee determined to [redacted] and gave Cadwalader instructions that Dropbox has withheld as privileged.[108]

M. The December 10, 2024 Board Meeting

86. On December 10, 2024, the Board discussed various topics concerning the Transformation, but relevant portions of the minutes of the meeting are redacted.[109] All that the Information Statement and December 10, 2024 Board

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[105] *Id*.

[106] *Id*. at '048–49.

[107] *Id*. at '049.

[108] *Id*.

[109] DBX220_000069 at '069–74.

minutes say is that the Evaluation Committee provided an update, which presumably included that the Committee had already decided to recommend the Reincorporation.[110] Given the December 11, 2024 announcement of the $2 billion Term Loan (defined below) and $1.2 billion Stock Repurchase Plan (defined below), it is a fair inference and reasonably conceivable that the Board considered and approved these matters at its December 10, 2024 meeting.

N. Further Steps in the Transformation: The $2 Billion Loan and New $1.2 Billion Stock Repurchase Program

87. On December 11, 2024, Dropbox announced a $2 billion secured loan (the "Term Loan") to be used for working capital and general corporate purposes, including share repurchases. Dropbox immediately drew down $1 billion of the Term Loan. Dropbox also announced a new $1.2 billion stock repurchase program (the "Stock Repurchase Plan"). Houston touted these transactions as raising capital, on the one hand, but facilitating Dropbox's "ongoing commitment to return capital to shareholders," on the other hand. In other words, Dropbox was borrowing money at interest to buy back stock. Houston said these steps would "further invest in our strategy to accelerate growth." However, at the time the Stock Repurchase Plan was approved, Defendants knew Dropbox's fourth quarter and year-end 2024 results

[110] *Id*. at '073; Information Statement at 4.

would be disappointing and would drive down the stock price. The Term Loan would finance the Stock Repurchase Plan to take advantage of the depressed stock price resulting from the factors precipitating the Transformation. Dropbox's 2024 10-K conceded that the Term Loan, along with the Company's existing indebtedness, could place significant restrictions on its business and have important consequences to the stockholders.[111]

88. Following announcement of the Term Loan and Stock Repurchase Plan, Dropbox's closing stock price increased from $28.55 on December 10, 2024 to $30.04 on December 11, 2024. Houston sold 137,499 Class A shares on December 11, 2024.

89. In an attempt to disguise the impact of the Term Loan on its financial performance, Dropbox shifted the metrics of its discussion of financial results to emphasize unlevered free cash flow and EBITDA, thereby side-stepping the $90 million of interest it expects to incur on the Term Loan in 2025. The interest associated with Term Loan funds used to repurchase shares in 2025 effectively increases the Company's cost to buy back stock.

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[111] 2024 10-K at 28.

O. The December 16, 2024 Evaluation Committee Meeting

90. At a December 16, 2024 meeting [redacted] the Evaluation Committee announced its determination that "reincorporation was in the best interests of all stockholders."[112] The minutes of the December 16, 2024 Evaluation Committee meeting (the "December 16 Minutes") indicate that the Evaluation Committee discussed [redacted][113] Those materials indicated that [redacted][114]

91. The December 16 Minutes state that the Evaluation Committee discussed [redacted][115] [redacted]

[112] Information Statement at 4; DBX220_000050 at '050.

[113] DBX220_000050 at '050–51 (referring to DBX220_000052). Dropbox has withheld the December 16, 2024 Cadwalader presentation as privileged.

[114] DBX220_000052 at '053.

[115] DBX220_000050 at '050.

[redacted][118] Thus, as of December 16, 2024, it had already been determined that Houston would approve the Reincorporation by written consent and the Company was [redacted][119]

P. The January 7, 2025 Evaluation Committee Meeting

92. The Evaluation Committee met again on January 7, 2025, according to the Information Statement, to address unspecified "additional questions" and

[116] *Id*. at '050–51.

[117] *Id*. at '051.

[118] *Id*.

[119] *Id*.

"certain logistical matters."[120] The minutes of the twenty-minute meeting state that the Evaluation Committee discussed [redacted] and [redacted][121] Several factors indicate that the [redacted] that were discussed at the Evaluation Committee's January 7, 2025 meeting were not provided to the Committee. The meeting minutes do not say the documents had been provided to the Evaluation Committee. The minutes state that [redacted] thereby indicating the Committee would not be reviewing such documents. The Information Statement's description of the January 7, 2025 minutes does not mention the Evaluation Committee reviewing such draft disclosure and corporate documents; it does not mention such documents at all. Though Plaintiff's Demand requested materials provided to the Evaluation Committee, no draft disclosure or draft corporate documents related to the Reincorporation were produced to Plaintiff and no such documents appear on Dropbox's March 31, 2025 privilege log.

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[120] Information Statement at 5.

[121] DBX220_000061 at '061.

93. The January 7, 2025 Evaluation Committee minutes indicate that [redacted] Plainly, the Reincorporation had been a done deal since September 25, 2024.

94. The Information Statement represents that "the evaluation committee concluded that the Company and its stockholders would likely be better served . . . by Nevada's business-oriented legal environment."[122] It further states:

> After considering various alternatives, the evaluation committee concluded that Nevada's statute-focused approach would likely foster more predictability than Delaware's less predictable common law approach, and that that predictability could be a competitive advantage for the Company in a time of rapid business transformation.[123]

Q. Dropbox Opposes the Half Moon Proposal

95. On January 10, 2025, Wilson Sonsini, on behalf of Dropbox wrote to the SEC requesting that the SEC concur with the Company's view that the Company could exclude Half Moon's Proposal from Dropbox's proxy materials for its 2025

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[122] Information Statement at 5.

[123] *Id.*

annual meeting.[124] The letter claimed the proposal would violate the rights of Class B stockholders, but Houston owned nearly 99% of the Class B stock. Thus, the purpose was to protect Houston. The letter failed to address the central focus of Half Moon's proposal—the harm to the Class A shares stemming from Houston's voting control of Dropbox. Further, the letter erroneously stated that Half Moon's Proposal for gradual conversion of the Class B stock into Class A stock over three years would require "an amendment to the Charter that is consented to by each older of Class B Common Stock."[125] However, under Article V Section 12 of Dropbox's Restated Certificate of Incorporation, amendment of the conversion provisions of the Class B stock would only require the "affirmative vote of the holders of a majority of the outstanding shares of Class B Common Stock, voting as a separate class." Houston had the voting power to cause the conversion of the Class B stock, but he was and remains unwilling to relinquish control of Dropbox.

R. The January 17, 2025 Board Meeting

96. The Information Statement said the Evaluation Committee "delivered its preliminary recommendations" at the January 17, 2025 Board meeting. [redacted]

[124] January 10, 2025 letter of Wilson Sonsini to SEC.

[125] *Id.* at 5.

[redacted][126] [redacted][127]

97. The January 17, 2025 minutes state that:

[redacted]

98. [redacted]

[126] DBX220_000075–97.

[127] DBX220_000132 at ‘137–138.

[redacted][128] [redacted][129] The Board then unanimously adopted the resolutions attached to the minutes (the "Resolutions").

99. According to the Information Statement, the Board "unanimously approved, and recommended that stockholders approve, the Nevada reincorporation."[130]

100. At the end of the meeting, the Board added Warren Jenson ("Jensen") as its tenth director. The press release announcing Jensen's appointment said he had helped companies "through periods of major transition."

S. The Resolutions

101. The recitals to the Resolution confirmed that the Evaluation Committee had only been formed "to function as a working group to study and evaluate the relevant information and considerations with respect to a potential reincorporation.[131] The recitals stated that the Evaluation Committee recommended only that the Board approve a reincorporation from Delaware to Nevada. (Emphasis

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[128] DBX220_000075.

[129] *Id.* at '076.

[130] Information Statement at 2. [redacted]

[131] DBX_220_000145-153 at '145.

added). The Resolutions state that the Board approved the Plan of Conversion, the Nevada Charter and the Nevada Bylaws.[132]

102. The minutes do not reflect the Board receiving, reviewing, or discussing any draft information statement or other disclosure document. The exhibits to the Resolutions do not include any draft information statement or other disclosure document. The Pre-14C and Information Statement contain no indication that the Board ever reviewed any disclosure document regarding the Reincorporation.

103. The Resolutions of the Board approving the Reincorporation directed that the Reincorporation "be submitted for approval and adoption … by the stockholders."

104. The Resolutions also included the following:

* * *

> **RESOLVED FURTHER,** that, notwithstanding approval by the stockholders of the Company of the Nevada Reincorporation (including the Plan of Conversion and the Nevada Governing Documents) and the adoption of these resolutions, the Board or any duly authorized committee therefore may, at any time prior to the Effective Time, abandon the Nevada Reincorporation and the Plan of Conversion without further action by the stockholders of the Company.

[132] *Id.* at '146.

Thus, the Board explicitly retained the ability to call off the Reincorporation, even after stockholder approval.[133]

105. The Resolutions also provided:

> *Record Date*
>
> **RESOLVED,** that the close of business on January 28, 2025, be, and it hereby is, fixed as the record date for determining the stockholders of record of the Company entitled to consent to the Nevada Reincorporation without a meeting.

Though the Board approved the Reincorporation on January 17, 2025, it set a January 28, 2025 record date for stockholder consent to the Reincorporation, the latest date permitted by 8 *Del. C.* § 213(b).

106. The Resolutions authorized "the officers of the Company" (defined as "Authorized Officers") to take various actions. The Resolutions identified Houston, Volkmer, Timothy Regan (CFO) and Eric Cox (Chief Customer Officer) as officers of the Company. The Resolutions establish that the Board abdicated its duty of disclosure and instead instructed the Authorized Officers to prepare, file and distribute an information statement and notice of written consent:

> *Information Statement Materials*
>
> **RESOLVED,** that the Authorized Officers be, and each of them hereby is, authorized and directed on behalf

[133] *See also* Dropbox, Inc., Current Report (Form 8-K) (Mar. 5, 2025) at Ex. 2.1 ⁋ 12 (Plan of Conversion).

of the Company and in its name to take any and all actions deemed necessary and appropriate to prepare an information statement and a notice of stockholder action by written consent as required by Section 228(e) of the DGCL and any and all related documents which such officers shall determine necessary or desirable in connection with the Nevada Reincorporation (collectively, the "**Information Statement Materials**").

RESOLVED FURTHER, that the Authorized Officers be, and each of them hereby is, authorized and directed on behalf of the Company and in its name to file such Information Statement Materials, as applicable, with the Securities and Exchange Commission (the "**SEC**"), together with any and all amendments and supplements thereto which such Authorized Officers shall determine to be necessary or appropriate, with the approval and authorization thereof to be conclusively evidenced by the execution or filing of such amendments or supplements.

RESOLVED FURTHER, that the Authorized Officers be, and each of them hereby is, authorized, empowered and directed, in the name and on behalf of the Company, to mail or cause to be mailed or otherwise furnished or made available to the stockholders all documents as shall be necessary or advisable in connection with the Nevada Reincorporation, including, without limitation, the Information Statement Materials.

The Authorized Officers were also told to file any necessary or appropriate amendments or supplements to the information statement.

107. The Resolutions also continued:

<u>Combinations with Interested Stockholders</u>

WHEREAS, NRS 78.411 to 78.444, inclusive (collectively, the "**Nevada Combinations Statutes**"), set forth various requirements related to a Nevada corporation's "combination," as defined in NRS 78.416, with an "interested stockholders," as defined in NRS 78.423;

WHEREAS, NRS 78.437 provides that the Nevada Combinations Statutes do not apply to any combination with an interested stockholder who, among other things, first became an interested stockholder on the date that the resident domestic corporation, as defined in NRS 78.427, first became a resident domestic corporation solely as a result of the corporation becoming a resident domestic corporation;

WHEREAS, the Board has determined that Andrew Houston and the entities listed on Exhibit E hereto would constitute an interested stockholder pursuant to the Nevada Combinations Statutes solely as a result of the Nevada Reincorporation, and the Nevada Combinations Statutes would not apply to Mr. Houston pursuant to NRS 78.437; and

WHEREAS, the Nevada Combinations Statutes prohibit, for up to four years, combinations unless the combination complies with the requirements of the articles of incorporation of the resident domestic corporation and the transaction by which the person first became an interested stockholder is approved by the board of directors of the resident domestic corporations before the person first became an interested stockholder.

NOW, THEREFORE, BE IT RESOLVED, that to Board's approval of the Nevada Reincorporation includes the approval, hereby confirmed, of the transaction by which Mr. Houston shall have first became an interested stockholder for all purposes under the Nevada Combinations Statutes, including, without limitations, NRS 78.438(1)(a).

> **RESOLVED FURTHER,** that, to the fullest extent permitted by the Nevada Combinations Statutes (including, without limitation, NRS 78.437(2) and 78.438(1)(a)), the Nevada Combinations Statutes shall not apply to Mr. Houston, nor shall it restrict any combination in any way involving or relating to Mr. Houston.

108. The Board's exemption of Houston from the Nevada Combinations Statutes so that those statutes "shall not apply to Mr. Houston, nor … restrict any combination in any way involving or relating to Mr. Houston" add to the factors indicating it is reasonably conceivable that the Reincorporation was part of a plan by Houston to facilitate a going private, rollover transaction or other combination involving Houston.

109. The Resolutions further provided for all Equity Plans and Awards and all "benefits and compensation arrangements, policies, programs and agreements" of Dropbox, including those listed in Exhibit D, would be assumed by the Nevada corporation (the "Benefit Plans"). Houston is a beneficiary of various Equity Plans, compensation plans and other benefits listed in Exhibit D. The listed agreements include the following agreements with Houston: Restricted Stock Agreement between Dropbox, Inc. and Andrew W. Houston, the Revised Form of Change of Control and Severance Agreement, and Employment Letter Between Dropbox, Inc. and Andrew W. Houston. The list also includes the Dropbox, Inc. Outside Director Compensation Policy and related form agreements. Houston and other directors

pushed through the Reincorporation diminishing the stockholders' rights, but made sure their benefits and agreements were fully preserved.

T. Defendants' Bad Faith Manipulation of the Timing of the Reincorporation

(i) *The Board Was Waiting for the TripAdvisor Opinion*

110. The November 25 Minutes and December 16 Minutes of the Evaluation Committee and the January 17, 2025 Board minutes indicate [redacted]

111. Though draft disclosure and corporate documents had existed since at least January 7, 2025, Dropbox did not proceed with the Reincorporation promptly after the January 17, 2025 Board meeting. At that meeting, the Board set the record date for determining the stockholders entitled to consent to the Reincorporation for January 28, 2025, the latest date permitted under 8 *Del. C.* § 213(b). Because Houston was to unilaterally consent through the Reincorporation, the record date could have been set for any time in the ten days after the January 17 meeting. It is a fair inference and reasonably conceivable that the delayed record date was intended to allow more time for the Delaware Supreme Court's *TripAdvisor* opinion to come

out before Houston signed his consent, which would trigger an obligation to disclose the Reincorporation.

112. On January 28, 2025, Houston approved the Reincorporation by stockholder consent. The use of the written consent procedure deprived Dropbox's public stockholders of the ability to vote on the Reincorporation and limited their opportunity to challenge the Reincorporation before it was consummated.

113. Houston signing the written consent did not require Dropbox to proceed with the Reincorporation immediately. On January 31, 2025, however, Dropbox filed a preliminary information statement. The Information Statement does not explain the reason for the two-week delay in filing a preliminary information statement when the Evaluation Committee was told on January 7, 2025 that the Company's counsel had already drafted the Information Statement and corporate documents. Given the repeated references in the Evaluation Committee and Board minutes to [redacted] it is a fair inference and reasonably conceivable that Dropbox had been waiting for the *TripAdvisor* opinion.

(ii) *Defendants Rush the Reincorporation*

114. Despite Defendants having given every indication they would wait for the *TripAdvisor* opinion before proceeding with the Reincorporation, Defendants

suddenly decided to proceed with the Reincorporation before the *TripAdvisor* opinion was issued. The Delaware Supreme Court's opinion in *TripAdvisor* was issued on February 4, 2025, four days after the Pre-14C was filed with the SEC, but six days before the Information Statement was mailed to the stockholders on February 10, 2025. The Information Statement did not mention the *TripAdvisor* case or opinion. It is a fair inference and reasonably conceivable that Defendants rushed to issue the Information Statement and implement the Reincorporation because they were aware that planned amendments to the DGCL and Nevada corporation law would undermine their purported rationales for the Reincorporation.

115. On February 10, 2025, Dropbox began mailing the definitive Information Statement to stockholders to give notice of stockholder action by written consent. The Information Statement indicated Defendants planned to effectuate the Reincorporation as early as twenty calendar days from the commencement of mailing.

