



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

AHUVA SCHACHTER, MICHAEL
SMITH, DOUGLAS NEUJAHR,
SAMHITA GERA, and DENISH
BHAVSAR, Individually and on Behalf
of All Others Similarly Situated,

Plaintiffs,

vs.

C.A. No. 2023-1112-NAC

IAN ROBERTSON, KEN MANGET,
CHRISTOPHER JARRATT,
MICHAEL HOFFMAN, PAUL
DALGLISH, BRAD SPARKES, and
ROBERT SCHAEFER,

Defendants.

**PLAINTIFFS' OPENING BRIEF IN SUPPORT OF THEIR MOTION TO
CERTIFY THE CLASS, APPROVE THE PROPOSED SETTLEMENT,
AWARD ATTORNEYS' FEES AND EXPENSES,
AND APPROVE SERVICE AWARDS**

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Plaintiffs Ahuva Schachter, Michael Smith, Douglas Neujahr, Samhita Gera, and Denish Bhavsar (“Plaintiffs”), by and through their undersigned attorneys, individually and on behalf of the Class (defined herein) of former stockholders of Northern Genesis Acquisition Corp. (“NGA”), submit this Opening Brief in Support of their Motion to Certify the Class, Approve the Proposed Settlement, Award Attorneys’ Fees and Expenses, and Approve Service Awards, seeking: (i) certification of the Class for settlement purposes, pursuant to Court of Chancery Rules (the “Rule(s)”) 23(a) and 23(b)(1); (ii) approval of the proposed settlement (the “Settlement”) between: (a) Plaintiffs and (b) Defendants Ian Robertson (“Robertson”), Ken Manget (“Manget”), Christopher Jarratt (“Jarratt”), Michael Hoffman (“Hoffman”), Paul Dalglish (“Dalglish”), Brad Sparkes (“Sparkes”), and Robert Schaefer (“Schaefer”) (collectively, the “Defendants,” and with Plaintiffs, the “Parties” and each a “Party”), as set forth in the Stipulation and Agreement of Compromise, Settlement, and Release dated August 26, 2026 (the “Stipulation”); (iii) an award of attorneys’ fees and expenses; and (iv) \$1,500 service awards for each of the Plaintiffs.¹

¹ All capitalized terms not defined herein shall have the meaning ascribed in the Stipulation.

Class Members were given notice of the proposed Settlement in accordance with the Scheduling Order entered by the Court on September 14, 2026.² To date, there have been no objections. A hearing is scheduled for December 1, 2026, for the Court to consider these matters.

PRELIMINARY STATEMENT

Plaintiffs brought this Action on behalf of themselves and other former NGA stockholders who were entitled to, but did not, redeem their shares of NGA Class A common stock in connection with NGA's business combination (the "Merger") with The Lion Electric Company and its wholly owned subsidiary, Lion Electric Merger Sub Inc. (together, "Legacy Lion Electric").

Because of the unique issues involving New Lion Electric, this litigation was far from the normal "*MultiPlan* action" frequently litigated in this Court. Unlike the typical *MultiPlan* plaintiff, Plaintiffs could not pursue a pre-suit books-and-records inspection to develop their claims because New Lion Electric is incorporated under the laws of Quebec, Canada and thus beyond the reach of 8 *Del. C.* § 220. Plaintiffs nonetheless litigated this Action aggressively. They investigated the Merger, filed a detailed Verified Class Action Complaint on November 1, 2023, and, filed a Verified Amended Class Action Complaint on March 11, 2024 that added detail to their

² See Affidavit of Luiggy Segura Regarding: (A) Dissemination of the Notice; and (B) Establishment of Call Center Services and Settlement Website ("Segura Aff.") (filed herewith).

fiduciary-duty and unjust-enrichment claims and asserted aiding-and-abetting claims against New Lion Electric, Marc Bedard (“Bedard”), and Nicolas Brunet (“Brunet” and with Bedard, the “Former Defendants”). Following full briefing and oral argument, the Court took Defendants’ and Former Defendants’ Motion to Dismiss under advisement and requested supplemental briefing on whether Plaintiffs had standing to enforce the merger agreement’s forum selection clause against the Former Defendants. Thereafter, the Parties completed the supplemental briefing.

Before the Court could rule on the pending Motion to Dismiss, New Lion Electric filed voluntary restructuring proceedings under the *Companies’ Creditors Arrangement Act* before the Superior Court of Québec (the “Canadian Proceeding”) and parallel Chapter 15 cases in the United States (together, the “Bankruptcy Proceedings”). The Bankruptcy Proceedings posed an existential threat to Plaintiffs’ ability to continue this action and obtain any recovery for the Class. On May 22, 2025, the Superior Court of Québec (“Canadian Court”) entered an Approval and Reverse Vesting Order (the “RVO”) that contained a release in favor of the Debtors’ current and former directors and officers (the “D&O Release”). Although the D&O Release temporarily carved out Plaintiffs’ claims, the Debtors sought an order containing a full D&O Release that would have extinguished Plaintiffs’ claims outright. In response, Plaintiffs’ Counsel retained Canadian counsel, filed a formal objection, and litigated the issue through a two-day hearing before the Canadian

Court. This cross-border litigation involved novel legal issues regarding the intersection of Canadian insolvency law and Delaware stockholder rights. Through these efforts, Plaintiffs successfully preserved the claims asserted in this Action. On November 17, 2025, the Canadian Court sustained Plaintiffs' objection and entered a Re-Rectified RVO that explicitly excluded the claims in this Action from the D&O Release. Although that ruling is currently the subject of a pending appeal before the Court of Appeal of Québec, Plaintiffs' intervention in the Canadian proceedings successfully protected the rights of Delaware stockholders and maintained the viability of this Action.

On December 18, 2025, the Court granted in part and denied in part the Motion to Dismiss, sustaining Plaintiffs' claims for breach of fiduciary duty against the Director, Officer, and Controller Defendants (defined below) and for unjust enrichment against all seven Defendants. Following the Court's ruling, the Parties proceeded to active discovery. Plaintiffs served requests for production, obtained and reviewed Defendants' document production, and negotiated the framework for expert discovery.

While Plaintiffs were actively litigating this Action, the Parties engaged in settlement discussions. On April 28, 2026, the Parties reached an agreement in principle, and on August 26, 2026, executed the Stipulation providing for a \$4,000,000 cash settlement, subject to Court approval. Plaintiffs submit that this is an

excellent result in light of New Lion Electric’s Canadian restructuring and threat that there would be no viable claims remaining after the Canadian appeal.

Plaintiffs further submit that the proposed Plan of Allocation (the “Plan”) is fair, reasonable, and adequate and should be approved. The Plan distributes the Net Settlement Fund to Class Members on a *pro rata* basis according to the size of each Member’s recognized loss. Class Members who sold their NGA Class A shares before the original Complaint was filed will recover based on the difference between the \$10.00 redemption value and their sale price, while those who held their shares as of that date will recover based on the difference between the \$10.00 redemption value and \$1.53, the closing price of New Lion Electric stock on November 1, 2023 (the date this Action was initiated), with a nominal \$0.10 per share added for every Class Member who submits a claim to compensate them for the impairment of their right to make an informed redemption decision. That recognized-loss methodology, which this Court has repeatedly approved in comparable *MultiPlan* actions,³ equitably accounts for the differing losses of Class Members who sold at different times while compensating all Class Members for the impairment of their redemption rights.

³ See, e.g., Tab 1, *Newman v. Sports Ent. Acquisition Holdings*, C.A. No. 2023-0538-LWW (Del. Ch. Sept. 15, 2025) (TRANSCRIPT), at 28 (“*Super Group Tr.*”); Tab 2, *Drulias v. Apex Tech. Sponsor, LLC*, C.A. No. 2024-0094-LWW (Del. Ch. July 10, 2025) (TRANSCRIPT), at 29-30 (“*Apex Tr.*”); Tab 3, *Yu v. RMG Sponsor, LLC*, C.A. No. 2021-0932-NAC (Del. Ch. Oct. 18, 2024) (TRANSCRIPT), at 23-30 (“*Romeo Power Tr.*”); Tab 4, *Malork v. Anderson*, C.A. No. 2022-0260-PAF (Del. Ch. Oct. 3, 2025) (TRANSCRIPT), at 30-31 (“*Hyzon Tr.*”).