U. The Nevada Amendments

(i) *BHFS Knew About Impending Amendments to Nevada's Corporation Law*

116. BHFS has been at the forefront of drafting and promoting legislation amending Nevada's corporation statute.[134] Indeed, Ellen Schulhofer and Albert Kovacs, the two BHFS lawyers advising Dropbox on the Reincorporation, are both members of, and, respectively, the former vice chair and current vice chair of the Executive Committee of the Business Law Section of the State Bar of Nevada (the "Executive Committee"), which drafts Nevada's corporate law amendments.[135] Schulhofer and Kovacs also draft alerts for BHFS clients concerning amendments to Nevada's corporation law.[136] Therefore, it is reasonably conceivable and likely that when the Evaluation Committee and Board of Dropbox were considering reincorporation to Nevada, Schulhofer, Kovacs, and BHFS were aware that further amendments to Nevada's corporation law would soon be proposed by the Executive Committee.

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[134] April 22, 2019 Memorandum of BHFS to Legislative Counsel Bureau.

[135] https://www.bhfs.com/people/ellen-schulhofer; https://www.bhfs.com/people/albert-kovacs.

[136] *Id.*; *Nevada Corporation and LLC Law Amendments Include Innovations for Public Companies*, BROWNSTEIN CLIENT ALERT (July 25, 2023).

117. Because BHFS's role as "the Company's Nevada counsel" and its advice concerning Nevada corporate law are discussed in Dropbox's January 31, 2025 Pre 14C[137] and the February 10, 2025 Information Statement[138] mailed to the stockholders, it is reasonably conceivable and highly likely that BHFS, and particularly Schulhofer and Kovacs, helped to draft, and then reviewed and commented on, the disclosures concerning Nevada law in those disclosure documents. At the time BHFS helped draft and reviewed those disclosure documents, it is highly likely and certainly reasonably conceivable that BHFS was aware that 2025 amendments to Nevada's corporation law were about to be introduced into the Nevada legislature.

118. The proposed 2025 amendments to the Nevada corporation law in Assembly Bill 239 ("AB 239") (the "Nevada Amendments") were submitted to the Nevada legislature on February 17, 2025.[139] The Nevada Amendments were proposed by the Executive Committee.[140] The February 27, 2025 Executive Committee Memorandum stated that, except for Sections 27-29 which were added

[137] Pre 14C at 4.

[138] Information Statement at 4-6, 10-21.

[139] AB 239.

[140] February 27, 2025 Memorandum from the Executive Committee of the State Bar of Nevada, Business Law Section to the Assembly Judiciary Committee re 2025 Assembly Bill 239 ("February Executive Committee Memorandum").

on February 27, 2025, the other 26 Nevada Amendments had been "approved by the Board of Governors of the State Bar of Nevada, where such approval authorizes the Executive Committee to advocate in favor of AB 239."[141] Sections 27-29 "were recommended by the members of the Executive Committee after the conclusion of the approval timeframe by the Board of Governors."[142] The process of the development of proposed AB 239, the approval by the Executive Committee and approval by the Board of Governors must have taken considerable time so that at least most of the contents of the proposed Nevada Amendments were known to the members of the Executive Committee, including its vice chair Kovacs and former vice chair Schulhofer of BHFS, when the Evaluation Committee and Board of Dropbox were considering reincorporation and "the Corporation's counsel" was drafting and filing the Pre 14C and Information Statement.

119. BHFS later bragged about its instrumental role in AB 239:

> Brownstein's Nevada corporate and Nevada government relations teams were instrumental in the crafting and passage of AB 239. Albert Z. Kovacs and Ellen Schulhofer, both shareholders in Brownstein's Nevada corporate group, are members (and vice chair and former vice chair, respectively) of the Executive Committee of the Business Law Section of the State Bar of Nevada, which was the primary proponent of the bill. Mackenzie Warren Kay, senior policy advisor and counsel in Brownstein's

[141] *Id.*

[142] *Id.*

> Nevada government relations group, together with policy advisor and associate Harrison J. Bohn, shepherded AB 239 through a dynamic and busy legislative session on behalf of the Business Law Section.[143]

120. It is highly likely and certainly reasonably conceivable that BHFS, including Schulhofer and Kovacs, were aware of the pendency of the Nevada Amendments during the twenty-day period from February 10, 2025, when Dropbox's Information Statement was first mailed to the Dropbox stockholders, and March 2, 2025. Dropbox could not close the Reincorporation during that twenty-day period. It is also reasonably conceivable that BHFS made Houston and other members of Dropbox management and the Dropbox directors aware of the Nevada Amendments.

(ii) *The February 17, 2025 Proposed Nevada Amendments*

121. The twenty-nine Nevada Amendments to dozens of sections of Nevada's corporations and business entity statutes introduced on February 17 and February 27, 2025 included:

> (a) An amendment based on the 2024 amendment of Section 232 of the DGCL that materials provided along with any notice are deemed part of the notice.
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> (b) An amendment based on the 2024 amendment adding Section 147 to the DGCL by stating the board of directors may approve agreements in preliminary form.

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[143] *Nevada Enacts Corporate Legislation and Advances Dedicated Business Court*, BROWNSTEIN CLIENT ALERT (June 4, 2025).

> (c) An amendment based on Section 251(g) of the DGCL governing holding company reorganizations.
>
> (d) An amendment making appraisal a stockholder's exclusive remedy and precluding any other challenge except that the required vote was not obtained or actual fraud.
>
> (e) An amendment clarifying that the required vote for a reverse stock split is reduced from a majority of the outstanding voting power to a majority of the stockholders voting.

These extensive proposed amendments to Nevada's corporation law ran counter to the narrative that Nevada's statute-based approach is stable and predictable. The fact that a number of the Nevada Amendments copied recent amendments to the DGCL blunts suggestions that Nevada law is superior to Delaware law.

V. The Delaware Amendments

(i) *Wilson Sonsini Knew About Proposed Amendments to the DGCL*

122. On information and belief, during early 2025, Wilson Sonsini and others were considering amendments to the DGCL as a statutory response to address purported concerns about companies reincorporating out of Delaware. On Saturday, February 1, 2025, the Governor of Delaware sent an email inviting various staff members, the lieutenant governor, the secretary of state, numerous legislators who would become sponsors of SB 21, lawyers from Delaware corporate law defense firms and various others to a Microsoft Teams Meeting. On February 2, 2025, the

Governor convened a meeting that included Delaware lawyers from corporate defense firms, including William Chandler of Wilson Sonsini, to discuss a statutory response to the so-called "DExit." Former Chancellor Chandler acknowledged that he was one of the "individuals who responded to the call from Delaware's governor and legislative leadership for assistance drafting the proposed amendments."[144] On information and belief, Amy Simmerman and Brad Sorrels, Chandler's partners at Wilson Sonsini, who represented Dropbox, were also involved. In a February 3, 2025 interview, the Governor said he was considering changes to Delaware's corporation law to make sure it is predictable and clear, an obvious reference to the plan for the Delaware Amendments proposed two weeks later in SB 21.

123. The drafting of SB 21 apparently began no later than February 2, 2025. Drafting of the proposed statute was well underway by February 10, 2025, when Dropbox filed and mailed the Information Statement. SB 21 was introduced into the Delaware legislature on February 17, 2025, the same day the 2025 Nevada Amendments were submitted to the Nevada legislature.[145]

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[144] William Chandler III and Lawrence Hamermesh, *VIEWPOINT: Delaware's corporate law, proposed amendments play fair*, DELAWARE BUSINESS TIMES (Mar. 15, 2025).

[145] After revisions by the Corporation Law Council of the Corporation Law Section of the Delaware State Bar Association, SS1 to SB 21 was substituted for the original SB 21.

(ii) *The Delaware Amendments*

124. The Delaware Amendments contained the extensive rewriting of Section 144, described above, which codified substantial portions of Delaware fiduciary duty law and overruled recent Delaware fiduciary duty opinions. They also severely limited the books and records stockholders could obtain pursuant to Section 220 and imposed new obstacles to obtaining even the few remaining documents potentially subject to Section 220 inspection. The obvious purpose of the Delaware Amendments was to reduce stockholder litigation significantly.

W. The Nevada and Delaware Amendments Rendered the Information Statement Misleading and Substantially Undermined the Purported Rationales for Reincorporation

(i) *The Purported Uncertainty Created by Recent Delaware Case Law and Predictability of Nevada's Statute Were the Primary Rationales for the Reincorporation*

125. The minutes of the Dropbox Evaluation Committee and Board meetings and reports reflecting comparisons of Nevada and Delaware corporate law, all primarily portray Delaware case law, particularly recent cases, as uncertain and unpredictable, while characterizing Nevada's codified, statutory-based law as more predictable and certain. The presentation to the Board at its September 25, 2024 meeting represented that there was a [redacted]

[redacted][146] It also said [redacted][147] Solomon's November 11, 2024 Governance Report cited [redacted][148]

126. At its November 25, 2024 meeting, the Evaluation Committee discussed [redacted][149] The December 16 Minutes recite that the Evaluation Committee believed that [redacted][150]

127. Cadwalader's January 2025 Memorandum [redacted] stated that [redacted]

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[146] DBX220_000103.

[147] DBX220_000106.

[148] DBX220_000021.

[149] DBX220_000049.

[150] DBX220_000050–51.

[redacted][151] The January 17, 2025 Board minutes state the [redacted][152]

(ii) *Wilson Sonsini and BHFS Were Involved in Drafting the Information Statement*

128. The January 7, 2025 Evaluation Committee minutes indicate that disclosure documents relating to reincorporation were being prepared by [redacted]" The Information Statement describes Wilson Sonsini as "counsel to the Company."[153] It describes BHFS as "the Company's Nevada counsel, with regard to matters of Nevada law."[154] Because the Pre-14C and Information Statement contain descriptions of Delaware and Nevada law, it is reasonably conceivable, and probable, that Wilson Sonsini and BHFS were involved in drafting and reviewing those disclosure documents. Dropbox's Delaware (Wilson Sonsini) and Nevada (BHFS) counsel were aware at the time the Information Statement was issued that significant amendments were about to be proposed to both the Delaware and Nevada corporation laws, which would undermine the Board's

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[151] DBX220_000139. *See also* DBX220_000138.

[152] DBX220_000076.

[153] Information Statement at 3.

[154] *Id.* at 4.

rationale for the Reincorporation. It is reasonably conceivable that, consistent with their professional obligations, BHFS advised the Dropbox directors of the subject matter of the impending Nevada Amendments. Presumably Wilson Sonsini, consistent with its professional obligations, informed the Dropbox directors of the proposed landmark DGCL amendments, including Wilson Sonsini's view that the amendments would bring statutory certainty and predictability and reverse recent Delaware case law which the directors had discussed and the Information Statement referenced.

(iii) *The Information Statement Was Knowingly False*

129. The Information Statement repeatedly cited "recent developments in Delaware case law" and "the legal environment in Delaware" as important factors in the Evaluation Committee's decision to recommend reincorporation out of Delaware.[155] It stated that the Committee favored "Nevada's statute-focused approach" because it "would likely foster more predictability than Delaware's less predictable common law approach."[156] The Information Statement said that among

[155] *Id.*

[156] *Id.* at 5. The Information Statement also referred to "common law doctrines under Delaware law that have not been adopted in" Nevada. *Id.* at 6.

the reasons for the Reincorporation was "it would be competitively advantageous for the Company to have a predictable, statute-focused legal environment."[157]

130. The Information Statement also said:

> The evaluation committee and our board of directors considered Nevada's statute-focused approach to corporate law and other merits of Nevada law and determined that Nevada's approach to corporate law is likely to foster more predictability than Delaware's approach. Among other things, the Nevada statutes codify the fiduciary duties of directors and officers, which decreases reliance on judicial interpretation and promotes stability and certainty for corporate decision-making.[158]

* * *

It later represented that "unlike … Delaware, fiduciary duties of directors and officers are codified" in Nevada.[159] The Information Statement also contained the following disclosure:

> *Director Compensation*
>
> The DGCL does not have a specific statute on the fairness of director compensation. In contrast, the NRS provides that, unless otherwise provided in the articles of incorporation or bylaws, the board of directors, without regard to personal interest, may establish the compensation of directors for services in any capacity. If the board of directors so establishes the compensation of directors, such compensation is be presumed to be fair to

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[157] *Id.* at 5.

[158] *Id.*

[159] *Id.* at 11.

> the corporation unless proven unfair by a preponderance of the evidence.[160]

The Information Statement did not discuss fiduciary duties of controlling stockholders under Delaware and Nevada law. The Nevada Amendments and Delaware Amendments rendered the above statements in the Information Statement deliberately misleading and completely undermined the rationale for the Reincorporation.

131. The Delaware Amendments' rewriting of Section 144 of the DGCL overruled recent Delaware case law that was cited in the Information Statement as a reason for the Reincorporation. New Section 144 codified substantial areas of Delaware fiduciary law, abandoning Delaware's supposedly "less predictable common law approach" for a "statute-focused approach." This eroded the rationale and disclosure that Nevada law was "likely to foster more predictability than Delaware's approach." Section 144's codification of "the fiduciary duties of directors and officers" would "decrease[] reliance on judicial interpretation and promote [] stability and certainty for corporate decision-making," just like the Information Statement represented Nevada's statutes did.

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[160] *Id.* at 14.

132. The Delaware Amendments also included major revisions to Section 220 which would limit stockholders' ability to obtain books and records to a few categories, many of which would be already publicly available. The changes also imposed additional requirements for stockholder inspection of the few permitted records. Along with the amendments to Section 144, the inability to obtain most books and records and increased obstacles to obtaining even the few remaining categories of documents undermined the rationale and representations in the Information Statement concerning the supposed "legal environment in Delaware," "legal climate in Delaware" and "increasingly litigious environment in Delaware."[161] Obviously, the Section 220 amendments rendered the Information Statement's description of inspection rights under Delaware law[162] inaccurate and misleading.

133. The twenty-six initial Nevada Amendments undermined the Information Statement's representation that "Nevada's statute-focused approach to corporate law" is more predictable. Nevada also enacted significant amendments to its corporation law in 2023.[163] The fact that Nevada's law is "codified" does not

[161] Information Statement at 4-5.

[162] *Id.* at 5-6, 20.

[163] *Nevada Corporation and LLC Amendments Include Innovations for Public Corporations*, BROWNSTEIN CLIENT ALERT (July 25, 2023).

make it "more" predictable when the "code" is frequently and substantially amended.

(iv) *Wilson Sonsini Admitted That the Delaware Amendments Substantially Eliminated the Rationale for the Reincorporation*

134. One day after SB 21 was introduced, Chandler, Simmerman and Sorrels of Wilson Sonsini posted an analysis of the Delaware Amendments on the Wilson Sonsini website.[164] They said SB 21 would provide "stability, predictability, and balance" by overruling the recent Delaware case law that the Information Statement claimed made Delaware Law unpredictable and uncertain.[165] They stated that the Delaware Amendments would "provide greater clarity" and restore "balance, stability, clarity, and predictability in corporate law."[166]

135. Their article observed that:

[164] William B. Chandler, Amy Simmerman and Brad Sorrels, *Delaware Legislators and Governor Propose Landmark Legislation*, WILSON SONSINI ALERTS (Feb. 18, 2025), https://www.wsgr.com/en/insights/delaware-legislators-and-governor-propose-landmark-legislation.html. This was republished the following day on the Harvard Law School Forum on Corporate Governance. William B. Chandler, Amy Simmerman and Brad Sorrels, *Delaware Legislators and Governor Propose Landmark Legislation*, HARVARD LAW SCHOOL FORUM ON CORPORATE LAW (Feb. 19, 2025), https://corpgov.law.harvard.edu/2025/02/19/delaware-legislators-and-governor-propose-landmark-legislation/.

[165] *Id.*

[166] *Id.*

> The Delaware statute will, for the first time, address issues that have previously been left to the case law.[167]

The post by a Wilson Sonsini drafter of SB 21 and the two Wilson Sonsini partners representing Dropbox showed that the Delaware Amendments substantially weakened the Reincorporation rationales about the uncertainty of recent Delaware case law and the lack of codification of Delaware fiduciary duty law.

(v) *Nevada Imitates SB 21 in the Continuing Race to the Bottom*

136. By February 27, 2025, the Nevada Executive Committee, which included Schulhofer and Kovacs, had rushed to expand the proposed 2025 Nevada Amendments to include a new provision on controlling stockholders that would outdo Delaware's SB 21. The Executive Committee's February 27, 2025 Memorandum explained:

> **Fiduciary Duties of Controlling Stockholders.** The proposed amendments to NRS 78.240 are designed to provide guidance on what a controlling stockholder is under Nevada corporate law and prescribe the fiduciary duties of a controlling stockholder under Nevada corporate law.
>
> This approach taken is to: (1) define a "controlling stockholder" as a stockholder who has the ability to elect a majority of the corporation's directors (confirming that the controlling stockholder is truly in a position to control the direction and management of the corporation, without arbitrary ownership thresholds or ambiguous standards that could undermine predictable and stable application);

[167] *Id.*

(2) state that holders of shares of stock in a Nevada corporation, in their capacity as stockholders do not owe fiduciary duties to either the corporation or its stockholders except under limited circumstances (note that this does not eliminate the fiduciary duties of directors of officers acting in either of those capacities); and (3) provide that the only fiduciary duty owed by a controlling stockholder is to refrain from exerting undue influence over a director or officer with the purpose and proximate effect of inducing a breach of fiduciary duty by said director or officers that (a) results in liability under NRS 78.138 and (b) involves a contract or transaction where the controlling stockholder has a material and nonspeculative financial interest and results in a material, nonspeculative and nonratable financial benefit to the controlling stockholder.

The proposed amendment further provides the presumption that there is no breach of fiduciary duty by a controlling stockholder if the underlying contract or transaction has been approved by either (1) a committee of only disinterested directors or (2) the board of directors in reliance upon the recommendation of a committee of only disinterested directors.

Lastly, the proposed amendment provides that a stockholder is not individually liable to the corporation or its stockholders or creditors unless: (1) the stockholder is a controlling stockholder; (2) above-reference presumption has been rebutted; and (3) the controlling stockholder has been found to have breached its fiduciary duty. This approach is structurally and conceptually comparable to the approach taken with respect to corporate directors and officers under NRS 78.138(7).

The amendments to 78.240 are especially important in light of the Delaware Legislature's recent push to codify in this area, and will help maintain Nevada's competitive advantage as a leader in stable, predictable and common-sense corporate law.

The new Nevada provision provided a further undisclosed benefit to Houston from the Reincorporation. It also underscored how uncertain and unpredictable Nevada's statute-based corporation law could be. The February 27, 2025 additions to the Nevada Amendments also included a provision allowing Nevada corporations to waive jury trials for corporate cases through a certificate provision.

137. The minutes of the Evaluation Committee and the Board, the September 25 Presentation to the Board, the November 1, 2024 presentation to the Evaluation Committee, the November 11, 2024 Governance Report on Potential Reincorporation by Professor Solomon, Cadwalader's January 2025 Evaluation Committee: Process and Recommendation and the January 17, 2025 Special Board Meeting materials do not contain any disclosure or discussion of Houston's interest in the Reincorporation as a controlling stockholder. The only mention of Houston's stock ownership is in the resolution exempting him, as an interested stockholder owning more than 10% of Dropbox's voting power, from Nevada's business combination statute.

138. Except for the inaccurate partial description in Solomon's flawed report, there is no indication that the Evaluation Committee or Board considered that Nevada law would provide greater protection for Houston as controlling stockholder. The Information Statement said nothing about the subject of

controlling stockholder fiduciary duty. The February 27, 2025 additions to the Nevada Amendments and new Delaware Section 144 meant that new law on the subject was coming in both states. But the Information Statement was never supplemented.

139. While the Reincorporation was pending, Wilson Sonsini was an active participant in promoting Delaware SB 21, the codification of Delaware law of fiduciary duty. A purported reason for the Reincorporation was that Nevada fiduciary duty law was codified. Section 12 of the Dropbox Plan of Conversion authorized the Board to abandon or terminate the Reincorporation. However, though Wilson Sonsini was plainly aware of, and helped craft and support SB 21, Dropbox never informed its stockholders of the pending bill and the Dropbox Board let the Reincorporation proceed.

X. The Involvement of Conflicted Advisors and Participants Establish that the Recommendation and Approval Process Was Not in Good Faith and Involved Gross Negligence

140. The Evaluation Committee relied on advisors who were not disinterested and independent. The extensive participation of Company lawyers, who report to Houston, Wilson Sonsini, the Company's counsel, Professor Solomon, and Nevada counsel to the Company in Evaluation Committee meetings completely undermined the committee process.

(i) *Houston*

141. Houston is the primary beneficiary of the Reincorporation. Rather than recusing himself, Houston chaired the three Board meetings concerning the Reincorporation, voted for the Reincorporation as a director, and unilaterally provided stockholder approval. Because Houston is the founder, CEO, and controlling stockholder of Dropbox, it is a fair inference and reasonably conceivable that the Company would not have considered and pursued the Reincorporation without his approval and support. At the September 25, 2024 Board meeting, [redacted] presented [redacted] on reincorporation.[168] When the [redacted] it is a fair inference and reasonably conceivable that management included Houston.[169] It is also a fair inference and reasonably conceivable that management's view came primarily from Houston, the CEO, and that he participated in the [redacted][170]

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[168] DBX220_000062 at '065.

[169] *Id.*

[170] DBX220_000066 at '067.

(ii) *Wilson Sonsini*

142. Wilson Sonsini is counsel to Dropbox. Volkmer, the Company's Chief Legal Officer who was deeply involved in the Reincorporation, is a former Wilson Sonsini lawyer. Wilson Sonsini had been highly critical of recent Delaware corporate case law and had been publicly advocating redomestication options. Wilson Sonsini is counsel to Trade Desk, which recently reincorporated from Delaware to Nevada. [redacted]

143. Wilson Sonsini was orchestrating the Reincorporation from the outset. It is a fair inference and reasonably conceivable that Wilson Sonsini originated the reincorporation idea with Volkmer. Indeed, the Wilson Sonsini Client Advisory provided the roadmap for reincorporation and many of the ideas in the September 25, 2024 Board materials plainly derive from and reflect [redacted]

144. Volkmer acknowledged at the October 23, 2024 Board meeting that management's further work on the Reincorporation included [redacted][171] It is a fair inference and reasonably conceivable that Wilson

[171] *Id.*

Sonsini, who appeared at and gave a presentation on reincorporation at that Board meeting, was an advisor management had consulted.

145. Wilson Sonsini led the discussion of the Reincorporation at the November 4, 2024 initial meeting of the Evaluation Committee (before the committee had counsel).[172] At the November 4, 2024 meeting, Wilson Sonsini provided the Evaluation Committee with a written presentation (withheld as privileged) that provided its legal perspectives on the Reincorporation. Wilson Sonsini selected Professor Solomon as the Evaluation Committee's governance expert. Cadwalader and Professor Solomon later parroted the views Wilson Sonsini gave the Evaluation Committee on November 4, 2024. It was Wilson Sonsini who developed the rationale for the Reincorporation.

146. Wilson Sonsini also attended the November 21, 2024 Evaluation Committee meeting, where its protégé Professor Solomon presented, and the December 16, 2024 Evaluation Committee meeting, where the Committee formally determined to recommend the Reincorporation.[173]

147. The Information Statement also admits:

> In addition to formal meetings, representatives of Wilson Sonsini . . . and representatives of Cadwalader . . . convened on multiple occasions throughout the process to

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[172] DBX220_000001.

[173] DBX220_000046; DBX220_000050.

> discuss certain logistical and procedural matters. These discussions facilitated the efficient coordination of the evaluation committee's work and ensured that all relevant parties were aligned on the process.[174]

148. Wilson Sonsini influenced the Evaluation Committee's work at its nascent stages before the Committee had its own counsel. Wilson Sonsini's continuing participation in the Evaluation Committee's work, including through its participation in committee meetings and multiple contacts with the Committee's counsel, impacted the function of the Committee.

149. Wilson Sonsini's work on redomestication issues did not end when Dropbox announced the Reincorporation on January 31, 2025. Two days later, Wilson Sonsini lawyers were meeting with high-ranking Delaware politicians and vocally supporting what became a rapid rewrite of Delaware law in ways that would benefit controlled companies that Wilson Sonsini represents. Because its involvement in formulating and promoting SB 21, the new Delaware statute significantly codifying and altering Delaware fiduciary duty law, Wilson Sonsini was well aware, during the pendency of the Reincorporation, that a substantial part of the rationale for that Reincorporation was eroded by the proposed new statute.

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[174] Information Statement at 4.

(iii) *Professor Solomon*

150. The Information Statement presents Professor Solomon as a Berkeley Law Professor who the Evaluation Committee retained as a corporate law and governance expert. It does not say when, why, or how he was retained.

151. Professor Solomon was hardly an independent academic. Professor Solomon authored an August 25, 2024 memorandum to Trade Desk's board of directors (the "Solomon Trade Desk Memorandum") that it relied upon in successfully pushing through a reincorporation of that Delaware corporation to Nevada.[175] Professor Solomon has a long and close relationship with Wilson Sonsini, which was counsel to Trade Desk.

152. In addition to Trade Desk, Professor Solomon has served as an expert for Wilson Sonsini in other matters, written articles and blog posts with lawyers from that firm, and frequently appears at programs and conferences sponsored, organized or moderated by the firm. The November 4 Minutes show that Professor Solomon was retained as an advisor to the Evaluation Committee by Wilson Sonsini.[176]

153. The Solomon Trade Desk Memorandum establishes that Wilson Sonsini knew that Professor Solomon would provide support for the Dropbox

[175] The Trade Desk, Inc., Proxy Statement (Schedule 14A), at Appendix E (Oct. 3, 2024).
[176] *See* DBX220_000001 at '001.

Reincorporation. In the Solomon Trade Desk Memorandum, Professor Solomon opined that:

> **A. Academic studies do not support the conclusion that there is additional value in incorporating in Delaware.**[177]

He further opined that:

> **B. My own empirical analysis supports the view that reincorporation from Delaware to another state does not incur a negative premium.**[178]

154. The Solomon Trade Desk Memorandum emphasizes companies reincorporating into Nevada, stating that Nevada had 41% of the forty-one reincorporations listed in Table 2 (*i.e.*, seventeen companies).[179] However, of the forty-one reincorporations on Professor Solomon's Table 2, eighteen companies (44%) reincorporated <u>into</u> Delaware, including three from Nevada.[180] Professor Solomon did not mention that fact because it would not support his narrative that the trend is to reincorporate in Nevada.

155. Professor Solomon also said in the Solomon Trade Desk Memorandum that seven of the top twenty S&P 500 companies are incorporated outside Delaware.

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[177] The Trade Desk, Inc., Proxy Statement (Schedule 14A), at E-2 (Oct. 3, 2024) (bolding in original, italics omitted).

[178] *Id.*

[179] *Id.* at E-5.

[180] *Id.* at E-29.

However, his Table 1 of the largest public companies incorporated in Nevada shows not a single one of those seven is incorporated in Nevada.[181] He trumpeted "the current landscape of publicly traded corporations in Nevada," which he called a "non-trivial number," citing his Table 1 list of thirty Nevada companies with market caps over $500 million.[182] Of course, he did not include a corresponding table for the far more numerous and far larger cap corporations incorporated in Delaware, because Professor Solomon's purpose was to tout Nevada.

156. Professor Solomon's recent articles, including one written with a Wilson Sonsini partner, show he disagrees with recent Delaware law on fiduciary duty.[183] In *Proposal*, Professor Solomon, along with Wilson Sonsini partner David Berger, criticized Delaware's use of the entire fairness standard and the application of the *MFW*[184] exception to that standard to the dual stock structures that cause continued control by holders of high-vote stock. He argued that entire fairness and *MFW* should be limited to freeze-outs and disparages Delaware case law.[185] In

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[181] *Id.* at E-28.

[182] *Id.* at E-12.

[183] Jill E. Fisch and Steven Davidoff Solomon, "*Control and Its Discontents, Institute for Law and Economics*," Research Paper No. 24-32 (Draft Dated September 25, 2024) ("*Control*"); David J. Berger, Jill Fisch & Steven Davidoff Solomon, "*Extending Dual-Class Stock: A Proposal*," 25 Theoretical Inquiries in Law 23 (2024) ("*Proposal*").

[184] *Kahn v. M&F Worldwide Corp.*, 88 A.3d 635 (Del. 2014).

[185] *Proposal*, at 23–26, 29–36.

Control, he again attacked use of the entire fairness standard and Delaware case law concerning controller transactions, arguing controlling stockholders should owe no fiduciary duties to minority stockholders except possibly in freeze-outs.[186] In particular, Professor Solomon disagreed with the Court of Chancery's *TripAdvisor* decision, which refused to dismiss a claim challenging reincorporation of TripAdvisor from Delaware to Nevada.[187] Instead, he opined that:

> *TripAdvisor* involves an unprecedented effort to measure the impact of a company's decision to reincorporate in Nevada on minority stockholders.[188]

Given his view that controllers like Houston should be free to force reincorporation out of Delaware into Nevada, Professor Solomon was no independent academic expert in advising the Dropbox Evaluation Committee.

157. Many of the deficiencies of the Solomon Trade Desk Memorandum are replicated in the Solomon Governance Report, which also has further defects. As a critic of Delaware law and advocate for Nevada reincorporation, Professor Solomon did not provide accurate and unbiased advice to the Evaluation Committee.

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[186] *Control*, at 101–06, 122–30.

[187] *Id.* at 126–27.

[188] *Id.* at 148.

(iv) *BHFS*

158. The Information Statement describes BHFS as "the Company's Nevada counsel, with regard to matters of Nevada law."[189] Dropbox is a Delaware corporation, headquartered in San Francisco, California with operations in California, Austin, Texas, Australia, Germany, Ireland, Singapore, and England, but not Nevada. The Information Statement does not say when, why, or by whom BHFS was hired as Dropbox's "Nevada counsel" or what "Nevada law" it was hired to advise on. BHFS does not appear in any Dropbox filings with the SEC prior to Dropbox's January 31, 2025 preliminary information statement.

159. BHFS just showed up at the first Evaluation Committee meeting, indicating it was engaged by someone before the committee commenced work. BHFS has long been a proponent of Nevada catching up to and surpassing Delaware as a home for corporations by copying Delaware and competing with Delaware by passing statutes favorable to corporate directors and officers.[190] BHFS has been and is also a vocal proponent of Delaware corporations reincorporating in Nevada.[191]

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[189] Information Statement at 4.

[190] Memorandum of BHFS to Legislative Counsel Bureau (Apr. 22, 2019), https://www.leg.state.nv.us/Session/80th2019/Exhibits/Senate/JUD/SJUD968C.pdf.

[191] Albert Kovacs and Molly Marias, "*Home Means Nevada: Corporate Migration to the Silver State*," NEVADA BUSINESS MAGAZINE (Oct. 1, 2025), https://nevadabusiness.com/2025/10/legal-opinions-expert-knowledge-for-nevada-business-leaders/. This article was cross-posted on BHFS's website. Albert Kovacs and

BFHS has served as Nevada counsel for other Delaware corporations reincorporating into Nevada, including the four James Dolan-controlled companies.[192] It has a financial interest in encouraging Delaware corporations to migrate to Nevada. It is a fair inference and reasonably conceivable that BHFS was retained by Volkmer and Wilson Sonsini to support reincorporation from Delaware to Nevada. The November 4 Minutes do not say BHFS was Dropbox's "Nevada counsel" or explain what BHFS was doing at the meeting. At the meeting, BHFS discussed [redacted][193] This demonstrates that BHFS had been studying a reincorporation of Dropbox into Nevada before the meeting and that the fix was in for the Reincorporation into Nevada before the Evaluation Committee ever met.

Molly Marias, "*Home Means Nevada: Corporate Migration to the Silver State*," BROWNSTEIN: INSIGHTS (Oct. 1, 2025), https://www.bhfs.com/insight/home-means-nevada-corporate-migration-to-the-silver-state/.

[192] *E.g.*, Madison Square Garden Sports Corp., Current Report (Form 8-K), Ex. 5.1 (June 11, 2025) ("Opinion of Brownstein Hyatt Farber Schreck, LLP"); Madison Square Garden Entertainment Corp., Current Report (Form 8-K) Ex. 5.1 (June 10, 2025) (same); June 5, 2025 8-K of Sphere Entertainment Co., Current Report (Form 8-K), Ex. 5.1 (June 5, 2025) (same); AMC Networks Inc., Current Report (Form 8-K), Ex. 5.1 (June 6, 2025) (same); Scientific Games Corp. [(now known as Light & Wonder, Inc.], Registration Statement Post-Effective Amendment (Form S-8), Ex. 5.1 (Jan. 10, 2018) (same) BHFS has also served as Nevada counsel in the reincorporations from Delaware to Nevada of Play AGS, Inc. (2017), Xoma Royalty Corp (2025), and BAIYU Holdings, Inc. (2025).