In addition, the Action is well-suited for class certification. Holders of nearly 32 million shares of NGA Class A common stock chose to forgo their redemption rights and invest in New Lion Electric,⁴ and those shares were likely held by thousands of Class Members, making joinder impracticable and satisfying Rule 23(a)(1)'s numerosity requirement. Defendants' pursuit of the allegedly unfair Merger and impairment of NGA stockholders' redemption decisions affected Plaintiffs and the other Class Members in substantially the same manner, giving rise to common questions of law and fact. As demonstrated by Plaintiffs' retention of experienced counsel well known to this Court and their success in securing this recovery for the Class, Plaintiffs have fairly and adequately protected the interests of the Class. Finally, the proposed Class satisfies Rule 23(b)(1) because prosecution of separate actions by individual Class Members would create a risk of inconsistent or varying adjudications and/or adjudications with respect to individual Class Members as a practical matter would be dispositive of the interests of other Class Members not parties to the individual adjudications.

Plaintiffs further submit that an award of 17.5% of the Settlement Amount, after deducting expenses, is appropriate here. The Settlement marks the culmination of hard-fought litigation challenging Defendants' impairment of the Class's redemption rights, all undertaken on a fully contingent basis. Given (i) Plaintiffs' Counsel's

⁴ 20,449 shares were redeemed.

retention of Canadian counsel and successful litigation, through a two-day hearing, of the objection to the D&O Release that preserved the Class’s claims; (ii) the successful defense of the core claims through the Motion to Dismiss; (iii) Plaintiffs’ Counsel’s pursuit, review, and analysis of discovery; and (iv) the arm’s-length settlement negotiations that followed, Plaintiffs’ Counsel’s efforts fall squarely within the “meaningful litigation efforts” for which this Court awards fees in the range of 15% to 25% of the benefit conferred.

In addition, Plaintiffs seek \$71,987.98 in expenses reasonably incurred in litigating this claim. Plaintiffs’ requested expenses include the substantial costs Plaintiffs incurred in retaining Canadian counsel in connection with the Bankruptcy Proceedings.

Finally, Plaintiffs request that the Court approve the payment of a modest \$1,500 service award to each Plaintiff, payable out of any attorneys’ fees awarded to Plaintiffs’ Counsel, to reward them for standing in for the Class and prosecuting this Action.

FACTUAL AND PROCEDURAL BACKGROUND

A. Defendants Form NGA

On May 27, 2020, Robertson, Jarratt, Manget, and Hoffman (the “Controller Defendants”), through Northern Genesis Sponsor, LLC (the “Sponsor”), created NGA and incorporated it in Delaware as a special purpose acquisition company (“SPAC”)

formed for the purpose of effecting a merger, capital stock exchange, asset acquisition, stock purchase, reorganization, or similar business combination with one or more businesses. The Controller Defendants controlled NGA from the time of its formation until the Merger.⁵ By the terms of its charter, NGA had 24 months to complete a business combination, or it would be forced to liquidate and return the funds held in trust to its public stockholders.⁶

NGA was just one of three SPACs that Robertson, Jarratt, and Hoffman organized under the Northern Genesis banner; each was structured the same way, with Robertson as CEO, Hoffman as President, Manget as CFO, and Jarratt as Chairman.⁷ To ensure control over the process, the Controller Defendants populated NGA’s Board with Dalglish, Schaefer, and Sparkes, the same cast of purportedly “independent” directors who served across the Northern Genesis SPACs.⁸ Each was an NGA co-founder, a member of the Sponsor, and a director of the other Northern Genesis SPACs, giving them a direct financial stake in completing a deal.⁹ The Controller

⁵ ¶ 1. All “¶ __” or “¶¶ __” references are to the Verified Amended Class Action Complaint unless otherwise indicated. Trans. ID 72478016. Additionally, emphasis is added and citations are omitted unless otherwise indicated.

⁶ ¶ 48.

⁷ ¶¶ 7, 35.

⁸ ¶¶ 5, 37, 46.

⁹ ¶¶ 5, 37, 46.

Defendants also set up a classified Board, further insulating themselves from stockholder oversight.¹⁰

Before NGA's IPO, the Sponsor paid \$25,000 to acquire 8,625,000 Founder Shares.¹¹ After the underwriters only partially exercised their overallotment, the Sponsor forfeited 638,664 Founder Shares, leaving it with 7,986,336 Founder Shares, which was 20% of NGA's post-IPO equity.¹² At the Sponsor's purchase price of roughly \$0.003 per share, those Founder Shares were worth nearly \$112 million at the time the Merger was announced.¹³ The Sponsor also purchased 8,139,069 private placement warrants at \$1 per warrant and loaned NGA \$3 million under a Working Capital Loan that was later converted into an additional 3,000,000 warrants, bringing the Sponsor's total interest in NGA to over \$148 million at announcement.¹⁴ The "independent" directors likewise stood to profit handsomely: for their collective \$675,000 investment in the Sponsor, Dalglish, Schaefer, and Sparkes were entitled to 675,000 warrants and 525,000 Founder Shares.¹⁵ If NGA did not complete a business combination within its charter window, those Founder Shares and warrants would

¹⁰ ¶ 48.

¹¹ ¶¶ 34, 53.

¹² ¶¶ 34, 53.

¹³ ¶ 3.

¹⁴ ¶¶ 4-5.

¹⁵ ¶ 5.

expire worthless, giving Defendants a powerful incentive to favor any deal over liquidation, regardless of whether it served NGA's public stockholders.¹⁶

B. Defendants Take NGA Public

On August 20, 2020, NGA consummated its IPO of 30,000,000 units at a price of \$10.00 per unit, with each unit consisting of one share of common stock and one-half of one redeemable warrant.¹⁷ Simultaneously with the IPO, NGA sold 7,750,000 private placement warrants to the Sponsor at \$1 per warrant, generating \$7.75 million; on or about August 27, 2020, the underwriters partially exercised their overallotment, and NGA sold an additional 1,945,344 units and 389,069 private placement warrants.¹⁸ The funds raised in the IPO were placed in a trust for the benefit of NGA's public stockholders.¹⁹ In connection with any business combination, public stockholders would have the option either to redeem their shares for their *pro rata* portion of the trust at approximately \$10 per share plus interest, or to invest in the post-Merger company.²⁰

¹⁶ ¶ 6.

¹⁷ ¶ 52.

¹⁸ ¶ 52.

¹⁹ ¶ 52.

²⁰ ¶¶ 81-82.

C. NGA Merges with Legacy Lion Electric

On August 19, 2020, before the IPO closed, a representative of BMO approached Robertson about a possible business combination with Legacy Lion Electric, and Robertson caused the Sponsor to enter into a confidentiality agreement with Legacy Lion Electric that same day, without informing the Board.²¹ The sale process that followed was dominated by Robertson, Jarratt, Manget, Hoffman, and the Sponsor, and was run primarily through a “target evaluation committee” consisting of interested officers; the Board provided no meaningful oversight, served as a rubberstamp, and met only twice throughout the entire Merger process.²² The Board did not form a special committee, and NGA did not obtain a fairness opinion—even after retaining Barclays without Board involvement.²³

On September 8, 2020, NGA presented Legacy Lion Electric with a non-binding proposal valuing it at \$3.5 billion.²⁴ On September 22, 2020, NGA sent an agreed letter of intent reflecting a pro forma enterprise valuation of \$2.95 billion and a minimum cash condition of \$400 million.²⁵ After Barclays relayed negative feedback from prospective private investment in public equity (“PIPE”) investors, NGA and

²¹ ¶ 54.

²² ¶¶ 8, 50.

²³ ¶¶ 8, 57.

²⁴ ¶ 58.

²⁵ ¶ 64.

Legacy Lion Electric cut Legacy Lion Electric's valuation roughly in half, to \$1.5 billion, and ultimately procured only approximately \$200 million in PIPE financing—60% less than originally sought.²⁶ The parties also lowered the minimum cash condition from \$400 million to \$200 million.²⁷ On November 29, 2020, at its second meeting, the Board approved the Merger and related agreements, and NGA announced the Merger the next day, November 30, 2020.²⁸

D. Defendants Issue a Materially False and Misleading Proxy

On March 24, 2021, NGA caused the Proxy to be filed with the SEC and disseminated to stockholders.²⁹ The Proxy informed stockholders of a special meeting to be held on April 23, 2021, and set the redemption deadline at April 21, 2021, which was two business days before the special meeting.³⁰ Incentivized to secure approval of the Merger and to deter redemptions, Defendants issued a Proxy that was materially false and misleading and omitted information critical to the redemption decision.³¹

Most significantly, NGA's sole asset was cash, so the value of an NGA share was the net cash underlying it (approximately \$7.50 per share or less). The Proxy

²⁶ ¶ 70.

²⁷ ¶ 71.

²⁸ ¶ 73.

²⁹ ¶ 79.

³⁰ ¶ 80.