[193] DBX220_000001 at '002.

Y. The Information Statement and Minutes Admit the Reincorporation Is Intended to Insulate Directors and Officers from Litigation and Liability for Steps and Events Related to the Transformation

160. In describing the reasons for the Reincorporation, the Information Statement stated that:

> [T]he Company is in a transformational period. The evaluation committee and our board of directors determined that it is important for the Company to be able to operate with agility during this period of business transformation and that it would be competitively advantageous for the Company to have a predictable, statute-focused legal environment during a time of rapid business change.[194]

161. The Information Statement identified the existing transformational period referenced in Houston's October 23, 2024 letter as the animating factor in the Reincorporation. Thus, the Information Statement stressed that the Reincorporation was intended to protect actions taken in, and events related to, the corporate policy embodied in the Transformation.

162. The Information Statement indicates that Defendants expect "legal challenges to the Nevada Reincorporation."[195] It repeatedly refers to Dropbox's management, Evaluation Committee, and Board focusing on the "legal

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[194] Information Statement at 5 (emphasis added).

[195] *Id.* at 3.

environment" and "legal climate" in Delaware.[196] It also states that a reason for the Reincorporation is that the Transformation can proceed outside "the increasingly litigious environment in Delaware" and without the "less meritorious and costly litigation" in Delaware.[197] Prior to the Reincorporation, Dropbox's bylaws required stockholders to assert derivative and class action claims in the Court of Chancery. The Information Statement's acknowledgement that the Reincorporation was aimed at avoiding Delaware litigation challenging actions relating to the Transformation is an admission that the directors and controlling stockholder were not operating on a "clear day" when pushing through the Reincorporation.[198] Half Moon's opposition to the business strategy underlying the Transformation and questioning of Houston's control reinforces that the Reincorporation was not adopted on a "clear day," but was a defensive measure.

163. The Board had already taken specific steps in the Transformation it says the Reincorporation is intended to protect, including laying off 20% of the workforce, borrowing $2 billion, and initiating the $1.2 billion Stock Repurchase

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[196] *Id.* at 3–5.

[197] *Id.* at 5.

[198] *See Maffei v. Palkon*, 339 A.3d 705, 733 n.187 (Del. 2025).

Plan. Therefore, the Reincorporation is admittedly intended to extinguish potential liability for existing conduct.

164. The Information Statement indicates that Defendants are moving Dropbox to Nevada through the Reincorporation in an effort to have Nevada law applied to a Transformation strategy that was conceived and implemented while Dropbox was incorporated in Delaware and subject to Delaware law. In contrast, the Tripadvisor proxy statement specifically represented that Tripadvisor's reincorporation was not in response to potential claims concerning prior actions of the directors or officers or planned actions by the company.[199]

165. Portions of the November 14, 21, 25 and December 16, 2024 Evaluation Committee minutes discussed above confirm that the probability of litigation and potential liability in Delaware litigation over the Transformation was a primary factor motivating the Reincorporation.

166. Dropbox's Delaware certificate of incorporation provided that directors would not be personally liable for monetary damages for breach of fiduciary duty to the fullest extent permitted by law. Thus, the directors were already protected against monetary liability for breach of duty of *care*. Therefore, the liability

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[199] Tripadvisor, Inc., Proxy Statement (Schedule 14A), at 29–30 (Apr. 26, 2023).

concerns the Defendant directors identified as a reason for the Reincorporation were directed to avoiding liability for breach of the duty of loyalty.

Z. The Reincorporation Provided Material, Non-Ratable Benefits to Houston and Dropbox's Other Directors

(i) *The Admitted Purpose of the Reincorporation Was to Reduce the Risk of Litigation and Liability for Houston and the Directors from the Transformation and Related Steps*

167. As the Board and Evaluation Committee minutes and presentations and the Information Statement admit, the primary purpose of the Reincorporation was to limit the risk of litigation and potential liability arising out of the various already completed and future steps related to the Transformation.

168. The massive stock repurchases funded by the Term Loan would help reduce the risk of stockholder litigation by propping up Dropbox's declining stock price caused by the Transformation and buying out disgruntled stockholders unhappy with the Company's performance. By reincorporating to Nevada, the Defendants would greatly reduce their risk of litigation and liability in multiple ways.

(ii) *Expanded Exculpation*

169. The Information Statement admitted that Nevada allows far greater exculpation of directors and officers:

> The DGCL precludes liability limitation for directors and executive officers for breach of the duty of loyalty, acts or

> omissions not in good faith or involving intentional misconduct and for paying dividends or repurchases stock out of other than lawful available funds. Under the NRS, in order for a director or officer to be individually liable to the corporation or its stockholders or creditors for damages as a result of any act or failure to act, the presumption of the business judgment rule, as codified in NRS 78.138(3), must be rebutted and it must be proven that the directors' or officer's act or failure to act constituted a breached of his or her fiduciary duties as a director or officer and that the breach of those duties involved intentional misconduct, fraud or a knowing violation of law.[200]

Nevada does not preclude exculpation for breaches of duty of loyalty or receipt of an improper benefit.[201]

170. Nevada also permits exculpation of liability to creditors.[202] This would include, for example, liability related to the $2 billion Term Loan the Board adopted just before the Reincorporation to fund massive stock repurchases.

171. Exculpation in Nevada is automatic by statute; exculpation under 8 *Del. C.* § 102(b)(7) requires a certificate provision.[203]

172. Exculpation of officers in Delaware (i) requires a certificate provision, which Dropbox did not have, (ii) is limited to named executive officers, and

[200] Information Statement at 12.

[201] *Id.*

[202] *Id.*

[203] *Id.*

(iii) does not apply to claims by or in the right of the corporation.[204] Nevada's exculpation of officers does not contain such limitations and, unlike the Delaware certificate, the Nevada Charter provided for exculpation of officers, including Houston.[205]

(iii) *The Elimination of Stockholder Inspection Rights*

173. The Information Statement acknowledged that:

> The DGCL grants any stockholder or beneficial owner of shares the right, upon written demand under oath stating the proper purpose thereof, either in person or by attorney or other agent, to inspect and makes copies and extracts from a corporation's stock ledger, list of stockholders and its other books and record for any proper purpose. A proper purpose is one reasonably related to such person's interest as a stockholder. Stockholders or beneficial owners seeking to inspect books and records to investigate wrongdoing must also state a credible basis to infer wrongdoing.[206]

174. In a huge understatement, the Information Statement admitted "[i]nspection rights under Nevada law are more limited."[207] The Information Statement admitted that the Delaware General Corporation Law ("DGCL") does not impose share ownership requirements for time period or number of shares on a

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[204] *Id.* at 12–13.

[205] *Id.* at 13.

[206] *Id.* at 20.

[207] *Id.*

stockholder's right to inspect corporate documents.[208] Under NRS 78.105(2), only stockholders of record for over six months or holders of 5% or more of the outstanding shares may inspect the articles of incorporation, the bylaws, and a stock ledger of only record holders (which would not include the depository breakdowns and information on beneficial owners available under DGCL Section 220). For a public company like Dropbox, the articles and bylaws are filed with the SEC and depositories hold most shares of record. Therefore, this inspection right is meaningless.

175. The Information Statement also acknowledged that under NRS 78.257(1), only stockholders of record owning at least 15% of the outstanding stock may demand to inspect "the books of account and financial statements of a corporation."[209] The Information Statement revealed that no stockholder other than Houston owns 15% or more of Dropbox's outstanding stock.[210] Moreover, the Information Statement conceded that for corporations like Dropbox that furnish stockholders with an annual financial statement or make SEC filings, this inspection

[208] *Id.* at 6.

[209] *Id.* at 6, 20.

[210] *Id.* at 27.

right does not apply.[211] Therefore, this inspection right is meaningless for Dropbox stockholders.

176. Most importantly, unlike Section 220, Nevada law does not provide any inspection rights for any documents other than the minimal, inapplicable, and worthless "rights" described above. For example, stockholders cannot even obtain board and committee minutes or other formal board materials. Thus, the Reincorporation means that Dropbox's stockholders will no longer be able to investigate potential wrongdoing by the Company's directors, officers, and controlling stockholder, including pre-Reincorporation conduct, or even obtain additional information concerning major transactions and other developments at the Company beyond what the Company discloses. The Information Statement said "it is possible that <u>some</u> of our stockholders . . . will not be able to make [books and records] demand[s]" under Nevada law that they could make under Delaware law.[212] In fact, <u>all</u> Dropbox stockholders will be unable under Nevada law to demand any corporate document. The few exceptions are highly restricted, inapplicable, and/or meaningless.

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[211] *Id.* at 20.

[212] *Id.* at 6.

177. The Delaware courts have advised stockholders to "use the tools at hand" by making a Section 220 demand for books and records to learn more about corporate transactions and potential wrongdoing. In Nevada, the shed is empty. The Reincorporation's elimination of stockholder inspection rights is a non-ratable benefit that materially reduces the risk of liability for Dropbox's corporate fiduciaries. Houston and the other Defendants have effectively acted to limit inquiry into their conduct.

(iv) *The Reincorporation Eliminated the Class A Stockholders' Appraisal Rights*

178. Under 8 *Del. C.* § 262 ("Section 262"), the Dropbox Class A stockholders had appraisal rights in a merger if the merger agreement required that they receive consideration other than stock of the surviving corporation or a public corporation and cash in lieu of fractional shares. Therefore, they had appraisal rights in a cash-out merger, including a going private transaction sponsored by Houston, the Company's controlling stockholder.

179. Because Dropbox is listed on a national exchange, following the Reincorporation, the Class A stockholders no longer have appraisal rights. NRS 92A.390(3) provides that appraisal rights will not apply unless the terms of the transaction require stockholder to accept consideration <u>other</u> <u>than</u>:

(a) Cash;

(b) Any security or other proprietary interest of any other entity, including, without limitation, shares, equity interests or contingent value rights that satisfies the standards set forth in subsection 1[213] at the time the corporate action becomes effective; or

(c) Any combination of paragraphs (a) or (b).

180. Unlike under Section 262(b)(2), appraisal rights are not available under Nevada law in transactions where stockholders are forced to accept all or partial cash consideration. Moreover, while Delaware requires that the non-cash consideration must be "shares of stock," the Nevada statute provides there are no appraisal rights where the consideration includes other types of securities or interests, such as contingent value rights.

(v) *The Reincorporation Eliminated the Minority Stockholders' Right to Entire Fairness in Self-Interested Transactions*

181. Delaware law has long applied the entire fairness standard to self-interested transactions where controllers, directors, or officers receive a material, non-ratable benefit. In contrast, the Nevada Supreme Court has held that the codification of the business judgment rule in NRS 78.138 precludes application of an inherent fairness standard. The Information Statement made no mention of entire fairness, inherent fairness, or intrinsic fairness. In Nevada, there is no entire fairness.

[213] Subsection 1's standards basically cover registered and publicly traded securities. NRS 92A.390(1).

182. Under NRS 78.140, a board of directors can establish director compensation, despite the directors' personal interest, unless the articles of incorporation or bylaws provide otherwise. The statute provides that the director compensation established by the board is presumed to be fair unless proven to be unfair. Thus, the burden is on stockholders to prove unfairness. In contrast, under Delaware law, directors must prove the entire fairness of board approved director compensation.

(vi) *The Reincorporation Exempted Houston from Application of the Nevada Combinations Statute*

183. The Board resolutions approving the Reincorporation included exempting Houston from the restrictions of Nevada's statutes on business combinations with interested stockholders:

> Combinations with Interested Stockholders
>
> **WHEREAS**, NRS 78.411 to 78.444, inclusive (collectively, the "Nevada Combinations Statutes"), sets forth various requirements related to a Nevada corporation's "combination," as defined in NRS 78.416, with an "interested stockholder," as defined in NRS 78.423;
>
> * * *
>
> **WHEREAS**, the Nevada Combinations Statutes prohibit, for up to four years, combinations unless the combination complies with the requirements of the articles of incorporation of the resident domestic corporation and the transaction by which the person first became an interested

> stockholder is approved by the board of directors of the resident domestic corporation before the person first became an interested stockholder.
>
> **NOW, THEREFORE, BE IT RESOLVED**, that the Board's approval of the Nevada Reincorporation includes the approval, hereby confirmed, of the transaction by which Mr. Houston shall have first become an interested stockholder for all purposes under the Nevada Combinations Statutes, including, without limitation, NRS 78.438(1)(a).
>
> **RESOLVED FURTHER**, that, to the fullest extent permitted by the Nevada Combinations Statutes (including, without limitation, NRS 78.437(2) and 78.438(1)(a)), the Nevada Combinations Statutes shall not apply to Mr. Houston, nor shall it restrict any combination in any way involving or relating to Mr. Houston.[214]

The Information Statement acknowledged that because of the Board's approval of the Reincorporation, Houston is exempt from Nevada's business combinations statutes.[215]

184. The Reincorporation effectively granted Houston an option to implement a business combination with Dropbox within the next two years or thereafter, with the stockholders having no ability (i) to obtain books and records concerning the transaction, (ii) to challenge the entire fairness of the transaction, or (iii) to exercise appraisal rights.

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[214] Information Statement at A-4 (formatting altered).

[215] *Id.* at 16.

(vii) *The Reincorporation Eliminated Delaware Derivative Claims*

185. The Information Statement described the Delaware and Nevada exclusive forum bylaws.[216] It also described Delaware and Nevada law on exculpation and indemnification of directors and officers with respect to derivative claims.[217] However, the Information Statement did not discuss whether the Reincorporation would eliminate derivative standing of Dropbox stockholders, as stockholders of the Delaware corporation, to assert derivative claims under Delaware law against Dropbox's directors and officers, as directors and officers of the Delaware corporation, for actions taken while Dropbox was a Delaware corporation. Most importantly, the stock sales occurred before Dropbox announced its weak Q4 2024 results and bleak guidance for 2025 that caused Dropbox's stock price to plummet.

186. The elimination of Delaware derivative claims includes derivative claims relating to the Transformation, which was formulated, approved, and implemented while Dropbox was a Delaware corporation. The Information Statement admitted that a reason for the Reincorporation was to avoid litigation in Delaware over the Transformation.[218] The Reincorporation was intended to shield

[216] *Id.* at 7.

[217] *Id.* at 12–13.

[218] *Id.* at 5.

potential liability for past conduct and to cut off potential litigation concerning the Transformation. Therefore, the Reincorporation conferred a material, non-ratable benefit on the Defendants.

187. The Reincorporation also provided Houston with a shield from Delaware derivative claims relating to his stock sales during the Transformation (as described below) while Dropbox was a Delaware corporation.

AA. No Appraisal Rights for Class A Shareholders

188. Holders of Class A stock had their rights diminished by the Reincorporation but did not have appraisal rights. Holders of Class B stock had appraisal rights. Houston, who owned 75,987,893 of the 76,925,771 shares of outstanding Class B stock at the time of the Reincorporation, waived his appraisal rights. However, the eighty-one record holders of the remaining 937,878 Class B shares, including Volkmer (who owned 63,120 Class B shares), had appraisal rights as a result of the Reincorporation.

BB. It Is Reasonably Conceivable That Houston's Sale of $70 Million of Dropbox Stock Was Related to the Transformation, Including the Reincorporation

189. While the Transformation was developing from September 2024 through January 2025, Houston engaged in unusually large and frequent sales of Dropbox stock, often converting Class B shares into Class A shares and then selling the Class A shares. Between September 1, 2024 and January 21, 2025, Houston

converted 2,526,000 Class B shares into Class A shares and sold those shares in twenty transactions for proceeds of nearly $70 million. It is a fair inference and reasonably conceivable that Houston sold stock while in possession of material, non-public information about Dropbox's financial performance and as-yet unannounced steps in Dropbox's Transformation, including the Reincorporation.

(i) *Houston's Limited Sales Up to September 2024*

190. Houston's publicly filed Form 4s and Form 144s claim that Houston made stock sales between March 2024 and January 31, 2025 based on a 10b5-1 trading plan that Houston adopted on December 5, 2023. Houston made no stock sales from December 2023 through February 2024. As reflected in the charts below,[219] Houston sold stock in a consistent pattern from March 2024 through August 2024. Houston sold 164,000 shares on March 5, 2024 for approximately $4 million, and then exactly half of that amount (*i.e.*, 82,000 shares) on each of April 1, May 1, June 3, July 1 and August 1 for approximately $2 million in each transaction.[220] In total, Houston sold 574,000 Class A shares for $13.5 million in six transactions between March 1 and August 31, 2024.

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[219] *See infra* ¶¶ 197, 215.