³¹ ¶¶ 9-10.

failed to disclose the net cash per share and instead treated NGA’s shares as worth \$10 for purposes of the share exchange with Legacy Lion Electric.³² To obtain a commensurate deal under that inflated exchange ratio, Legacy Lion Electric executed a stock split so that its shares would exchange one-for-one with NGA’s, inflating its own valuation, which was a maneuver the Proxy never explained.³³ The Proxy further supported Legacy Lion Electric’s inflated value with materially misleading financial projections (the “Proxy Projections”) that overstated New Lion Electric’s expected revenue and vehicle sales.³⁴ Relying on the Proxy, the vast majority of NGA’s public stockholders chose not to redeem their shares, and the Merger closed on May 6, 2021, creating New Lion Electric.³⁵

E. The Truth About New Lion Electric Emerges Soon After the Merger

After the Merger closed, the stark reality of New Lion Electric’s business and financial health quickly emerged. Two weeks after the Merger closed, New Lion Electric reported first-quarter 2021 revenue of just \$6.2 million.³⁶ For fiscal year 2021, it reported only \$57.7 million in revenue, nearly 75% short of the Proxy

³² ¶¶ 10, 87.

³³ ¶¶ 11, 90.

³⁴ ¶¶ 11, 90.

³⁵ ¶¶ 15-16.

³⁶ ¶ 16.

Projections, and its stock fell to \$7.50 per share.³⁷ The gap widened the next year: for fiscal 2022, New Lion Electric reported less than \$140 million in revenue, nearly 80% below the \$668 million projected, and its stock closed at \$2.11 per share.³⁸ For fiscal 2023, New Lion Electric reported total revenue of \$253.5 million, which was just 15% of the \$1.672 billion projected. New Lion Electric also reported Adjusted EBITDA of negative \$34.3 million, \$329.3 million below the Proxy Projections, and its stock closed at \$1.46 per share.³⁹

F. Plaintiffs Bring the Action

On November 1, 2023, Plaintiffs commenced this Action⁴⁰ by filing a Verified Class Action Complaint, asserting claims against Defendants for breach of fiduciary duty and unjust enrichment arising from the alleged impairment of NGA stockholders' redemption rights in connection with the Merger.⁴¹ On February 9, 2024, Defendants moved to dismiss.⁴² On March 11, 2024, Plaintiffs filed a Verified Amended Class Action Complaint, adding detail to the existing claims and asserting additional aiding-

³⁷ ¶ 16.

³⁸ ¶ 16.

³⁹ ¶ 16.

⁴⁰ Because New Lion Electric is incorporated under the laws of Quebec, Canada, Plaintiffs were unable to conduct a pre-filing books-and-records inspection under 8 *Del. C.* § 220.

⁴¹ Trans. ID 71284617.

⁴² Trans. ID 72007292.

and-abetting claims against New Lion Electric and the Former Defendants.⁴³ Defendants and the Former Defendants jointly moved to dismiss the Amended Complaint, and following full briefing, the Court heard oral argument on September 18, 2024.⁴⁴ The Court requested supplemental briefing on Plaintiffs’ standing to enforce the Merger’s forum-selection clause against the Former Defendants.⁴⁵ On December 18, 2024, the Parties completed the supplemental briefings.⁴⁶

G. The Canadian Restructuring Proceedings and the Court’s Ruling on the Motion to Dismiss

On December 17, 2024, the day before the Parties submitted the supplemental briefings, New Lion Electric initiated the Canadian Proceeding before the Canadian Court under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36. The next day, on December 18, 2024, New Lion Electric commenced Chapter 15 cases in the United States Bankruptcy Court for the Northern District of Illinois Eastern Division (“Bankruptcy Court”), seeking recognition of the Canadian Proceeding and any orders entered by the Canadian Court.

On January 21, 2025, the Bankruptcy Court entered an order granting New Lion Electric the protection of the automatic stay under Section 362(a) of the Bankruptcy

⁴³ Trans. ID 72478016.

⁴⁴ Trans. ID 72597639, 72831613, 73231025, 73355660, 74364145.

⁴⁵ Tans. ID 74364145, 74661237.

⁴⁶ Trans. ID 74851534, 75096215, 75256109.

Code. On January 23, 2025, while the Motion to Dismiss was *sub judice* before the Court, Defendants and the Former Defendants filed a Suggestion of Bankruptcy and Automatic Stay of Proceedings, informing the Court of the Bankruptcy Proceedings and automatic stay.⁴⁷ On May 15, 2025, Plaintiffs moved to proceed with their claims against the non-debtor Defendants, seeking to proceed with their claims against Defendants and the Former Defendants other than New Lion Electric.⁴⁸

On May 22, 2025, the Canadian Court entered an RVO containing a partial D&O Release, while temporarily carving out Plaintiffs' claims pending a later hearing. After the Court dismissed the Former Defendants by stipulation,⁴⁹ the Court took under advisement the remaining issues in the pending Motion to Dismiss on September 2, 2025.⁵⁰

On September 2, 2025, Plaintiffs, through newly retained Canadian counsel, objected to the Debtors' request for an amended RVO with a full D&O Release that would have released Plaintiffs' claims. The Canadian Court held a two-day hearing on September 3-4, 2025. On November 17, 2025, the Canadian Court sustained Plaintiffs' objection and entered a Re-Rectified RVO that specifically excluded

⁴⁷ Trans. ID 75499045.

⁴⁸ Trans. ID 76283939.

⁴⁹ Trans. ID 76845548, 76889267.

⁵⁰ Trans. ID 76976550.

Plaintiffs' claims in this Action, a decision the Debtors moved for leave to appeal, which the Court of Appeal of Québec granted on February 12, 2026.

On December 18, 2025, the Court ruled on the Motion to Dismiss, granting it in part and denying it in part.⁵¹ The Court sustained Plaintiffs' claims for: (i) breach of fiduciary duty against Robertson, Manget, Dalglish, Schaefer, and Sparkes in their capacities as NGA directors; (ii) breach of fiduciary duty against Robertson, Hoffman, and Manget in their capacities as NGA officers; (iii) breach of fiduciary duty against Robertson and Jarratt in their capacities as controllers of NGA; and (iv) unjust enrichment against all seven Defendants.

H. The Parties Engage in Discovery and Negotiate a Settlement

With Plaintiffs' claims largely sustained, the Parties proceeded to discovery. Plaintiffs served their First Requests for Production on January 22, 2026, and the Parties entered a stipulated case schedule later that month.⁵² Defendants answered the Amended Complaint on February 9, 2026,⁵³ served responses and objections to Plaintiffs' document requests on February 17, 2026,⁵⁴ and served their own requests

⁵¹ Trans. ID 78030440, 78030492.

⁵² Trans. ID 78304032, 78309399.

⁵³ Trans. ID 78425987.

⁵⁴ Trans. ID 78487439.

for production on March 10, 2026.⁵⁵ Following entry of a confidentiality order,⁵⁶ Defendants made an initial production of 40 documents totaling 190 pages on March 18, 2026, and served amended responses on March 25, 2026.⁵⁷ The Parties entered into a stipulation and [proposed] order governing expert discovery, which was approved by the Court on March 31, 2026.⁵⁸ Plaintiffs served their responses and objections to Defendants' requests for production on April 9, 2026.⁵⁹

On April 28, 2026, the Parties reached an agreement in principle to settle the Action. Over the following months, the Parties negotiated the definitive terms, and on August 26, 2026, executed the Stipulation, which provides for a \$4,000,000 settlement, subject to Court approval.

ARGUMENT

I. THE CLASS SHOULD BE CERTIFIED

Rule 23 sets forth the requirements for class certification. Plaintiffs move the Court for certification of a non-opt-out Class for settlement purposes only pursuant to Rules 23(a) and 23(b)(1) consisting of:

⁵⁵ Trans. ID 78682125, 78689526

⁵⁶ Trans. ID 78755704.

⁵⁷ Trans. ID 78864516.

⁵⁸ Trans. ID 78912381, 78915248.

⁵⁹ Trans. ID 79004093.

All record and beneficial holders of NGA Class A Common Stock, who held such shares as of the Redemption Deadline and who elected not to redeem all such shares, including their successors-in-interest who obtained shares by operation of law, but excluding the Excluded Persons.

The “Redemption Deadline” is April 21, 2021. The “Excluded Persons” are:

(i) Defendants and the members of Defendants’ immediate families; (ii) any Person, firm, trust, corporation, or any entity related to or affiliated with any of the foregoing individuals, or in which any of the foregoing individuals or entities has a controlling interest; and (iii) the legal representatives, heirs, successors, or assignees of any such Excluded Persons—in each case, only to the extent such Persons or entities held shares of NGA Class A Common Stock as of the Redemption Deadline. Excluded Persons also include any trusts, estates, entities, or accounts that held shares of NGA Class A Common Stock for the benefit of any Excluded Persons.