[220] According to Houston's publicly-filed Form 4s, Houston did not sell Dropbox stock between December 2023 and March 2024. The last time that Houston sold shares before March 5, 2024 was August 10, 2023.

191. Beginning in September 2024, Houston increased the volume and frequency of his sales. Houston sold: (i) 402,835 shares in eight transactions in September; (ii) 448,668 shares in two transactions in October; (iii) 790,002 shares in four transactions in November; (iv) 269,499 shares in two transactions in December; and (v) 614,996 shares in four transactions in January 2025. During the five months between September 1, 2024 and January 31, 2025, Houston sold a total of 2,526,000 shares for proceeds of $69.4 million in twenty transactions.

(ii) *Houston's Sales Prior to Dropbox's Announcement of Mass Layoffs*

192. The increased volume and frequency of Houston's stock sales coincided with the pursuit of Dropbox's Transformation and the Reincorporation. According to the Information Statement, in September 2024 (*i.e.*, when Houston increased his stock sales), management was already discussing the Reincorporation with the Board, and addressed it "in particular" at a September 2024 Board meeting.[221] It is a fair inference and reasonably conceivable that Houston, as Dropbox's Chairman and CEO, (i) led management's discussions about the Transformation and Reincorporation leading up to the September Board meeting; (ii) convened and participated in the September 2024 Board meeting; and (iii) sold

[221] Information Statement at 3.

shares in September (*i.e.*, September 3, September 16–17, September 19, September 24–27) and October (*i.e.*, October 1–2), knowing that management and the Board were pursuing the Transformation and Reincorporation. By the time Dropbox announced a 20% workforce reduction as part of the Transformation on October 30, Houston had sold 851,503 Class A shares for $21.4 million in ten transactions since August 1—nearly twice the amount of shares he sold between March and August.

(iii) *Houston Makes Further Sales as Dropbox Pursues Further Steps in the Transformation and Its Performance Declines*

193. Houston continued ramping up his stock sales as Dropbox pressed on with further steps in the Transformation plan, including the Reincorporation. It is a fair inference and reasonably conceivable that Houston was aware of the Evaluation Committee's progress, as Company management attended most meetings. Houston sold the largest number of shares during the month of November, and his stock sales effectively coincided with Evaluation Committee meetings. On November 14–15 and November 21–22, Houston sold a total of 790,002 shares for $21.9 million. Houston made his largest sale—624,533 shares for $17.4 million—on November 14, the same day as an Evaluation Committee meeting. Houston also sold shares on December 2, 2024. At the Board's December 10, 2024 meeting, which Houston chaired, the Evaluation Committee provided a "status" report on the Reincorporation.

194. As he sold shares in November and early December, Houston knew Dropbox's fourth quarter performance was weak. He also knew Dropbox was planning two more steps in the Transformation: the $2 billion Term Loan and a $1.2 billion Stock Repurchase Plan. It is a fair inference and reasonably conceivable that he also knew Dropbox's fourth quarter and full year 2024 financial results would be disappointing and the stock price would drop. On December 11, 2024, the next steps of the Transformation (the Term Loan and Stock Repurchase Plan) were announced. The Reincorporation plan, however, remained a secret. Houston continued selling shares, including on December 11. After the Evaluation Committee told the Board at a December 16, 2024 meeting that it had determined that Reincorporation was in the best interests of all stockholders, Houston continued selling substantial volumes of shares. In January 2025, Houston sold a total of 614,996 shares for $18.5 million in four transactions. Houston's last stock sale in January was on January 21, 2025. All of the sales occurred before Houston approved the Reincorporation by written consent on January 28, 2025 and Dropbox revealed the Reincorporation on January 31, 2025.

195. The timing, volume, frequency, and amount of Houston's stock sales make it a fair inference and reasonably conceivable that Houston pressed to sell an enormous amount of stock before Dropbox disclosed various elements of the

Transformation, including the Reincorporation, and its disappointing fourth quarter and year-end 2024 financial results. Houston sold 4.5x more shares during the less-than-five months Dropbox was pursuing the Reincorporation than he did between December 2023 and August 2024 under the 10b5-1 trading plan.

196. Before September 1, 2024, Houston's stock sales had a pattern in timing, frequency, volume, and value of shares sold under the 10b5-1 trading plan. Houston sold 82,000 shares once-a-month, in the beginning of the month, for approximately $2 million, except for March when Houston sold exactly twice that number of shares for twice the value. Starting in September 2024, Houston's stock sales did not have the same pattern in timing, frequency, volume, or value. The sales (i) occurred throughout the month, (ii) occurred multiple times a month, (iii) were each for a different number of shares, and (iv) yielded larger monetary amounts. These sales were not routine sales pursuant to a 10b5-1 trading plan.

197. While Houston was unloading shares, which would decrease his equity and voting power, Dropbox was using corporate funds to buy back shares propping up Dropbox's stock price. Houston's unusual sales, at the same time the Company was repurchasing shares, show the Company was using its funds to offset any decline in Houston's ownership and voting power resulting from his stock sales.

Houston's Stock Sales From
December 1, 2023 to January 31, 2025

Date	# Shares Sold	Aggregate Market Value
12/1/23 - 3/4/24	0	0
3/5/24	164,000	$3,952,400.00
4/1/24	82,000	$1,992,600.00
5/1/24	82,000	$1,899,120.00
6/3/24	82,000	$1,847,460.00
7/1/24	82,000	$1,842,540.00
8/1/24	82,000	$1,961,440.00
9/3/24	84,500	$2,124,330.00
9/16/24	3,200	$78,688.00
9/17/24	5,500	$136,840.00
9/19/24	3,493	$85,543.57
9/24/24	66,064	$1,637,726.56
9/25/24	80,030	$1,995,147.90
9/26/24	28,012	$695,257.84
9/27/24	132,036	$3,298,259.28
10/1/24	351,306	$8,933,711.58
10/2/24	97,362	$2,438,918.10
11/14/24	624,533	$17,430,716.03
11/15/24	13,444	$371,995.48
11/21/24	147,085	$3,955,115.65
11/22/24	4,940	$136,541.60
12/2/24	132,000	$3,651,120.00
12/11/24	137,499	$3,925,596.45
1/2/25	500,323	$15,029,702.92
1/3/25	4,257	$125,836.92
1/6/25	29,917	$897,510.00
1/21/25	80,499	$2,462,464.41
Total	**3,100,000**	**$82,906,582.29**

Distribution of Houston's Stock Sales From December 1, 2023 to January 31, 2025

Time Period	Shares Sold	% Total Sold	Aggregate Market Value	% Total Value
December 2023	0	0	0	0

January 2024	0	0	0	0
February 2024	0	0	0	0
March 2024	164,000	5.3%	$3,952,400.00	4.8%
April 2024	82,000	2.6%	$1,992,600.00	2.4%
May 2024	82,000	2.6%	$1,899,120.00	2.3%
June 2024	82,000	2.6%	$1,847,460.00	2.2%
July 2024	82,000	2.6%	$1,842,540.00	2.2%
August 2024	82,000	2.6%	$1,961,440.00	2.4%
September 2024	402,835	13%	$10,051,793.15	12.1%
October 2024	448,668	14.5%	$11,372,629.68	13.7%
November 2024	790,002	25.5%	$21,894,368.76	26.4%
December 2024	269,499	8.7%	$7,576,716.45	9.1%
January 2025	614,996	19.8%	$18,515,514.25	22.3%
Dec. 2023 – Aug. 2024	**574,000**	**18.5%**	**$13,495,560.00**	**16.3%**
Sept. 2024 – Jan. 2025	**2,526,000**	**81.5%**	**$69,411,022.29**	**83.7%**
Total	**3,100,000**		**$82,906,582.29**	

198. In 2024, Dropbox repurchased approximately 49.5 million shares for $1.2 billion, including 12.5 million shares for $350.4 million in the fourth quarter. Houston used Company money to maintain his percentage voting power and equity interest even as he sold off shares. With stock prices in the vicinity of $26 per share, Dropbox could buy back approximately 53 million Class A shares with the $1.4 billion available for stock repurchases (with funds primarily from the December 2024 Term Loan), nearly 25% of the Class A shares outstanding. Houston has used and is still using Dropbox's funds, including borrowed money, to shrink the stockholder base and preserve his percentage equity ownership even as he sells

stock. The Company's repurchases increase the value of Houston's obstacle-free option to pursue a going private or rollover transaction.

CC. Plaintiff's Section 220 Demand, the Section 220 Action, and Half Moon's Stockholder Proposal

199. On February 13, 2025, Plaintiff served Dropbox with its Section 220 Demand, seeking to investigate the Transformation and Reincorporation. On February 20, 2025, Dropbox denied the Demand but offered to confer on the possibility it would produce a limited set of core documents.

200. To preserve standing to compel production of books and records under Delaware law, Plaintiff filed a Section 220 action on February 26, 2025. Thus, Defendants were aware of potential claims concerning the Transformation and Reincorporation before the Reincorporation was effected on March 5, 2025. On March 27, 2025, Dropbox produced Board and Evaluation Committee minutes and Board materials concerning the Reincorporation. Dropbox refused to provide minutes and materials related to the Board's discussion of elements of the Transformation and all other demanded documents.

201. Prior to the Company's 2025 annual meeting, Half Moon submitted a stockholder proposal calling for elimination of Dropbox's dual class stock structure over three years, which would eliminate Houston's voting control of the Company. Under Dropbox's bylaws, the proposal had to be submitted at least 45 days before

the one-year anniversary of Dropbox's April 2, 2024 proxy statement for its 2024 annual meeting of stockholders (*i.e.*, by approximately February 15, 2025). Thus, Defendants were on notice of the proposal before the Reincorporation was effected.

202. In its 2025 annual meeting proxy statement, Dropbox (*i.e.*, Houston) opposed Half Moon's proposal. Dropbox asserted that it "lack[ed] the power" to implement Half Moon's proposal and that Half Moon's proposal "violates Nevada Law."[222] Thus, the redomestication to Nevada further insulated Houston from any stockholder effort to curtail his perpetual control of Dropbox through his ownership of Class B shares.

DD. The Fourth Quarter and Full Year 2024 Results, the 2025 Outlook, and the Decline in Market Price

203. On February 20, 2025, Dropbox announced weak financial results for the fourth quarter and full year 2024 and revised guidance for 2025 that was below the guidance provided when it announced its results for the third quarter of 2024. For the fourth quarter of 2024:

> (i) total revenue was $643.6 million, only 1.4% above the Q4 of 2023 and barely above Q3 2024;
>
> (ii) GAAP operating margin was 13.7%, compared to 42.1% in Q4 2023 and 20.0% in Q3 2024;

[222] Dropbox, Inc., Proxy Statement (Schedule 14C), at 31 (Apr. 15, 2025).

(iii) GAAP net income was $102.8 million, compared to $227.3 in Q4 2023 and $106.7 million in Q3 2023.[223]

204. For the full year 2024, Dropbox reported:

(i) Total revenue of $2.548 billion, an increase of only 1.9% over 2023;

(ii) GAAP operating margin of 19.1%, compared to 21.5% in 2023;

(iii) GAAP net income of $452.3 million, a decline from 2023's $453.6 million.[224]

205. Overall, Dropbox's performance was static or declining. Even worse, Dropbox provided disappointing revenue guidance for Q1 2025 and the full year 2025 of $618–$621 million and $2.465–$2.480 billion respectively, less quarterly revenue than in any of the five last quarters and less annual revenue than in 2023 and 2024. Dropbox's guidance for fiscal year 2025 implied a year-to-year 2% decline in normalized growth rates and a downward revision in unlevered free cash flow, both below what the Company forecasted three months earlier. The $90 million in interest on the Term Loan implied that levered cash flow for fiscal year 2025 would be only $850 to $860 million, instead of the $950 million indicated by third quarter guidance.

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[223] *See* Dropbox, Inc., Current Report (Form 8-K) (Feb. 20, 2025).

[224] *See id.*

206. Dropbox's February 20, 2025 earnings call contained much discussion of "headwinds" that could impact Dropbox's growth. Dropbox expected a decline of 300,000 paying users in 2025. Dropbox attempted to shift the investors' attention to unlevered free cash flow and focus away from its poor revenue and income performance.

207. The effort by Houston and Dropbox to put lipstick on a pig failed. On February 19, 2025, Dropbox Class A Common closed at $32.67. It fell to $31.88 on February 20 and to $26.73 on February 21. The Board proceeded with the Reincorporation, cutting off Delaware derivative claims and the stockholders' ability to inquire into the Board's conduct.

EE. The 10-K and Certificate of Conversion

208. On February 21, 2025, Dropbox filed with the SEC its 10-K for the year ended December 31, 2024. As required by the Securities Exchange Act, Houston signed the 10-K on behalf of Dropbox as Chief Executive Officer and signed again as "Chief Executive Officer and Chairman (*Principal Executive Officer*)" along with the other directors.[225] The 10-K discussed "the proposed reincorporation" and

[225] 2024 10-K at 119–20.

Delaware and Nevada law, and the different forum bylaw that would apply "[i]f and when we reincorporate from Delaware to Nevada."[226] The 10-K asserted that:

> Any person or entity purchasing or otherwise acquiring any interest in any of our securities shall be deemed to have notice of and consented to this provision.[227]

The 10-K did not mention the pending Nevada Amendments or Delaware Amendments and did not correct, amend or supplement the misleading and incomplete disclosure in the Information Statement.

209. On March 5, 2025, Dropbox filed the Certificate of Conversion with the Delaware Secretary of State. Houston signed the Certificate as Chief Executive Officer. On March 10, 2025, Dropbox filed an 8-K announcing the consummation of the Reincorporation. The 8-K stated:

> The Reincorporation did not result in any change in the business, jobs, management, properties, location of any of the Company's offices or facilities, number of employees, obligations, assets, liabilities, or net worth (other than as a result of the costs related to the Reincorporation). The Reincorporation did not materially affect any of the Company's material contracts with any third parties, and the Company's rights and obligations under those material contractual arrangements continue to be the rights and obligations of the Company after the Reincorporation.[228]

[226] *Id*. at 40–41.

[227] *Id*. at 41.

[228] Dropbox, Inc., Current Report (Form 8-K) (Mar. 10, 2025).

FF. Dropbox's Continued Decline

210. After Plaintiff filed its original Complaint on April 3, 2025, Drobox's poor performance continued.

211. On May 8, 2025, Dropbox announced that its total revenue, annual recurring revenue, and gross margin were all down year-over-year. In the first three months of 2025, however, the Company repurchased 18.1 million Class A shares for $504.1 million.

212. Dropbox's performance slumped again in the second quarter. On August 7, 2025 the Company announced a 1.4% decrease in revenue, a 1.2% decrease in ARR and a 2.9% decrease in GAAP gross margin compared to the same quarter in 2024. In the second three months of 2025, however, the Company repurchased 14.2 million Class A shares for $403 million. On September 9, 2025, the Company announced a new $1.5 billion Class A stock repurchase plan.

213. In the third quarter of 2025, the Company repurchased 13.8 million Class A shares for $393.3 million. Its quarterly results were again down compared to the year before: revenue – 0.7%; ARR – 1.7%; GAAP gross margin – 2.7%.

214. The fourth quarter was more of the same: revenue – 1.1%; ARR – 1.9%; GAAP gross margin – 2%. The full year results were also negative compared to

2024. In the fourth quarter of 2025, Dropbox repurchased 14.4 million shares for approximately $400 million.

GG. Houston's Continuing Stock Sales

215. A week after the March 5, 2025 consummation of the Reincorporation, Houston adopted another Rule 10b5-1 plan. Houston continued to sell Dropbox stock.

Houston's Stock Sales From
June 2025 through May 2026

Date	# Shares Sold	Aggregate Market Value
6/11/25	184,000	$5,324,960.00
6/11/25	135,000	$3,906,900.00
7/1/25	92,000	$2,631,200.00
8/14/25	92,000	$2,587,960.00
9/2/25	92,000	$2,673,520.00
9/8/25	45,835	$1,369,091.45
10/1/25	101,167	$3,056,255.07
11/14/25	101,167	$3,075,476.80
12/1/25	92,000	$2,748,960.00
12/3/25	9,167	$272,351.57
1/2/26	92,668	$2,576,170.40
1/9/26	36,182	$993,557.72
1/12/26	23,818	$649,755.04
2/2/26	164,502	$4,191,510.96
3/2/26	109,498	$2,736,355.02
4/1/26	111,166	$2,525,691.52
5/14/26	37,498	$982,447.60
	1,519,668	**$42,302,163.15**

4897-7453-0488, v. 1

216. Because Dropbox's stock repurchase plans continue to include repurchases pursuant to Rule 10b5-1 plans, it is reasonably conceivable and even likely Dropbox was the buyer in Houston's stock sales.