Certification of the Class is appropriate because this Action satisfies Rule 23(a) and fits “within the framework provided for in subsection (b).”⁶⁰ Indeed, “[t]his is a classic type of situation for a Rule 23 certification.”⁶¹

A. The Class Satisfies Rule 23(a)

For a class to be certified, “(1) the class [must be] so numerous that joinder of all members is impracticable; (2) there [must be] questions of law or fact common to the class; (3) the claims or defenses of the representative parties [must be] typical of the claims or defenses of the class; and (4) the representative parties [must] fairly and

⁶⁰ *Nottingham Partners v. Dana*, 564 A.2d 1089, 1095 (Del. 1989).

⁶¹ Tab 5, *Paul Berger Revocable Tr. v. Falcon Equity Invs. LLC*, C.A. No. 2023-0820-JTL (Del. Ch. Jan. 21, 2025) (TRANSCRIPT), at 36.

adequately protect the interests of the class.”⁶² Each of these requirements is met here.

1. The Class Is Sufficiently Numerous

Rule 23(a)(1) requires that the class be “so numerous that joinder of all members is impracticable.”⁶³ “[N]umbers in the proposed class in excess of forty, and particularly in excess of one hundred, have sustained the numerosity requirement.”⁶⁴ The test “is not whether joinder of all the putative class members would be impossible, but whether joinder would be practical.”⁶⁵ As of the Redemption Deadline, there were 31,945,344 shares of NGA Class A common stock issued and outstanding. Only 20,449 shares of those shares were redeemed in connection with the Merger. Accordingly, the proposed Class consists of holders of 31,924,895 shares of NGA Class A common stock that were not redeemed. Joinder of the likely thousands of holders of those shares is not practical.

2. There Are Issues of Law and Fact Common to All Class Members

Commonality is “met ‘where the question of law linking the class members is

⁶² Del. Ct. Ch. R. 23(a).

⁶³ *Id.*

⁶⁴ *Marie Raymond Revocable Tr. v. MAT Five LLC*, 980 A.2d 388, 400 (Del. Ch. 2008) (quoting *Smith v. Hercules, Inc.*, 2003 WL 1580603, at *4 (Del. Super. Jan. 31, 2003)), *aff’d* 976 A.2d 172 (Del. 2009).

⁶⁵ *Id.*

substantially related to the resolution of the litigation even though the individuals are not identically situated.”⁶⁶ Here, common questions of law and fact include whether: (i) Defendants breached their fiduciary duties by impairing stockholder redemption rights; (ii) Defendants failed to disclose material information and/or made materially misleading statements in the Proxy issued in connection with Merger; (iii) Defendants undertook an unfair Merger process and agreed to a Merger at an unfair price; (iv) Defendants unjustly enriched themselves by securing unique financial benefits in the Merger; and (v) Defendants injured Plaintiffs and other Class Members through their conduct. Since this Action involves claims that “implicate the interests of all members of the proposed class of [stock]holders,” commonality is satisfied.⁶⁷ Indeed, this Court has consistently certified classes in analogous circumstances.⁶⁸

⁶⁶ *Leon N. Weiner & Assocs., Inc. v. Krapf*, 584 A.2d 1220, 1225 (Del. 1991).

⁶⁷ *In re Lawson Software, Inc.*, 2011 WL 2185613, at *2 (Del. Ch. May 27, 2011); *see also* *Hynson v. Drummond Coal Co.*, 601 A.2d 570, 575 (Del. Ch. 1991) (“An action seeking to prove a breach of [fiduciary] duty is inescapably a true class action” because “[r]elief whether it be by injunction, rescission or an award of money will be determined by reference to the effects of the fiduciary’s wrong on . . . the corporation or all of its stockholders as a class.”).

⁶⁸ *See, e.g., In re MultiPlan Corp. S’holders Litig.*, 2023 WL 2329706, at *2 (Del. Ch. Mar. 1, 2023) (certifying a non-opt-out class pursuant to Rules 23(a), 23(b)(1), and 23(b)(2)); *In re GeneDX De-SPAC Litig.*, 2024 WL 4952176, at *1 (Del. Ch. Dec. 2, 2024) (same); *Siseles v. Lutnick*, 2024 WL 5046087, at *1 (Del. Ch. Dec. 6, 2024) (same); *see also* Tab 6, *Kenville v. N. Star Sponsor, LLC*, C.A. No. 2024-0276-PAF (Del. Ch. Oct. 31, 2025) (ORDER) (certifying a similar class of SPAC stockholders in a *Multiplan* action), *appeal refused* Tab 7, *N. Star Sponsor, LLC v. Kenville*, No. 482, 2025 (Del. Jan. 15, 2026) (ORDER).

3. Plaintiffs' Claims Are Typical of the Class

“The test of typicality is that the legal and factual position of the class representative must not be markedly different from that of the members of the class” and “focuses on whether the class representative claim (or defense) fairly presents the issues on behalf of the represented class.”⁶⁹ Plaintiffs are similarly situated to the other unaffiliated NGA stockholders who did not redeem their shares, and their claims “arise[] from the same event or course of conduct that gives rise to the claims ... of other class members and [are] based on the same legal theory.”⁷⁰

4. Plaintiffs Have Fairly and Adequately Protected the Interests of the Class

Rule 23(a)(4) requires that “the representative parties will fairly and adequately protect the interests of the class.”⁷¹ There is no divergence of interest between Plaintiffs and absent Class Members. Moreover, the recovery achieved through this litigation demonstrates that Plaintiffs’ interests were aligned with those of absent Class Members and is likewise indicative of the competence and effectiveness of Plaintiffs’ Counsel.⁷²

⁶⁹ *Weiner*, 584 A.2d at 1225-26.

⁷⁰ *Id.* at 1226.

⁷¹ *Nottingham*, 564 A.2d at 1094-95.

⁷² See Tab 8, *Haverhill Ret. Sys. v. Kerley*, C.A. No. 11149-VCL (Del. Ch. Sept. 28, 2017) (TRANSCRIPT), at 20-21 (“*Haverhill Tr.*”) (“Given that I am approving the settlement as fair and adequate, it follows that I necessarily believe that the class representatives, as well as the derivative action representatives, provided adequate representation in this matter.”).

B. Certification Is Proper Under Rule 23(b)(1)

To be certified, a proposed class must also “fit[] into one of the three categories specified in Court of Chancery Rule 23(b).”⁷³ “Delaware courts ‘repeatedly have held that actions challenging the propriety of director conduct in carrying out corporate transactions are properly certifiable under ... subdivision ... (b)(1).’”⁷⁴ This is such an action.

A class may be certified under Rule 23(b)(1) where: (i) the prosecution of separate actions by or against individual members of the class would create a risk of “inconsistent or varying adjudications” which would create incompatible standards of conduct for the opposing party; and (ii) “adjudications with respect to individual members of the class” would as a practical matter be dispositive of the interests of the other members not parties to the Action.⁷⁵ The proposed Class satisfies Rule 23(b)(1). All Class Members are unaffiliated holders of NGA Class A common stock who suffered the same harm as a result of Defendants’ conduct. Defendants are expressly excluded from the Class. The relief afforded through the proposed Settlement would

⁷³ *In re Ebix, Inc. S’holder Litig.*, 2018 WL 3570126, at *4 (Del. Ch. July 17, 2018).

⁷⁴ *In re Celera Corp. S’holder Litig.*, 59 A.3d 418, 432-33 (Del. 2012).

⁷⁵ *In re Countrywide Corp. S’holder Litig.*, 2009 WL 846019, at *11 (Del. Ch. Mar. 31, 2009) (quoting *Weiner*, 584 A.2d at 1226 n.2).

impact all stockholders equally, and approval of the proposed Settlement would protect all absent Class Members' interests in uniform fashion.⁷⁶

C. The Remaining Requirements of Rule 23 Are Satisfied

Rule 23(f) provides that “a class action may be . . . settled only if the Court approves the terms of the proposed . . . settlement,” including that “[n]otice of the proposed . . . settlement must be given to all class members in the manner directed by the Court.”⁷⁷ Notice was provided to all absent Class Members, pursuant to the process set forth in the Scheduling Order.⁷⁸ As required by Rule 23(f)(3)(D), the Notice “clearly and concisely state[s]”:

- (i) the location, date, and time of any hearing;⁷⁹
- (ii) the nature of the action;⁸⁰
- (iii) the definition of the class;⁸¹
- (iv) a summary of the claims, issues, defenses, and relief that the class action sought;⁸²

⁷⁶ See *Haverhill Tr.* at 21 (“The class is appropriately certified pursuant to Rule 23(b)(1) as a non-opt-out class, because had this action been prosecuted separately by individual class members, there would have been a risk of inconsistent or varying results, and effectively, adjudication with respect to one would have been dispositive of everyone’s interests.”).

⁷⁷ Del. Ct. Ch. R. 23(f).