217. Since March of 2024, Houston has sold 4,619,668 shares of Dropbox stock for $125 million. The extensive sales make it reasonably conceivable that Houston may be accumulating cash for use in a going private or rollover transaction involving Dropbox. Despite having sold nearly six million shares, as of March 31, 2026, Houston's equity interest in Dropbox had increased to 35.3%. His voting power as of March 31, 2026 stood at 82.4%.

HH. Dropbox's Huge Class A Stock Repurchases Before and After the Reincorporation Make It Reasonably Conceivable the Reincorporation Is Part of a Houston Plan to Use Dropbox's Cash and Credit to Preserve and Increase His Voting Power and Equity Interest to Facilitate a Going Private or Rollover Transaction

218. Dropbox has made a practice of repurchasing Class A stock. However, in 2024 and 2025 it substantially increased its Class A stock repurchases. The Dropbox Board authorized repurchases up to an additional $1.2 billion in December 2024 and up to an additional $1.5 billion in August 2025. In 2024, Dropbox repurchased 49.5 million shares for $1.2 billion.[229] During 2025, the Company

[229] 2024 10-K at 61.

bought back 60.4 million shares for $1.7 billion.[230] In two years, Dropbox repurchased nearly 110 million shares for nearly $3 billion. In the first quarter of 2026, Dropbox repurchased an additional 14.3 million shares.[231]

219. Dropbox's massive stock repurchases were part of Houston's plan to use Dropbox's cash and credit to shrink the Company's public equity, while increasing his voting power and equity interest. As of March 23, 2023, Dropbox had 271,962,132 Class A shares outstanding.[232] On March 21, 2024, Class A outstanding shares stood at 258,367,529.[233] By March 31, 2025, there were 210,988,484 Class A shares outstanding.[234] By March 31, 2026, Class A shares outstanding had been reduced to only 163,263,829.[235] In three years, the outstanding Class A stock decreased by 108,698,303 shares, a 39.97% decrease.

220. Dropbox's 2025 10-K, filed February 20, 2026, indicates that the Class A stock repurchases will continue and that future earnings will be retained to fund the stock repurchase programs.[236] As of December 31, 2025, Dropbox still could

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[230] Dropbox, Inc., Annual Report (Form10-K), at 63 (Feb. 20, 2026) ("2025 10-K").

[231] Dropbox, Inc., Quarterly Report (Form 10-Q), at 30 (May 8, 2026).

[232] Dropbox, Inc., Proxy Statement (Schedule 14A), at 61 (Apr. 4, 2023).

[233] 2024 Proxy at 64.

[234] Dropbox, Inc., Proxy Statement (Schedule 14A), at 64 (Apr. 15, 2025).

[235] Dropbox, Inc., Proxy Statement (Schedule 14A), at 66 (Apr. 7, 2026).

[236] 2025 10-K at 41–42, 62.

purchase shares with a dollar value of $1.166 billion under its publicly announced repurchase programs.[237] For the year ended December 31, 2025, Dropbox used $1.7139 billion in net cash for stock repurchases.[238] In 2024, $1.2416 billion of net cash was used for stock repurchases.[239] A substantial portion of the repurchases were funded through debt.

221. Dropbox's huge stock repurchases have enabled Houston to increase his voting power and equity interest in Dropbox, even while he has been selling Dropbox shares. Basically, Houston has been using Dropbox's cash and credit to increase his voting control and decrease the publicly held equity. This will make taking Dropbox private easier and cheaper and give Houston more equity to roll over in a transaction involving a financial sponsor. And under Nevada law, the remaining Dropbox Class A shares will not have appraisal rights.

222. As of March 23, 2023, Houston owned 80,344,837 of 81,676,431 outstanding Class B shares and 9,545,020 of 271,962,132 outstanding Class A

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[237] *Id.* at 47.

[238] *Id.* at 63.

[239] 2024 10-K at 63.

shares.[240] His holdings represented 74.67% of Dropbox's voting power and 25.42% of its equity.[241]

223. As of March 21, 2024, Houston owned 78,923,893 Class B shares of 80,017,765 Class B shares outstanding (98.63% of the Class B) and 9,427,838 Class A shares of 258,367,529 outstanding Class A shares.[242] He then owned 26.11% of Dropbox's outstanding equity. By March 31, 2025, Houston's Class B ownership had decreased to 75,987,893 shares, a reduction of 2,936,000 shares.[243] However, the outstanding Class A shares declined from 258,367,529 to 210,988,484, a 47,379,045-share reduction.[244] Despite Houston selling nearly 3 million Class B shares, his total Class A and B shares as of March 31, 2025 represented 29.67% of Dropbox's outstanding equity, a 3.55% increase.

[240] Dropbox, Inc., Proxy Statement (Schedule 14A), at 61 (Apr. 4, 2023).

[241] *Id.*

[242] 2024 Proxy at 64. As of March 21, 2024, March 31, 2025, and March 31, 2026, Houston held 1,161,172 Class A shares and 8,266,666 RSAs for Class A shares, a total of 9,427,838 shares. In 2024 that represented only 3.65% of the Class A; in 2025 it represented 4.47% of the Class A. By 2026, his same Class A holdings represented 5.77% of the total Class A.

[243] Dropbox, Inc., Proxy Statement (Schedule 14A), at 64 (Apr. 15, 2025).

[244] *Id.*

224. From March 31, 2025 to March 31, 2026, Houston's ownership of Class B shares declined from 75,987,893 to 74,616,889.[245] However, despite selling 1,371,004 shares, his percentage ownership of outstanding Class B shares increased from 98.78% to 98.99% and his overall voting power increased from 78.48% to 82.40%.[246] The number of Class B shares outstanding decreased from 76,922,870 to 75,347,718 in that period, a decrease of 1,548,152 shares, while the outstanding Class A shares declined by 47,724,655 shares from 210,988,484 to 163,263,829.[247]

225. As of March 31, 2025, Houston's total Class A and Class B shares of 85,415,731 represented 29.67% of Dropbox's total of 287,911,354 outstanding A and B shares.[248] By March 31, 2026, Houston's total of 84,044,727 A and B shares represented 35.4% of Dropbox's total outstanding equity of 238,638,547 combined Class A and B shares.[249] While selling off 1,371,004 Class B shares, Houston increased his equity ownership by 5.73% by using Dropbox's borrowed cash to reduce the outstanding Class A shares.

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[245] Dropbox, Inc., Proxy Statement (Schedule 14A), at 64 (Apr. 15, 2025); Dropbox, Inc., Proxy Statement (Schedule 14A), at 66 (Apr. 7, 2026).

[246] Dropbox, Inc., Proxy Statement (Schedule 14A), at 64 (Apr. 15, 2025); Dropbox, Inc., Proxy Statement (Schedule 14A), at 66 (Apr. 7, 2026).

[247] Dropbox, Inc., Proxy Statement (Schedule 14A), at 2, 64 (Apr. 15, 2025); Dropbox, Inc., Proxy Statement (Schedule 14A), at 2, 66 (Apr. 7, 2026).

[248] Dropbox, Inc., Proxy Statement (Schedule 14A), at 2, 64 (Apr. 15, 2025).

[249] Dropbox, Inc., Proxy Statement (Schedule 14A), at 2, 66 (Apr. 7, 2026).

226. From March 2024 through March 31, 2026, Houston sold off nearly 6 million shares of his Class B stock, representing approximately 7.5% of his Class B holdings. Yet, rather than a reduction of his voting power and equity interest, both his equity interest and voting power increased by over 9%.

227. As of March 31, 2026, Dropbox had repurchased \$6.1 billion of its Class A stock, according to its 10-Q for the quarter ended March 31, 2026 (page 80), filed with the SEC on May 8, 2026.

228. In a June 1, 2026 8-K and press release, Dropbox announced it had added \$400 million more in borrowing capacity and the Board's authorization of yet another new share repurchase program for the purchase of an additional \$900 million of Class A stock. At the \$26.88 closing price on May 29, 2026, \$900 million would fund the repurchase of another 33,482,1429 shares of Class A stock.

II. A Year Later, Delaware Suddenly Becomes More Predictable

229. The Evaluation Committee and Board placed great emphasis on the predictability of Nevada's approach to corporate law in considering the Reincorporation. (Information Statement at 5). There is no evidence in the minutes, materials, or the Information Statement to suggest that the Evaluation Committee or the Board discussed or considered the unpredictability of Nevada jury trials in evaluating reincorporation from Delaware to Nevada.

230. Solomon's Memorandum notes that "Nevada has business court judges" who hear corporate governance matter but makes no mention that in Nevada such matters could be determined by a jury.[250] His presentation said Nevada "[h]as judges with business court designation," without mentioning jury trials.[251]

231. At the November 25, 2024 Evaluation Committee meeting, Cadwalader received "the sophistication of the judiciary … in different jurisdictions" and whether judges were elected or appointed, but did not mention juries.[252] Campbell of the Evaluation Committee repeated Cadwalader's points about the judiciary and methods of selecting judges at the Board's January 17, 2025 meeting, but there was no reference to Nevada juries.[253] In short, the unpredictability of Nevada juries was ignored when the Dropbox directors and their advisors wanted to support reincorporation by pretending Delaware was less predictable, but became centrally important when the Board wanted to get rid of those Nevada juries.

232. The Information Statement's lengthy discussion and comparison of Delaware and Nevada law never mentioned that under Nevada law fiduciary duty claims, derivative suits and other internal actions could be determined by a jury,

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[250] DBX220_000003 at '040.

[251] *Id.* at '021.

[252] DBX220_000048.

[253] DBX220_000075.

rather than, as in Delaware, a judge. The Information Statement's discussion of the supposed greater predictability of Nevada law omitted any mention of the jury/judge distinction. Even after a provision allowing certificate provisions waiving jury trials in corporate cases was added to the Nevada Amendments, there was no disclosure regarding jury trials.

233. A year after the Reincorporation the Dropbox Board was singing a different tune. In Dropbox's April 7, 2026 proxy statement for its 2026 annual meeting, the Board submitted a proposal to stockholders to amend the Nevada Charter because:

> Our board of directors believes that a limited jury trial waiver in our articles of incorporation would enhance the **predictability** and efficiency of resolving disputes relating to "internal actions" (as described above). **A limited jury trial waiver for** internal actions, such as **fiduciary duty claims or derivative suits, could help these matters resolve more quickly and with greater consistency, potentially reducing litigation uncertainty, legal costs, and the potential for unpredictable outcomes that could negatively affect our operations or stockholder value**. Including a limited jury trial waiver in the proposed amendments to our Articles **also aligns our framework more closely with how we previously operated under Delaware law, where internal actions would have been tried before a**

judge in the Delaware Chancery Court, rather than before a jury.[254]

234. In 2026 the Dropbox Board admitted that the Delaware Court of Chancery's bench trial system was more predictable than Nevada's default jury trials for the following types of corporate action, suit or proceedings:

- Brought in the name or right of the corporation;
- For or based upon any breach of fiduciary duty owed by any director, officer or controlling stockholder; or
- Arising pursuant to, or to interpret, apply, enforce or determine the validity of, any provision of NRS Title 7 (which includes Nevada's corporation statutes), the articles of incorporation, the bylaws or any agreement entered into pursuant to NRS 78.365 to which the corporation is a party or a stated beneficiary thereof.[255]

235. Of course, Houston used his voting control to approve the charter amendment waiving jury trials—another measure to benefit him. The Board's failure to consider jury trials in 2024-25, the failure to even disclose the issue in connection with the Reincorporation, and the Board's flip-flop on predictability in 2026 are further evidence that the "predictability" rationale for the Reincorporation was a bad faith sham.

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[254] 2026 Proxy at 30 (emphasis added). The jury trial waiver was only possible because of the 2025 amendments to the Nevada corporation law in AB 239.

[255] *Id.*

236. The 2026 Proxy Statement's acknowledgement that determination of fiduciary and derivative claims by a judge in Delaware Court of Chancery would be more predictable than a determination of such claims by a Nevada jury is an admission that the Information Statement's discussion of relative predictability was misleadingly incomplete.

JJ. Class Action Allegations

237. Plaintiff brings this action individually and as a class action, pursuant to Court of Chancery Rule 23, on behalf of itself and all holders of Dropbox common stock (*i.e.*, the Class). The Class excludes Defendants and any officer, person, firm, trust, corporation, or other entity related to, or affiliated with, the Defendants.

238. This action is properly maintainable as a class action.

239. A class action is superior to other available methods of fair and efficient adjudication of this controversy.

240. The Class is so numerous that joinder of all members is impracticable. According to the Information Statement, as of January 28, 2025, Dropbox had 224,977,458 shares of Class A stock outstanding. The 2024 10-K indicates that as of February 18, 2025, there were 496 record holders of Class A stock.[256] Upon

[256] 2024 10-K at 47. There are also a small number of shares of Class B Common Stock that are not held by Houston.

information and belief, these shares are beneficially owned by thousands of Class members scattered across the United States. Moreover, damages suffered by individual Class members may be small, making it overly expensive and burdensome for individual Class members to pursue redress on their own.

241. There are questions of law and fact common to all Class members that predominate over questions affecting only individuals, including, without limitation:

a. Whether Defendants owed fiduciary duties to Plaintiff and the Class;

b. Whether Defendants breached their fiduciary duties to Plaintiff and the Class;

c. What principles, standards and rules apply to the claims of Plaintiff and the Class; and

d. Whether Plaintiff and other Class members are entitled to equitable relief, including rescission of the Reincorporation, or damages as a result of Defendants' misconduct.

242. Plaintiff's claims and defenses are typical of the claims and defenses of other Class members, and Plaintiff has no interests antagonistic or adverse to the interests of other Class members. All Class members have suffered the same harm. Plaintiff will fairly and adequately protect the interests of the Class.

243. Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in litigation of this nature.

244. Defendants have acted in a manner that affects Plaintiff and all members of the Class alike, thereby making appropriate injunctive relief and/or corresponding declaratory relief with respect to the Class as a whole.

245. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for Defendants. Adjudications with respect to individual Class members would, as a practical matter, be dispositive of the interest of other Class members or substantially impair or impede the interests of other Class members.

COUNT I
Breach of Fiduciary Duties of Loyalty and Care in Recommending, Approving, Disclosing and Implementing Reincorporation (Against the Defendants)

246. Plaintiff repeats and realleges all other allegations of this Amended Complaint as if fully set forth herein.

A. The Reincorporation Does Not Fall Within Section 144

(i) *The Reincorporation Was a Controlling Stockholder Transaction*

247. Because Houston holds a majority of the voting power of Dropbox's outstanding stock, he is a controlling stockholder under Section 144(e)(2). Under

Section 144(e)(3), "an act or transaction from which a controlling stockholder … receives a financial or other benefit not shared with the corporation's stockholders generally" is a "controlling stockholder transaction." As alleged above, the Reincorporation resulted in Houston receiving benefits not shared with Dropbox's shareholders generally, including (a) elimination of stockholder inspection rights, Class A appraisal rights, entire fairness review, and Delaware derivative claims, (b) his exemption from Nevada's business combinations statute and (c) exculpation of breach of loyalty claims. Houston is the primary beneficiary of the Reincorporation, making it difficult if not impossible for stockholders to challenge his past and future conduct.

(ii) *Section 144(c) Is Inapplicable to the Reincorporation*

248. While it is reasonably conceivable that the Reincorporation is part of a plan by Houston to take Dropbox private, the Reincorporation itself does not meet the definition of "going private transaction" in Section 144(e)(6) because all or substantially all of Dropbox's shares held by disinterested stockholders were not cancelled or acquired, and all outstanding shares, including Houston's shares, were converted into shares of other Nevada corporations. Therefore, Section 144(c) governing going private controlling stockholder transactions does not apply.

Instead, the Reincorporation was "[a] controlling stockholder transaction (other than any going private transaction)" and falls within Section 144(b).

(iii) *Section 144(b)(2) Is Not Applicable*

249. Section 144(b)(2) is inapplicable to the Reincorporation because Defendants abandoned the plan to submit the Reincorporation for a stockholder vote and Houston unilaterally approved the transaction by written stockholder consent.

(iv) *The Requirements of Section 144(b)(1)*

250. The so-called "safe harbor" of Section 144(b)(1) requires that:

> The material facts as to such controlling stockholder transaction (including the controlling stockholder's or control group's interest therein) are disclosed or are known to all members of a committee of the board of directors to which the board of directors has expressly delegated the authority to negotiate (or oversee the negotiation of) and to reject such controlling stockholder transaction, and such controlling stockholder transaction is approved (or recommended for approval) in good faith and without gross negligence by a majority of the disinterested directors then serving on the committee.