⁷⁸ See generally *Segura Aff.*

⁷⁹ See *Segura Aff.*, Ex. A (Notice) at 23.

⁸⁰ *Id.* at 5-10

⁸¹ *Id.* at 10-11.

(v) a description of the terms of the proposed dismissal or settlement;⁸³

(vi) any award of attorney's fees or expenses, or any representative-party award, that will be sought if the proposed dismissal or settlement is approved;⁸⁴

(vii) instructions for objectors;⁸⁵

(viii) that additional information can be obtained by contacting class counsel;⁸⁶

(ix) how to contact class counsel;⁸⁷ and

(x) not to contact the Court with questions about the terms of the proposed dismissal or settlement.⁸⁸

As of the date of this filing, no objections have been received.

Pursuant to Rule 23(aa), Plaintiffs have sworn that they have not received, been promised, or been offered—and will not accept—any form of compensation, directly or indirectly, for serving as a representative party in this Action, except for: (i) any damages or other relief that the Court may award him as a Class Member; (ii) any fees, costs, or other payments that the Court expressly approves; and/or (iii)

⁸² *Id.* at 5-10.

⁸³ *Id.* at 11.

⁸⁴ *Id.* at 21-22.

⁸⁵ *Id.* at 22-25.

⁸⁶ *Id.* at 26.

⁸⁷ *Id.* at 26.

⁸⁸ *Id.* at 27.

reimbursement from Plaintiffs’ Counsel of actual and reasonable out-of-pocket expenditures incurred in prosecuting the Action.⁸⁹

* * *

For the foregoing reasons, Plaintiffs respectfully submit that the Court should certify the Class.

II. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

Delaware law favors the voluntary settlement of complex class actions,⁹⁰ reflecting the Court’s belief that settlements “promote judicial economy” and that “litigants are generally in the best position to evaluate the strengths and weaknesses” of their respective cases.⁹¹ In reviewing whether a settlement is fair, reasonable, and adequate, the Court analyzes the facts and circumstances underlying the claims and the possible defenses to “determine whether the settlement falls within a range of results that a reasonable party in the position of the plaintiff, not under any

⁸⁹ See Affidavits of Ahuva Schachter, Michael Smith, and Douglas Neujahr in Support of Proposed Settlement and Application for Attorneys’ Fees and Expenses and Representative Party Award, ¶ 6 (Trans. ID 80619608) and Unswon Declarations of Samhita Gera and Denish Bhavsar in Support of Proposed Settlement and Application for Attorneys’ Fees and Expenses and Representative Party Award, ¶ 6 (*Id.*).

⁹⁰ See, e.g., *In re Resorts Int’l S’holders Litig. Appeals*, 570 A.2d 259, 265-66 (Del. 1990); *Rome v. Archer*, 197 A.2d 49, 53 (Del. 1964); *In re Activision Blizzard, Inc. S’holder Litig.*, 124 A.3d 1025, 1042 (Del. Ch. 2015); *In re Triarc Cos.*, 791 A.2d 872, 876 (Del. Ch. 2001); *Ryan v. Gifford*, 2009 WL 18143, at *5 (Del. Ch. Jan. 2, 2009); *Kahn v. Sullivan*, 594 A.2d 48, 58 (Del. 1991).

⁹¹ *Raymond Revocable Tr.*, 980 A.2d at 402.

compulsion to settle and with the benefit of the information then available, reasonably could accept.”⁹² The Court must “make an independent determination, through the exercise of its own business judgment, that the settlement is intrinsically fair and reasonable.”⁹³ Under Rule 23(f)(5), the Court considers whether:

(A) the representative party and class counsel have adequately represented the class;

(B) adequate notice of the hearing was provided;

(C) the proposed dismissal or settlement was negotiated at arm’s length; and

(D) the relief provided for the class falls within a range of reasonableness, taking into account:

(i) the strength of the claims;

(ii) the costs, risks, and delay of trial and appeal;

(iii) the scope of the release; and

(iv) any objections to the proposed dismissal or settlement.⁹⁴

In making this determination, the Court need not “decide any of the issues on the merits,”⁹⁵ and ultimately must weigh “the value of all the claims being compromised against the value of the benefit to be conferred on the [c]lass by the settlement.”⁹⁶

⁹² *Activision*, 124 A.3d at 1064 (quoting *Forsythe v. ESC Fund Mgmt. Co. (U.S.)*, 2013 WL 458373, at *2 (Del. Ch. Feb. 6, 2013)).

⁹³ *Goodrich v. E.F. Hutton Grp.*, 681 A.2d 1039, 1045 (Del. 1996).

⁹⁴ Del. Ct. Ch. R. 23(f)(5). This revised rule is consistent with prior law. *See, e.g., Polk v. Good*, 507 A.2d 531, 535-36 (Del. 1986) (setting forth equivalent standards).

⁹⁵ *Id.*

For the reasons set forth herein, the Settlement should be approved. The Settlement was the product of skilled, thoughtful litigation, informed by Plaintiffs' Counsel's review and analysis of the discovery Defendants produced in this Action, and was negotiated at arm's length. The Settlement provides substantial economic consideration to Class Members and reflects Plaintiffs' well-informed judgment regarding the strength of the claims and defenses at issue, the potential damages that could be recovered following a trial, and the benefits of a guaranteed recovery.

A. The Relief Provided Falls Within the Range of Reasonableness

In assessing the Settlement, the Court weighs the “give” (the release) against the “get” (the consideration obtained) in order “to determine whether the settlement falls within a range of results that a reasonable party in the position of the plaintiff, not under any compulsion to settle and with the benefit of the information then available, reasonably could accept.”⁹⁷ The get here is the \$4 million cash payment.⁹⁸ The give

⁹⁶ *Brinckerhoff v. Tex. E. Prods. Pipeline Co.*, 986 A.2d 370, 384 (Del. Ch. 2010) (quoting *In re MCA, Inc.*, 598 A.2d 687, 691 (Del. Ch. 1991)).

⁹⁷ *Activision*, 124 A.3d at 1064 (citing *Forsythe*, 2013 WL 458373, at *2).

⁹⁸ This amount equates to a per-share recovery of approximately \$0.13 per share.

here is the customary *MultiPlan* release⁹⁹—and is in line with releases in other *MultiPlan* settlements approved by this Court.¹⁰⁰

The give here is significant in light of the risks facing Plaintiffs and the Class. While Plaintiffs are confident in the strength of their claims, Plaintiffs faced unique issues here. In particular, New Lion Electric’s Canadian restructuring posed a persistent threat to the Action and, with it, to any recovery for the Class. After New Lion Electric commenced voluntary restructuring proceedings, the Canadian Court entered an RVO containing a release in favor of the Debtors’ directors and officers. Plaintiffs’ claims were only temporarily carved out of that release, and the Debtors repeatedly pressed the Canadian Court to enter an amended order with a full directors-and-officers release that would have extinguished Plaintiffs’ claims outright. Had that effort succeeded, the Class would have been left with no recovery. Plaintiffs’ Counsel met the threat head-on and retained Canadian counsel, filed a formal objection in the Canadian Proceeding, and litigated the issue through a two-day hearing before the Canadian Court. Those efforts preserved the Class’s claims and kept a recovery for the Class viable. Debtors appealed this ruling, arguing that they were entitled to a complete release that encompassed Plaintiffs’ claims. If Debtors’ appeal succeeded,

⁹⁹ See *MultiPlan*, 2023 WL 2329706; Tab 9, *In re Lordstown Motors Corp. S’holders Litig.*, C.A. No. 2021-1066-LWW (Del. Ch. July 5, 2024) (ORDER AND FINAL JUDGMENT).

¹⁰⁰ See *supra* n.6.

this Action would have been extinguished. Debtors’ appeal was pending at the time the Parties entered the Settlement.

In addition to those unique issues, Plaintiffs are well aware that even an entire fairness trial is not a low risk proposition. As this Court noted in *Dell Class V*, in the years between *Americas Mining* and *Dell Class V*, “there ha[d] been at least ten post-trial decisions in entire fairness cases where the defendants prevailed, plus three more where the court awarded only nominal damages of \$1.00.”¹⁰¹ Further, no de-SPAC merger case has gone to trial, so it is far from certain that the Court would have accepted “redemption price less net cash per share” as an appropriate measure of damages.

Even if Plaintiffs were to have prevailed at trial, Plaintiffs would have faced “significant risk on appeal.”¹⁰² Numerous post-trial verdicts in favor of stockholder plaintiffs have been overturned on appeal,¹⁰³ and the claims in *MultiPlan* actions have not yet been substantively addressed on appeal. A recovery of \$4 million now eliminates the delay and risk of trial and appeal.

¹⁰¹ *In re Dell Techs. Inc. Class V S’holders Litig.*, 300 A.3d 679, 709-10 (Del. Ch. 2023) (“*Dell Class V*”), *aff’d* 326 A.3d 686 (Del. 2024).

¹⁰² *Id.* at 710.

¹⁰³ *See id.* at 696-97 (describing then-recent history); *see also In re Tesla, Inc. Deriv. Litig.*, 2025 WL 3689114 (Del. Dec. 19, 2025) (reversing post-trial verdict in favor of stockholder plaintiff); *In re Columbia Pipeline Grp., Inc. Merger Litig.*, 342 A.3d 324 (Del. 2025) (same).

Finally, the lack of objections thus far further supports the fairness of the Settlement. The deadline for objections is November 13, 2026. Despite the Settlement Administrator providing notice to Class Members in accordance with the Scheduling Order, there have been no objections to date.

B. The Settlement Is the Result of Hard-Fought, Arm’s-Length Negotiations Between Experienced Counsel

When evaluating the fairness of a settlement, Delaware courts also scrutinize the negotiations that led to the settlement and favor settlements that resulted from arm’s-length negotiations.¹⁰⁴ Here, the Parties reached the Settlement only after extensive, hard-fought negotiations between experienced counsel.

C. Counsel’s Experience and Opinion Weigh in Favor of Settlement Approval

The fact that experienced, sophisticated counsel support the Settlement also weighs in favor of approval.¹⁰⁵ Plaintiffs’ Counsel include attorneys at Robbins Geller Rudman & Dowd LLP, Robbins LLP, and Grant & Eisenhofer P.A., all highly regarded firms with a lengthy track record of obtaining exceptional recoveries for stockholders in challenging and complex cases in this Court—including in numerous *MultiPlan* actions that have survived motions to dismiss and have proceeded far into

¹⁰⁴ See *Ryan*, 2009 WL 18143, at *5 (finding settlement “fair, reasonable, and adequate” when reached after “vigorous arms-length negotiations following meaningful discovery”).

¹⁰⁵ See *Polk*, 507 A.2d at 536 (stating that the Court considers “the views of the parties involved” in determining “the overall reasonableness of the settlement”).

discovery.¹⁰⁶ Plaintiffs’ Counsel believe that the Settlement is fair and in the best interests of the Class. Plaintiffs’ Counsel’s opinion further weighs in favor of approving the Settlement.

III. THE PLAN OF ALLOCATION IS REASONABLE AND APPROPRIATE

The Settlement proposes to allocate the \$4 million recovery—plus any interest that accrues after being deposited in the Escrow Account and minus the payment of administrative costs, attorneys’ fees and expenses, and any tax expenses—to the Class. The Plan of Allocation provides for an equitable recovery that will allow Class Members who held onto their shares and those who sold their shares for less than the redemption price to recover at least a portion of any actual economic damages they suffered. It also provides for a nominal recovery for all Class Members who submit claims in recognition of the direct harm to their redemption rights.

The Plan of Allocation mirrors the plans of allocation this Court approved previously in *Super Group*,¹⁰⁷ *Apex*,¹⁰⁸ *Romeo Power*,¹⁰⁹ and *Hyzon*,¹¹⁰ that “equitably

¹⁰⁶ See, e.g., Tab 10, *In re Gores Holdings IV, Inc. S’holder Litig.*, C.A. No. 2023-0284-LWW (Del. Ch. July 15, 2025) (TRANSCRIPT), at 7 (“*Gores IV* Tr.”) (settled after multiple depositions, successful motion to compel, and the production of 77,000 documents comprising of 400,000 pages); Tab 11, *In re GeneDx De-SPAC Litig.*, C.A. No. 2023-0140-PAF (Del. Ch. Dec. 2, 2024) (TRANSCRIPT), at 11 (“*GeneDx* Tr.”) (settled after the defendants produced over 21,000 documents, over 100,000 pages).

¹⁰⁷ *Super Group* Tr. at 28.

¹⁰⁸ *Apex* Tr. at 29-30.

account[.]” for “economic losses . . . of varying degrees”¹¹¹ by “class members who sold their stock at different points [and] experienced significantly different alleged losses.”¹¹² The Plan of Allocation is designed to equitably distribute the Settlement proceeds in accordance with the size of a Class Member’s recognized loss, and eliminates “direct pro rata payments, known as the DTC method, [that] would not account for the impact of post-merger trading.”¹¹³

For Class Members who sold their shares between the Redemption Deadline and the day the Complaint was filed (November 1, 2023) for less than the \$10.00 per share, the total per share loss will be calculated as the difference between \$10.00 and the price at which the Class Member sold her or his share(s). For Class Members who held shares as of the date the Complaint was filed, the total per share loss for those shares will be calculated as the difference between \$10.00 and \$1.53, the closing price of New Lion Electric stock on November 1, 2023. Finally, a nominal amount of \$0.10 per share for each share held on the Redemption Deadline shall be added to each Class Member’s recognized claim for those Class Members who submit a claim. The Net

¹⁰⁹ *Romeo Power* Tr. at 23-30.

¹¹⁰ *Hyzon* Tr. at 30-31.

¹¹¹ *Super Group* Tr. at 28.

¹¹² *Apex* Tr. at 30.

¹¹³ *Id.*

Settlement Fund will then be distributed to Class Members on a *pro rata* basis based on the relative size of their total recognized claims, calculated by dividing each Class Member's total recognized claims by the total of all Class Members' recognized claims and multiplying by the Net Settlement Fund amount.

As contemplated by Rule 23(f)(6), the Plan of Allocation provides that residual settlement funds be redistributed to identified Class Members unless "re-distribution of funds remaining in the Net Settlement Fund is not cost-effective."¹¹⁴ In such case, the funds will be transferred "to the [Delaware] Combined Campaign for Justice."¹¹⁵

The distribution methodology contemplated by the Plan of Allocation is "fair, reasonable, and adequate."¹¹⁶ Therefore, the Plan of Allocation should be approved.

IV. THE REQUESTED FEE AND EXPENSE AWARD SHOULD BE GRANTED

Plaintiffs move for a payment of expenses in the amount of \$71,987.98 and a fee award of \$687,402.10 (*i.e.*, 17.5% of the \$4 million settlement fund, after accounting for expenses). The Settlement provides a strong outcome for the Class, with an immediate and substantial recovery. This requested fee and expense award is

¹¹⁴ Segura Aff., Ex. A (Notice) at 18; Del. Ct. Ch. R. 23(f)(6).

¹¹⁵ Segura Aff., Ex. A (Notice) at 18; *see also In re PLX Tech. Inc. S'holders Litig.*, 2022 WL 1227170, at *2-3 (Del. Ch. Apr. 25, 2022) (modifying proposed order to provide for funds that would be uneconomic to redistribute to class members to be distributed to the Delaware Combined Campaign for Justice).

¹¹⁶ *Schultz v. Ginsburg*, 965 A.2d 661, 667 (Del. 2009), *overruled on other grounds by Urdan v. WR Cap. Partners, LLC*, 244 A.3d 668 (Del. 2020).

supported by the Court’s precedent, and it is reasonable given the substantial benefit the Settlement provides compared against the risks of continued litigation, the necessary expenses Plaintiffs’ Counsel have incurred to date, and the hundreds of hours Plaintiffs’ Counsel have devoted to the development and prosecution of this Action, on a fully contingent basis.

A. Legal Standard

This Court may award attorneys’ fees to counsel whose efforts conferred a common benefit.¹¹⁷ The determination of any attorney fee and expense award is left to the Court’s discretion.¹¹⁸ The Court considers the *Sugarland* factors, including: “(1) the results achieved; (2) the time and effort of counsel; (3) the relative complexities of the litigation; (4) any contingency factor; and (5) the standing and ability of counsel involved.”¹¹⁹ “Delaware courts have assigned the greatest weight to the benefit achieved in litigation.”¹²⁰

Each *Sugarland* factor supports the requested fee award here.

¹¹⁷ See, e.g., *Ams. Mining Corp. v. Theriault*, 51 A.3d 1213, 1255 (Del. 2012); *Tandycrafts, Inc. v. Initio Partners*, 562 A.2d 1162, 1164 (Del. 1989).

¹¹⁸ *Theriault*, 51 A.3d at 1254-55 (upholding fee award of over \$304 million); *Sugarland Indus. v. Thomas*, 420 A.2d 142, 149-50 (Del. 1980).

¹¹⁹ *Theriault*, 51 A.3d at 1254 (citing *Sugarland*, 420 A.2d at 149).

¹²⁰ *Id.*; see also *Julian v. E. States Constr. Serv.*, 2009 WL 154432, at *2 (Del. Ch. Jan. 14, 2009) (citing *Franklin Balance Inv. Fund v. Crowley*, 2007 WL 2495018, at *8 (Del. Ch. Aug. 30, 2007)) (“In determining the size of an award, the courts assign the greatest weight to the benefit achieved in the litigation.”).