251. For Section 144(b)(1) to apply:

a. the material facts as to Houston's interest in the Reincorporation must have been disclosed or known to all members of the Evaluation Committee (the "Material Facts Requirement");

b. the Board must have expressly delegated to the Evaluation Committee the authority to negotiate or oversee the negotiation of and to reject the Reincorporation (the "Negotiating Authority Requirement");

c. the Reincorporation must have been approved or recommended for approval by a majority of the disinterested directors on the Evaluation Committee (the "Approval or Recommendation Requirement"); and

d. the Evaluation Committee's recommendation must have been made in good faith and without gross negligence (the "No Gross Negligence Requirement").

The allegations of this Amended Complaint make it reasonably conceivable that these requirements of Section 144(b)(1) were not met.

(v) *It Is Reasonably Conceivable that the Negotiating Authority Requirement Was Not Met*

252. Section 144(b)(1)'s Negotiating Authority Requirement was not met as to the Reincorporation. To satisfy this requirement, the Evaluation Committee must have been expressly authorized by the Board to negotiate or oversee the negotiated terms of Reincorporation and to reject the Reincorporation. The Evaluation Committee was only authorized to <u>evaluate</u> a <u>potential</u> <u>reincorporation</u>; it was not authorized to, and did not, negotiate or oversee the negotiation of the terms of <u>the Reincorporation</u>. It only had authority to <u>recommend</u> a <u>potential</u> reincorporation; it

was not given the authority to reject the Reincorporation. As its name reflects, the committee was only an "Evaluation Committee." The October 23, 2024 minutes establish that the Committee was established [redacted][257] The Evaluation Committee was to [redacted] The Board's delegation was for the Committee [redacted] The Evaluation Committee was to [redacted]

253. The Dropbox Board did not "expressly delegate []" to the Evaluation Committee "the authority to negotiate (or oversee the negotiation of)" the terms of the Reincorporation Dropbox effected. The Board did not "expressly delegate []" to the Evaluation Committee the power "to reject" the actual Reincorporation.

254. Consistent with the committee's limited role, the minutes of the meeting of the Evaluation Committee reflect only general "evaluation" of a "potential" reincorporation with a view to giving a "recommendation" to the Board. As the November 14, 2024 Evaluation Committee minutes state, the Committee recognized [redacted]

[257] DBX220_000066.

[redacted][258] The Committee's mandate was not "to negotiate (or oversee the negotiation of)" the terms of the actual Reincorporation. Similarly, in the November 21, 2024 Evaluation Committee minutes, the Committee's counsel outlined [redacted][259]

255. At its November 25, 2024 meeting, the Evaluation Committee [redacted][260] At the Board's December 10, 2024 meeting, Jacobs merely [redacted][261] The December 16, 2024 Evaluation Committee minutes recognized that proceeding with a reincorporation was dependent on the assumption that [redacted][262]

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[258] DPX220_000044.

[259] DPX220_000046.

[260] DPX220_000048 (emphasis added).

[261] DPX220_000069 at '073.

[262] DBX220_000050 at '051.

256. The minutes of the Evaluation Committee's twenty-minute meeting on January 7, 2025 indicate there was a brief discussion of [redacted][263] The minutes do not indicate that the Committee ever received the draft documents. No such documents were produced in response to Plaintiff's Demand, which specifically requested all documents provided to the Committee. There was no indication such documents were provided to the Committee. No such documents have been identified as withheld based on privilege.

257. The minutes of the January 17, 2025 Board meeting indicate the Evaluation Committee chair provided [redacted][264] The chair [redacted][265]

[263] DBX220_000061.

[264] DBX220_000075.

[265] *Id.* (emphasis added).

258. The <u>Board</u> approved the resolutions for the Reincorporation (the "Resolutions"). The Evaluation Committee did not approve the Resolutions or even recommend those Resolutions to the Board. The Resolutions acknowledged that the Evaluation Committee was formed "to function as a working group to study and evaluate the relevant information and considerations with respect to a potential reincorporation of the Company."[266] The Resolutions also recognized that the Committee only provided a recommendation "that the Board approve a reincorporation" from Delaware to Nevada. The Board, not the Evaluation Committee approved "the proposed Plan of Conversion," the Nevada Charter, and the Nevada Bylaws, documents Plaintiff's Demand specifically requested, but Dropbox withheld from the Section 220 production as privileged.

259. In short, the Evaluation Committee lacked the requisite authority under Section 144(b)(2) and never negotiated or supervised the negotiations of any of the terms of the Reincorporation. It generally recommended potential reincorporation in Nevada. It did not negotiate or even oversee the negotiation of the terms of the Reincorporation. Indeed, the Board minutes do not reflect any negotiation over the terms of the Reincorporation by the Board, including the Plan of Conversion, Nevada Charter and Nevada Bylaws not the specific terms of the Reincorporation.

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[266] *Id.* at '078.

(vi) *It is Reasonably Conceivable that the Material Facts Requirement Was Not Met*

260. The minutes of the meetings of the Evaluation Committee and the Board do not reflect any discussion of Houston's interest in the Reincorporation. The Information Statement also does not reflect any such discussion. Therefore, it is reasonably conceivable that material facts as to the controlling stockholder's interest in the Reincorporation were not disclosed or known to all members of the Evaluation Committee.

261. The Committee minutes and the absence of even draft documents in the Section 220 production indicate the Evaluation Committee never received the draft disclosure documents, the Plan of Conversion, the Nevada Charter, or the Nevada Bylaws. Therefore, it is reasonably conceivable that material facts as to the controlling stockholder transaction (*i.e.*, the Reincorporation) were not disclosed to or known by all members of the Committee, as required by Section 144(b)(1).

(vii) *It Is Reasonably Conceivable that the Approval or Recommendation Requirement Was Not Met*

262. Section 144(b)(1) required that the Evaluation Committee approve or recommend the controlling stockholder transaction – *i.e.*, the Reincorporation. However, the Committee did not approve or even recommend the Reincorporation. The Evaluation Committee merely made a "preliminary recommendation" of

potential reincorporation to Nevada. It did not recommend the Reincorporation, which constituted the controlling stockholder transaction.

(viii) *It Is Reasonably Conceivable that the No Gross Negligence Requirement Was Not Met*

263. Because the several other requirements of Section 144(b)(1) were not met, the Evaluation Committee's "preliminary recommendation" of a "potential reincorporation" has no effect under Section 144(b)(1). Moreover, even that preliminary recommendation was flawed.

264. Because of the preordained result, the involvement of conflicted advisors who were not selected by the Committee, the participation of Houston and management, the failure to obtain and review documents and the failure to negotiate on behalf of Dropbox's minority stockholders, the preliminary recommendation of a potential reincorporation by the Evaluation Committee was not made in good faith and was the product of gross negligence.

(ix) *Fairness is the Applicable Standard*

265. Because Section 144(b)(1) is not satisfied and Section 144(b)(2) is inapplicable, the Defendants have the burden under Section 144(b)(3) of proving that the Reincorporation was fair as to the corporation and the corporation's stockholders. As shown below, the Reincorporation was not entirely fair to Dropbox and its minority stockholders.

(x) *The Amended Complaint States a Claim Under Section 144(b)*

266. Because the requirements of Section 144(b)(1)-(3) are not satisfied, the Amended Complaint states a claim for breach of fiduciary duty by the Dropbox directors and by Houston as controlling stockholder as to which the Court can order equitable relief and/or award damages. The exculpation of damages for breach of duty of care in Dropbox's certificate of incorporation does not bar rescission of the Reincorporation for breaches of duty of care. It also does not bar rescission or an award of damages for Defendants breach of duty of loyalty, actions not in good faith and a transaction from which they received improper personal benefits.

B. Entire Fairness Applies Because the Reincorporation Provided Houston and the Other Individual Defendants with Material, Non-Ratable Benefits

(i) *The Non-Ratable Benefits of Decreased Risk of Litigation and Liability*

267. The Reincorporation provided Houston and the other Defendants with a material, non-ratable personal benefits not received by stockholders generally. As the controlling stockholder, a director and an officer of Dropbox, Houston is a corporate fiduciary with respect to the Transformation, including the Reincorporation. Houston, as a director and officer of Dropbox, and the other Defendants, as Dropbox directors, are corporate fiduciaries as to the Transformation, including the Reincorporation. As the Information Statement confirms, Houston and

the other directors were also Dropbox stockholders. Dropbox's other stockholders are not corporate fiduciaries. Therefore, effects of the Reincorporation which limited litigation risk and liability risk to corporate fiduciaries provided Defendants non-ratable benefits the public stockholders did not receive.

268. The Reincorporation extracted uniquely valuable and material benefits for Houston and the other Defendants because it (i) provided for greater exculpation, (ii) eliminated the Dropbox stockholders' ability to investigate their fiduciary conduct, including conduct occurring before the Reincorporation, (iii) reduced their potential liability as corporate fiduciaries to the stockholders and the Company, (iv) eliminated Delaware derivative claims against them, including with respect to the Transformation, Reincorporation, and Houston's stock sales, and (v) established lesser fiduciary standards for their future actions. The Reincorporation provided Houston and the directors with non-ratable benefits because it materially reduced or eliminated their risk of fiduciary litigation and liability for actions occurring while Dropbox was a Delaware corporation. The Reincorporation eliminated any meaningful inspection rights for stockholders, eliminated appraisal rights in mergers involving cash consideration, eliminated the right to entire fairness review in interested transactions with corporate fiduciaries, and will make it far more difficult to hold fiduciaries accountable. The Reincorporation is detrimental to Dropbox's

minority stockholders and the benefits for Houston and the other Defendants came at the expense of the minority stockholders.

269. The Board's exemption of Houston from the Nevada business combination statutes is also a material, non-ratable benefit for Houston. No other current Dropbox stockholder was exempted from those statutes. As a result of the Reincorporation "any combination in any way involving or relating to Mr. Houston" will not be subject to Nevada's business combination statutes. This is a non-ratable benefit that is uniquely valuable to Houston as a controller. The Reincorporation essentially granted Houston an option to take Dropbox private without the stockholders having the ability to obtain books and records, challenge the fairness of the transaction, or exercise appraisal rights.

(ii) *The Non-Ratable Benefits Were Material*

270. The temporality, maturity and scope of the reduced risk of litigation and liability of Houston and the directors establishes that the non-ratable benefits of the Reincorporation were material.

271. The Reincorporation was not approved on a clear day. The Information Statement admits that the purpose of the Reincorporation included preventing and limiting Defendants' potential liability for existing conduct, including steps already taken in and the effects of the Transformation, as well as the Reincorporation itself.

The Information Statement's description of the "**Background of the Nevada Reincorporation**" states that Dropbox is in a "transformational period," describes the Workplace Reduction, Term Loan, and Stock Repurchase Plan as elements of the Transformation, then indicates that the consideration and implementation of the Reincorporation was part of the Transformation.[267]

272. The Information Statement states that both the Evaluation Committee and Board were focused on the "legal environment" and difference between the law of "fiduciary duties" in Delaware and Nevada.[268] The Information Statement specifically mentioned that litigation could delay implementation of the rest of the Transformation.[269] It specifically recognized the potential for legal challenges to the Reincorporation.[270] The Information Statement makes it a fair inference and reasonably conceivable that the Dropbox directors were influenced by their interest in avoiding litigation against them and potential personal liability with respect to steps in the Transformation that had already been taken.

273. The benefit of reduced risk of litigation and liability applied both retroactively to steps of the Transformation already taken, and prospectively to

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[267] Information Statement at 3.

[268] *Id.* at 4–5.

[269] *Id.* at 3, 5.

[270] *Id.* at 3.

further steps in the Transformation. The non-ratable benefit was material in terms of temporality.

274. The non-ratable benefit of reduced risk of litigation and liability was material as to maturity. The threat of litigation was not inchoate, but real. Steps in the Transformation had already been taken and the Evaluation Committee and Board acknowledged that litigation concerning the Transformation and the Reincorporation was a strong possibility. Indeed, reducing the threat of litigation was the purpose of the Reincorporation. Half Moon's opposition to the Transformation and Houston's perpetual control of Dropbox also showed the threat of litigation was actual. Finally, Plaintiff's Section 220 Demand and Section 220 Action establish that the Reincorporation was effected in the shadow of litigation.

275. The multi-pronged non-ratable benefit of reduced risk of litigation and liability provided by the Reincorporation was material as to scope. The virtual elimination of books and records inspection rights under Nevada law would make it far more difficult for stockholders to obtain information to support allegations of wrongdoing. The lack of an entire fairness standard in Nevada makes it far more difficult for stockholders to challenge self-interested transactions. Nevada statutory law automatically precludes liability of directors and officers for breach of fiduciary duty, including the duty of loyalty, unless the breach "involved intentional

misconduct, fraud or knowing violation of law." In contrast, Section 102(b)(7) does not permit certificate provisions that eliminate or limit liability for "any breach" of duty of loyalty. Unlike Nevada law, Delaware law does not permit exculpation of transactions from which a director or officer derives an improper personal benefit or acts or omissions that are not in good faith. Nevada permits exculpation of officers, such as Houston, from liability for actions by the corporation and derivative claims; Delaware does not. The Reincorporation also eliminated stockholder standing for Delaware law derivative claims. Further, Nevada's virtual elimination of appraisal rights effectively eliminates appraisal litigation over transactions approved by the Board and by Houston as controlling stockholder. Finally, the exemption of Houston from Nevada's combinations statute eliminated the Dropbox stockholders' ability to sue to enforce the provisions of that statute.

C. Entire Fairness Applies Because the Board of Directors and Evaluation Committee Were Compromised by Houston's Influence

276. Given Houston's role as founder, CEO, and controlling stockholder, Dropbox's management would not have initiated discussion of the Reincorporation without his influence, approval and support. Given his obvious and multiple interests in the Reincorporation, Houston should have allowed any consideration of the Reincorporation to proceed unhindered by his dominating hand.

277. As CEO, Houston had control over the other members of management, including Volkmer and Angelmar. As founder, Chair of the Board and CEO, Houston controls the corporate agenda. As Dropbox's April 2, 2024 Proxy Statement (the "2024 Proxy") explained:

> Mr. Houston currently serves as both the chair of our board of directors and as our Chief Executive Officer. As our co-founder, Mr. Houston is best positioned to identify strategic priorities, lead critical discussion, and execute our business plans.[271]

278. The Proxy acknowledged that "Mr. Houston's combined role leverages his deep involvement with the company's business."[272] As Chair, Houston sets the agenda for Board meetings, while Blair, the lead independent director, merely "consults with Mr. Houston on the agenda for meetings of the board."[273] Therefore, it was Houston who put the Reincorporation on the agenda for the September, 2024, October 23, 2024, December 10, 2024, and January 17, 2024 Board meetings.

279. Because of his personal interests in the Reincorporation, Houston was self-interested and should have recused himself from the Board meetings concerning the Reincorporation. Instead, he chaired those meetings and he voted for the Reincorporation as a director and stockholder.

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[271] 2024 Proxy at 13.

[272] *Id.*

[273] *Id.*

D. The Reincorporation Is Not Entirely Fair

280. It is reasonably conceivable that the Defendants will not be able to prove the entire fairness of the Reincorporation to Dropbox's minority stockholders. As shown above, it is a fair inference and reasonably conceivable that the Reincorporation was initiated by Houston and other members of management, including Volkmer. The Defendants timed the Reincorporation during and as part of the Transformation and they timed the disclosure and effectuation of the Reincorporation to restrict the ability of the Dropbox stockholders to obtain relevant books and records prior to accomplishment of the transaction and to render obtaining pre-closing injunctive relief impracticable. Defendants timed the Reincorporation so it would, as a practical matter, be a *fait accompli* before results from the fourth quarter and full year 2024 drove down Dropbox's stock price.

281. The structure of the Reincorporation was also unfair. Class B stockholders, including Volkmer, had appraisal rights; Class A stockholders did not. The written consent structure deprived stockholders other than Houston of the opportunity to make their views of the Reincorporation known and to vote on the transaction.

282. The Board's approval of the Reincorporation was flawed. The Evaluation Committee process was grossly negligent and completely undermined by

the participation of [redacted] and conflicted advisors who were not independent. Houston's participation tainted the Board process.

283. The Evaluation Committee and Board did not have independent advisors. The directors were self-interested because of the material, non-ratable benefits the Reincorporation would provide them.

284. Houston unilaterally supplied the stockholder votes to approve the Reincorporation. There was no vote of the minority stockholders. Volkmer's resignation, tendered as soon as the Reincorporation was able to be implemented, demonstrates he was making one last effort to serve the interests of Houston and Wilson Sonsini.