B. The Benefits of the Settlement Are Substantial

As set forth herein, the proposed Settlement confers substantial and quantifiable financial benefits on the Class. Should the Court approve the proposed Settlement of this Action, Class Members will receive a meaningful portion of their actual economic loss. As the factor accorded the most weight by the Court, this exceptional recovery counsels heavily in favor of Plaintiffs' requested fee award.¹²¹ The Court has stated that "the dollar amount of the fund created . . . is the heart of the *Sugarland* analysis."¹²²

Under the Court's guidance in *Theriault*, fees between 15% and 25% are typically appropriate for settlements that have been reached following "meaningful litigation efforts," including settlements reached after substantive motion practice.¹²³

Plaintiffs respectfully submit that the requested fee award is appropriate under this guidance. Plaintiffs' Counsel (i) investigated the claims and drafted and filed the Complaint; (ii) hired foreign counsel to help Plaintiffs litigate and maneuver through meaningful litigation efforts in the Canadian bankruptcy proceedings, keeping recovery for the Class viable; (iii) successfully briefed, argued, and filed supplemental

¹²¹ *Theriault*, 51 A.3d at 1254; *Gatz v. Ponsoldt*, 2009 WL 1743760, at *3 (Del. Ch. June 12, 2009); *In re Orchard Enters., Inc. S'holder Litig.*, 2014 WL 4181912, at *8 (Del. Ch. Aug. 22, 2014) ("A percentage of a low or ordinary recovery will produce a low or ordinary fee; the same percentage of an exceptional recovery will produce an exceptional fee.").

¹²² *Seinfeld v. Coker*, 847 A.2d 330, 336 (Del. Ch. 2000).

¹²³ *Theriault*, 51 A.3d at 1259.

briefing regarding Defendants’ Motion to Dismiss, which the Court granted in part and denied in part; (iv) negotiated for, reviewed, and analyzed discovery materials produced by Defendants; (v) drafted the responses to the discovery Defendants served on Plaintiffs; and (vi) negotiated and documented the Settlement.

“Precedent awards from similar cases may be considered for the obvious reason that like cases should be treated alike.”¹²⁴ Given these factors, the requested Fee and Expense Award is consistent with precedents for settlements reached in “meaningful litigation efforts.”¹²⁵

¹²⁴ *Olson v. ev3, Inc.*, 2011 WL 704409, at *8 (Del. Ch. Feb. 21, 2011); *see also* Tab 12, *City of Miami Gen. Emps. ’ & Sanitation Emps. ’ Ret. Tr. v. Foley*, C.A. No. 2020-0650-KSJM (Del. Ch. June 21, 2022) (TRANSCRIPT) at 51 (“[W]e look really to precedent to inform the value of the benefits conferred, and for good reason.”).

¹²⁵ Tab 13, *In re Lordstown Motors Corp. S’holders Litig.*, C.A. No. 2021-1066-LWW (Del. Ch. Jun. 24, 2024) (TRANSCRIPT) at 45 (“*Lordstown Tr.*”); *In re Lordstown Motors Corp. S’holders Litig.*, 2024 WL 3555798, at *4 (Del. Ch. July 5, 2024) (awarding 22.5% after managing bankruptcy proceeding and some motion practice); Tab 14, *In re Am. Int’l Grp., Inc. Consol. Deriv. Litig.*, C.A. No. 769-VCS (Del. Ch. Jan. 25, 2011) (ORDER AND FINAL JUDGMENT) (awarding 22.5% after some motion practice, reviewing documents produced in related securities action, and no depositions); Tab 15, *In re AVX Corp. S’holder Litig.*, C.A. No. 2020-1046-SG (Del. Ch. Nov. 22, 2022) (SETTLEMENT BRIEF) (awarding 22% after reviewing documents, some motion practice, no depositions); *MultiPlan*, 2023 WL 2329706 (ORDER AND FINAL JUDGMENT); *In re MultiPlan Corp. S’holders Litig.*, 2023 WL 1927595 (Del. Ch. Feb. 6, 2023) (SETTLEMENT BRIEF) (awarding 20% after some motion practice and no depositions); Tab 16, *In re Weber, Inc. S’holder Litig.*, Consol. C.A. No. 2023-0993-KSJM (Del. Ch. June 30, 2025) (TRANSCRIPT) (awarding 20% after document discovery and no depositions); Tab 17, *In re HomeFed Corp. S’holder Litig.*, C.A. No. 2019-0592-LWW (Del. Ch. Feb. 15, 2022) (TRANSCRIPT) (awarding 20% after document discovery and no depositions).

This Court’s decision in *Lordstown* is instructive.¹²⁶ There, the post-merger company entered insolvency proceedings while the litigation was pending.¹²⁷ Plaintiffs’ counsel had to retain specialized bankruptcy counsel to protect the stockholders’ recovery against the debtor’s effort to use the restructuring to cut off the action.¹²⁸ The Court treated that bankruptcy work as part of the “meaningful litigation efforts” that place a fee within the 15% to 25% range endorsed by *Americas Mining*.¹²⁹ Weighing two rounds of motion-to-dismiss briefing, a motion to stay, and “the complexity of the bankruptcy proceeding,” the Court awarded 22.5% of the fund, in addition to awarding expenses separately, which included the costs of bankruptcy counsel.¹³⁰

The same considerations support the requests for the payment of expenses and 17.5% of the net fund that Plaintiffs request here. Here, Plaintiffs’ Counsel retained Canadian counsel and litigated a formal objection, through a two-day hearing, to the directors-and-officers release that New Lion Electric sought in its Canadian restructuring. That effort preserved the Class’s claims from extinguishment and kept

¹²⁶ See *Lordstown Tr.*

¹²⁷ *Id.* at 33-36.

¹²⁸ *Id.* at 43-44.

¹²⁹ *Id.*

¹³⁰ *Id.* at 43-45.

any recovery viable. Plaintiffs' Counsel also briefed, argued, and submitted supplemental briefing on Defendants' Motion to Dismiss. The requested 17.5% award sits below the middle of the *Americas Mining* range and below the 22.5% approved in *Lordstown*. It is fully consistent with that precedent.

C. The Contingent Nature of Counsel's Representation Supports the Requested Fee

The "second most important factor" in the Court's *Sugarland* analysis is the contingent nature of counsel's representation.¹³¹ It is the "public policy of Delaware to reward this risk-taking in the interests of shareholders."¹³² Contingent representation entitles Plaintiffs' Counsel to both a "risk" premium and an "incentive" premium on top of the value of their standard hourly rates.¹³³

Here, as set forth in the accompanying attorney affidavits, Plaintiffs' Counsel pursued this case on a fully contingent basis.¹³⁴ Accordingly, in undertaking this

¹³¹ *Dow Jones & Co. v. Shields*, 1992 WL 44907, at *2 (Del. Ch. Jan. 10, 1992).

¹³² *In re Plains Res. Inc. S'holders Litig.*, 2005 WL 332811, at *6 (Del. Ch. Feb. 4, 2005); see also *In re First Interstate Bancorp Consol. S'holder Litig.*, 756 A.2d 353, 365 (Del. Ch. 1999) (noting that it is "consistent with the public policy" of Delaware to "reward this sort of risk taking in determining the amount of a fee award"), *aff'd sub nom. First Interstate Bancorp v. Williamson*, 755 A.2d 388 (Del. 2000).

¹³³ *Seinfeld*, 847 A.2d at 337; see also *Crowley*, 2007 WL 2495018, at *12 ("Fee awards should encourage future meritorious lawsuits by compensating the plaintiffs' attorneys for their lost opportunity cost (typically their hourly rate), the risks associated with the litigation, and a premium.").

¹³⁴ Affidavit of Christine M. Mackintosh in Support of Plaintiffs' Opening Brief in Support of Their Motion to Certify the Class, Approve the Proposed Settlement, Award Attorneys' Fees and Expenses, and Approve Service Awards, ¶ 3 (filed herewith) ("Mackintosh Aff.");

representation, they incurred all of the classic contingent fee risks, including the ultimate risk—no recovery whatsoever and a loss of all time and expenses incurred. This factor thus supports the requested fee award.