285. The Reincorporation forcibly converted the Delaware shares of Dropbox into shares of a Nevada corporation and eliminated or limited important stockholder rights. The Board's exemption of Houston from Nevada's business combination statutes increases the peril for Dropbox's public stockholders as it granted Houston an option to take Dropbox private with the stockholders unable to investigate or challenge the fairness of the transaction or exercise appraisal rights.

286. The Reincorporation was also unfair because, as described above, Defendants provided the public Class A stockholders with materially misleading and incomplete disclosure concerning the Reincorporation and Transformation in the

Information Statement. The Board sought stockholder action on the Reincorporation. Houston provided stockholder approval through the written consent process of 8 *Del. C.* § 228. Section 228(e) requires that where consent is less than unanimous, prompt notice of the action by consent shall be given to the nonconsenting stockholders. Therefore, the Section 228 notice was part of the stockholder action required to approve the Reincorporation. Under 8 *Del. C.* § 232(g), because the Information Statement was enclosed with the Section 228 notice, it is deemed part of the notice. Having determined to have the Information Statement conveying substantive information served as part of the Section 228 notice, the Defendants had a fiduciary duty to provide the stockholders full and accurate information in connection with a transaction involving their shares. The Board abdicated its duty of disclosure by resolving to have Houston and other conflicted officers have complete control over disclosure of the Reincorporation to the stockholders.

287. As discussed above, the Information Statement, as formulated by Houston and other Authorized Officers, contained misleading and incomplete disclosure. The Information Statement made misleading partial disclosure concerning Nevada and Delaware law. It contained inaccurate, partial, and misleading references to Delaware case law being different from Nevada case law.

The Information Statement claimed "there are various important common law doctrines under Delaware law that have not been adopted by Nevada courts or adopted in Nevada statutes."[274] It did not identify the doctrines. The Information Statement did not mention Delaware's entire fairness standard (or intrinsic or inherent fairness) and did not mention Nevada's disavowal of that standard. Having chosen to make partial disclosure of Delaware common law doctrines that Nevada has not adopted, the Dropbox directors were required to provide a full and accurate summary. There was no disclosure concerning the Nevada Amendments or Delaware Amendments, jury trials under Nevada law or Half Moon's opposition to the Transformation and stockholder proposal.

288. Because the Reincorporation was the product of breaches of fiduciary duty, equitable rescission is a reasonable, appropriate, and preferable remedy to restore the statute *quo ante*. Equitable rescission includes the further equitable relief of cancellation of the certificate of conversion to restore the status *quo ante*. Equitable rescission will cause Dropbox to again be governed by Delaware law and revive the stockholder rights the Reincorporation purported to eliminate. The Information Statement and March 10, 2025 8-K acknowledged that Dropbox did not change as a result of the Reincorporation other than the conversion of shares, which

[274] Information Statement at 6.

is reversible.[275] Defendants will be restored to the same position they occupied before the Reincorporation.

289. If rescission of the Reincorporation is not ordered, the Court should award rescissory damages and compensatory damages, including for the loss of inspection rights, appraisal rights, and the right to entire fairness. To the extent feasible under Nevada law, the Court should also order rescission of the benefits Defendants received in the Reincorporation, including ordering the Board to rescind its exemption of Houston from Nevada's business combination statutes.

COUNT II
Breach of Fiduciary Duty: Defensive Measure
(Against the Defendants)

290. Plaintiff repeats and realleges all the other allegations of this Amended Complaint as if fully set forth herein.

291. The Transformation is a corporate policy that has been adopted by the Board and has been, and continues to be, implemented by the Board and management. Prior to the Reincorporation, Half Moon had been opposing the Transformation and demanding that the Board pursue eliminating Dropbox's dual class stock structure, thereby eliminating Houston's control and enabling stockholders to hold Houston, the Board and management accountable for the

[275] *Id.* at 21–22.

Transformation. The Board, as directors, and Houston, as an officer, had a fiduciary duty in responding to Half Moon's challenges to the corporate policy of the Transformation and Dropbox's control structure.

292. In the Information Statement and the minutes of the Board and Evaluation Committee, Defendants admit that the Reincorporation was pursued to protect the Transformation. They also acknowledge the threat that stockholders dissatisfied with the Transformation may attack the Transformation by suing them and that the Reincorporation may discourage, limit or prevent an attack on the Transformation.

293. The Reincorporation was a defensive measure in response to what the Board perceived as a threat to its corporate Transformation policy and to Houston's control. The Defendants' implementation of the Reincorporation was a breach of fiduciary duty by the directors and by Houston as an officer.

294. The Board had no reasonable grounds for believing that Half Moon's opposition to the Transformation and potential litigation arising from stockholder dissatisfaction with the Transformation posed a significant danger to corporate policy and effectiveness. Stockholders have a right to express disagreement with corporate policy. The expression of disagreement, and even the possible institution of litigation as a result of that disagreement, does not rise to the level of creating

reasonable grounds to believe there is a threat to corporate policy and effectiveness. Nor does a stockholder proposal to dismantle Dropbox's dual stock structure raise such a threat.

295. To the extent stockholder opposition to the Transformation, potential litigation challenging the Transformation, and/or a stockholder's proposal that Dropbox abandon its dual stock structure constitutes a legitimate threat to corporate policy and control, the Reincorporation was not a proportionate response. The Reincorporation was a coercive, excessive, and preclusive response.

296. Because the Reincorporation involved a taking of the stock of Plaintiff and the Class and deprived them of and limited certain of their rights, including inspection rights, appraisal rights, causes of action, and the right to sue as stockholders, they have a direct cause of action to challenge the Reincorporation as a defensive measure.

297. As explained above, equitable rescission of the Reincorporation and cancellation of the Certificate of Conversion is an appropriate and the preferrable remedy for Defendants' breach of fiduciary duty. If rescission of the Reincorporation is not ordered, the Court should award rescissory damages and compensatory damages for the loss of stockholder rights caused by the Reincorporation and order rescission of the benefits Defendants received in the

Reincorporation to the extent feasible under Nevada law; including ordering the Board to rescind its exemption of Houston from Nevada's business combination statutes.

COUNT III
Breach of Continuing Fiduciary Duty: Failing to Reconsider
(Against Dropbox Directors)

298. Plaintiff repeats and realleges all the other allegations of this Amended Complaint as if fully set forth herein.

299. Directors of a Delaware corporation have a continuing obligation to discharge their fiduciary duties, as circumstances develop, after they have approved a transaction. After the Dropbox Board approved the Reincorporation on January 17, 2025, the Nevada Amendments and Delaware Amendments were proposed. These developments changed the circumstances by undermining the rationale for the Reincorporation and changing significant portions of the Nevada corporation law that would apply if the Reincorporation occurred.

300. Because the Company's Delaware and Nevada counsel were actively involved in the Delaware Amendments and Nevada Amendments, respectively, it is reasonably conceivable and a fair inference that the Dropbox directors were aware of both sets of amendments. The Board resolution approving the Reincorporation specifically provided that, notwithstanding stockholder approval, the Board or any

duly authorized committee could, at any time prior to the effectiveness of the Reincorporation, abandon the Reincorporation and Plan of Conversion.

301. Despite the changed circumstances, (i) the Evaluation Committee never met and considered whether to withdraw its recommendation of reincorporation, (ii) the Board never met and reconsidered the Reincorporation, and (iii) the Information Statement was never supplemented. The failure of the Evaluation Committee to reconsider its recommendation and the failure of the Board to reconsider the Reincorporation, which based on the Nevada Amendments would provide even further benefits to them, constituted a breach of duty of loyalty and an abdication of their fiduciary duties. Their continuing failure to provide accurate information to the stockholders in the Information Statement was a further abdication of their continuing fiduciary duty.

302. As explained above, Defendants' breach of fiduciary duties makes equitable rescission of the Reincorporation and cancellation of the Certificate of Conversion a reasonable, appropriate, and preferable remedy to restore the status *quo ante*. If rescission of the Reincorporation is not ordered, the Court should award rescissory damages and compensatory damages, including for the loss of stockholder rights caused by the Reincorporation and rescission of the benefits Defendants received in the Reincorporation to the extent feasible under Nevada law, including

ordering the Board to rescind its exemption of Houston from Nevada's business combination statutes.

<u>COUNT IV</u>
Abdication of Fiduciary Duty of Disclosure
(Against Dropbox Directors)

303. Plaintiff repeats and realleges all the other allegations of this Amended Complaint as if fully set forth herein.

304. Defendants serving on the Board at the time of the January 17, 2026 Resolutions through the consummation of the Reincorporation owed fiduciary duties to Dropbox's stockholders, including a duty of disclosure which required them to disclose all material information concerning the Reincorporation. The Board set a record date and directed that the Reincorporation be submitted to the stockholders for a vote. The Board abdicated its fiduciary duty of disclosure because (i) it approved a resolution delegating to the Authorized Officers the authority to prepare an information statement and other disclosure materials and mail these "Information Statement Materials" to the stockholders without the Board's review and (ii) it failed to review the disclosures to the stockholders concerning the Reincorporation.

305. There are no meeting minutes, no statement in the Information Statement or other indication that directors on the Board oversaw the preparation of the Information Statement Materials or reviewed the Pre-14C filed with the SEC or

the Information Statement mailed to the stockholders. The minutes, Resolutions, and Information Statement provide no information indicating that the Board's delegation of its disclosure obligation was necessary or appropriate. The scope of the Board's delegation to Houston and other officers was complete and absolute. The Defendants consciously and intentionally abdicated their duty of disclosure by granting Houston and other officers sole authority and discretion to determine what information to include in or exclude from the Information Statement.

306. Houston and the other officers to whom the Board delegated such expansive authority were conflicted because they stood to gain mandatory exculpation rights and other liability protections through the Reincorporation that they did not have under Delaware law.

307. The Defendants' abdication of their directional duty evidences disloyalty. Their failure to discharge their disclosure duty was an omission that was not in good faith. The resolution turning disclosure over to the Authorized Officers, including Houston, the chief beneficiary of the Reincorporation, was an intentional dereliction of duty showing a conscious disregard of the Board's responsibilities. Defendants' abdication of duty is not subject to exculpation under 8 *Del. C.* § 102(b)(7).

308. The Defendants further abdicated their duty of disclosure by failing to correct or amend the misleading disclosure in the Information Statement and failing to supplement the Information Statement with disclosure concerning the Delaware Amendments and the Nevada Amendments.

309. Because the Reincorporation is the product of a breach of the fiduciary duty of disclosure, equitable rescission and cancellation of the Certificate of Conversion is a reasonable, appropriate and preferable remedy and will restore the status *quo ante*, cause Dropbox to again be governed by Delaware law, and revive the stockholder rights the Reincorporation purported to eliminate. The Information Statement indicates that Dropbox did not change as a result of the Reincorporation other than the conversion of shares, which is reversible.[276] If rescission of the Reincorporation is not awarded, the Court should award rescissory damages and compensatory damages, including for the loss of stockholder rights caused by the Reincorporation and order rescission of the benefits Defendants received in the Reincorporation to the extent feasible under Nevada law, including ordering the Board to rescind its exemption of Houston from Nevada's business combination statutes.

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[276] *Id.*

COUNT V
Breach of Fiduciary Duty by Officer
(Against Houston as an Officer)

310. Plaintiff repeats and realleges all the other allegations of this Amended Complaint as if fully set forth herein.

311. As Chairman of the Board and Chief Executive Officer, Houston was an officer of Dropbox in January through March, 2025.[277] As an officer of Dropbox, Houston owed the same Delaware law duties of care and loyalty as directors, including the duty of disclosure that is a part of those duties. Houston was an Authorized Officer to whom the Board delegated the responsibility to prepare, file, and distribute the Information Statement Materials.

312. It is reasonably conceivable and a fair inference that Houston, as Chairman and Chief Executive Officer, was among the members of Dropbox management who initiated and pushed the pursuit of the Reincorporation. Indeed, given his position of power, it is unlikely that such a major step as reincorporation would have been pursued without his approval and encouragement. He set the agenda for, attended and presided over the Board meetings concerning Reincorporation. As a Dropbox officer he directly benefited from the Reincorporation.

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[277] *Id.* App. D. Art. V. Section 5.1.

313. In his capacity as an officer, Houston breached his fiduciary duties of care and loyalty by pursuing a self-interested Reincorporation that was a product of a flawed process.

314. As Chairman, Houston signed the Notice of Stockholder Action by Written Consent delivering that Notice and the Information Statement to Dropbox's stockholders. Under Section 5.1 of Dropbox's Bylaws, the chairperson of the Board was a corporate officer. The Notice identified Houston and various Houston trusts as the "Consenting Stockholders" who approved the Reincorporation by written consent. The Notice stated that the purpose of the Notice and Information Statement was to inform the stockholders of the Reincorporation "before it takes effect."

315. Houston also signed the Information Statement as Chairman.[278] The Information Statement acknowledged that:

> All of the shares of capital stock of the Company held by the Consenting Stockholders are beneficially owned by Andrew Houston. Mr. Houston is the Company's Chairman of the Board and Chief Executive Officer.[279]

316. Houston's involvement in the Reincorporation, included participating in preparing and sending to the stockholders an Information Statement that was materially misleading and deliberately incomplete. Houston breached his duty of

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[278] *Id.* at 29.

[279] *Id.* at 1.

disclosure by sending stockholders the Information Statement. He further breached that duty by failing to correct, amend, or supplement the Information Statement, including by not revealing the existence of the Delaware Amendments and Nevada Amendments.

317. Houston's breaches of fiduciary duty make equitable rescission and cancellation of the Certificate of Conversion a reasonable, appropriate, and preferable remedy. If rescission of the Reincorporation is not awarded, the Court should award rescissory damages and compensatory damages, including for the loss of stockholder rights caused by the Reincorporation and order rescission of the benefits Houston received in the Reincorporation including ordering the rescission of Houston's exemption from Nevada's business combination statutes. Dropbox's certificate of incorporation did not provide for exculpation of liability of Houston for breach of his fiduciary duties of care, loyalty and disclosure as an officer.

COUNT VI
Breach of Fiduciary Duty of Loyalty by Houston as Controlling Stockholder (Against Houston as Controlling Stockholder)

318. Plaintiff repeats and realleges all the other allegations of the Amended Complaint as if fully set forth herein.

319. As the controlling stockholder of Dropbox, Houston owed a fiduciary duty of loyalty to the Class A stockholders who own the majority of the equity of Dropbox. Houston received improper personal benefits from the Reincorporation.

320. Houston was an instigator of the Reincorporation and improperly injected himself into the Board's consideration of reincorporation. Indeed, it is reasonable conceivable and a fair inference that given that reincorporation would require a stockholder vote, the Reincorporation would not have been pursued unless Houston as controlling stockholder supported it. Houston breached his duty of loyalty by pushing through the Reincorporation. Houston used the Reincorporation to protect the Transformation, including the Stock Repurchases that enabled him to increase his control while selling shares back to the Company. He used the Reincorporation to thwart efforts to have him eventually relinquish control of Dropbox. He used his majority voting power to vote through the Reincorporation without giving the public stockholders an opportunity to express their views and to

hide events such as the Nevada Amendments and Delaware Amendments, which showed the purported rationale for the Reincorporation was evaporating.

321. As a controlling stockholder in a conflicted transaction, Houston also owed a duty of disclosure to the Class A stockholders. He actively participated in the deliberately misleading Information Statement and failed to disclose the Nevada Amendments and Delaware Amendments.

322. Houston breached his duty of loyalty as a controlling stockholder with respect to the Reincorporation. In that capacity, he is not entitled to exculpation from damages and as shown above, the provisions of Section 144 do not protect him.

323. Houston's breach of fiduciary duties as controlling stockholder makes equitable rescission and cancellation of the Certificate of Conversion a reasonable, appropriate, and preferable remedy. If the Court does not award rescission of the Reincorporation, the Court should award rescissory damages and compensatory damages, including for the loss of stockholder rights caused by the Reincorporation and award other equitable relief requiring Houston to relinquish the improper benefits he received in the Reincorporation including, rescission of Houston's exemption from Nevada's business combination statutes.

WHEREFORE, Plaintiff prays that this Court:

A. Enter an order certifying this action as a class action;

B. Enter judgment in favor of Plaintiff and against Defendants;

C. Declare that the Defendants have breached their fiduciary duties;

D. Enter an order rescinding the Reincorporation and directing the Delaware Secretary of State to void the Certificate of Conversion;

E. Award damages (including if the Reincorporation is not rescinded, rescissory damages) to Plaintiff and the Class;

F. Award Plaintiff reasonable attorney's fees and expenses; and

G. Award such other and further relief as is just and equitable.

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