D. The Time and Effort Expended by Counsel Support the Requested Fee Award

Fee awards should neither penalize counsel for early victory nor incentivize dragging out litigation or expending unnecessary hours.¹³⁵ Accordingly, the time spent by counsel in this litigation should only serve as a cross-check on the reasonableness of the fee award.¹³⁶ Before reaching agreement on the Stipulation, Plaintiffs' Counsel's efforts included: (i) review and analysis of public information respecting the Merger and New Lion Electric's subsequent underperformance; (ii) drafting and filing the Complaint and the Verified Amended Class Action Complaint; (iii) briefing, arguing, and submitting supplemental briefing on Defendants' Motion to Dismiss, including on the issue of standing to enforce the Merger's forum-selection clause against the Former Defendants; (iv) retaining Canadian counsel and litigating a

Affidavit of Erik Luedeke Filed on Behalf of Robbins Geller Rudman & Dowd LLP in Support of an Award of Attorneys' Fees and Expenses, ¶ 2 (filed herewith) ("Luedeke Aff."); Affidavit of Gregory E. Del Gaizo in Support of Plaintiffs' Opening Brief in Support of Their Motion to Certify the Class, Approve the Proposed Settlement, Award Attorneys' Fees and Expenses, and Approve Service Awards, ¶ 3 (filed herewith) ("Del Gaizo Aff.").

¹³⁵ *Sciabacucchi v. Salzberg*, 2019 WL 2913272, at *6 (Del. Ch. July 8, 2019).

¹³⁶ *Id.* (citing *In re Sauer-Danfoss Inc. S'holders Litig.*, 65 A.3d 1116, 1138 (Del. Ch. 2011)).

formal objection, through a two-day hearing, to the directors-and-officers release sought in New Lion Electric’s Canadian restructuring, thereby preserving the Class’s claims; (v) propounding requests for the production of documents on Defendants; (vi) reviewing and analyzing the documents Defendants produced in discovery; (vii) negotiating a stipulated order governing expert discovery; and (viii) engaging in hard-fought, arm’s-length settlement negotiations that produced the proposed Settlement.

Counsel spent 1,838.25 hours litigating this Action from inception through the April 28, 2026, when the Parties reached an agreement in principle.¹³⁷ This amounts to a lodestar value of \$1,765,170.00. Counsel also incurred \$71,987.98 in expenses. The requested fee award (net of expenses) implies an hourly rate of approximately \$373.94 per hour and a lodestar multiplier of approximately 0.39x. Both metrics are well within the range previously awarded by the Court.¹³⁸ They also compare

¹³⁷ Mackintosh Aff., ¶ 5; Luedeke Aff., ¶ 4; Del Gaizo Aff., ¶ 5. The stated litigation hours do not include the hours expended by counsel at Bronstein, Gewirtz & Grossman, LLC and Abraham, Fruchter & Twersky, LLP, who will share in the fee and expense award and will submit supportive affidavits as required by Rule 26(g)(3).

¹³⁸ See, e.g., Tab 18, *In re Versum Materials, Inc. S’holder Litig.*, C.A. No. 2019-0206-JTL (Del. Ch. July 16, 2020) (TRANSCRIPT), at 81 (approving fees equivalent to an hourly rate of over \$10,000); *Sciabacucchi*, 2019 WL 2913272, at *6 (fees equivalent to \$11,262.26 per hour were reasonable); Tab 19, *In re Medley Cap. Corp. S’holders Litig.*, Consol. C.A. No. 2019-0100-KSJM (Del. Ch. Nov. 19, 2019) (TRANSCRIPT), at 67-68 (observing a \$5,989 hourly rate would not be “beyond the bounds of reasonableness”); *In re Saba Software, Inc. S’holder Litig.*, 2018 WL 4620107 (Del. Ch. Sept. 26, 2018) (awarding a 3x lodestar multiple); *GeneDx Tr.* at 27, 40 (awarding a 2.6x lodestar multiple); *Apex Tr.* at 33 (awarding a 2.2x lodestar multiple); *Vero Beach Police Officers’ Ret. Fund v. Bettino*, 2018 WL 6330140 (Del. Ch. Dec. 3, 2018) (awarding an effective hourly rate of \$3,165 and a 5.1x lodestar multiple); *In re Pilgrim’s Pride Corp. Derivative Litig.*, 2020 WL 474676 (Del. Ch.

favorably to the non-contingent hourly rates charged by similarly qualified defense counsel.¹³⁹

Accordingly, the substantial efforts of Plaintiffs' Counsel support the requested fee award.

E. The Action Implicates Complex Issues of Fact and Law

In determining an appropriate award of fees and expenses, the Court also considers the complexity of the litigation. “[L]itigation that is challenging and complex supports a higher fee award.”¹⁴⁰ This Action is complex both legally and factually.

Although Plaintiffs' claims in this Action presented now-well-established legal challenges concerning Defendants' fiduciary duties, the claims involved novel questions and legal issues, including: (i) the contours of what constitutes impairment of stockholder redemption rights; (ii) the proper measure of damages for a claim based on impairment of stockholder redemption rights; and (iii) whether Plaintiffs would need to prove reliance and causation. Moreover, Plaintiffs had to maneuver through the complexities of litigating a foreign bankruptcy proceeding. Further, no de-SPAC

Jan. 28, 2020) (awarding an effective hourly rate of \$4,511.09 and a 7.0x lodestar multiple); *Carr v. New Enter. Assocs.*, 2019 WL 1491579 (Del. Ch. Apr. 4, 2019) (awarding an effective hourly rate of \$1,030 and an 7.2x lodestar multiple).

¹³⁹ See Aebra Coe, *Some Associates Bill \$2,000 Per Hour as BigLaw Fees Rise* (Apr. 22, 2025).

¹⁴⁰ *Activision*, 124 A.3d at 1072.

merger case has gone to trial yet, creating further uncertainties as to how the Court would wrestle with these issues. These uncertainties resulted in the potential for complex legal battlegrounds that have not yet been tested on appeal.

Further, the factual issues presented in this Action were likewise complex. Plaintiffs had to delve into the web of interrelationships among Defendants, including their various businesses, directorships, and their interrelatedness and financial interests. Plaintiffs had to review and analyze documents obtained through discovery to ascertain the involvement of the NGA Board in the Merger process.

The legal and factual complexity at issue in this litigation supports the requested fee award.

F. Counsel Are Well-Regarded with a History of Success Before This Court

The Court also considers the standing and ability of counsel when determining the reasonableness of a fee and expense award.¹⁴¹

Here, Plaintiffs' Counsel are experienced in stockholder class and corporate governance litigation, with lengthy track records of obtaining exceptional recoveries for stockholders in challenging and complex cases.¹⁴² Plaintiffs' Counsel have

¹⁴¹ See *Sugarland*, 420 A.2d at 149.

¹⁴² See, e.g., *In re Del Monte Foods Co. S'holders Litig.*, 2010 WL 5550677, *9, 11 (Del. Ch. Dec. 31, 2010) ("Ultimately, the most important factor when appointing lead counsel is the degree to which the attorneys will provide effective representation for the class going forward G&E's track record stands out."; "Robbins Geller likewise has achieved significant success in Delaware." "The results achieved by G&E and Robbins Geller

participated in some of the largest settlement and post-trial recoveries for plaintiffs in class and derivative litigation before this Court.¹⁴³ Plaintiffs’ Counsel respectfully submit that the Settlement is another strong recovery that extends this track record.

The standing of opposing counsel also may be considered in determining the reasonableness of a fee award.¹⁴⁴ Defendants are represented by experienced, skillful, and well-respected law firms who vigorously defended their clients’ interests. The ability of opposing counsel enhances the significance of the benefit achieved for the Class in the Settlement.

demonstrate that they have the ability and resources to litigate the case competently and vigorously.”).

¹⁴³ See, e.g., *In re Dole Food Co., Inc. S’holder Litig.*, 2015 WL 5052214 (Del. Ch. Aug. 27, 2015) (\$148 million trial verdict); *In re Digex, Inc. S’holder Litig.*, 2001 WL 34131305 (Del. Ch. Apr. 6, 2001) (\$420 million settlement); *In re McKesson Corp. S’holder Deriv. Litig.*, 2020 WL 1985047 (Del. Ch. Apr. 24, 2020) (\$175 million settlement and corporate governance reforms); *In re CBS Corp. S’holder Class Action & Deriv. Litig.*, 2023 WL 5817795 (Del. Ch. Sept. 7, 2023) (\$167.5 million settlement); *In re Freeport-McMoRan Copper & Gold, Inc. Deriv. Litig.*, 2015 WL 1565918 (Del. Ch. Apr. 7, 2015) (\$153.75 million settlement and corporate governance reforms); *In re News Corp. S’holder Deriv. Litig.*, 2013 WL 3231415 (Del. Ch. June 26, 2013) (\$139 million settlement); *Goldstein v. Denner*, 2024 WL 4182879 (Del. Ch. Sept. 12, 2024) (\$124 million total settlement); *In re Viacom Inc. S’holders Litig.*, 2023 WL 4761807 (Del. Ch. July 25, 2023) (\$122.5 million settlement); *Tchrs.’ Ret. Sys. of La. v. Greenberg*, 2008 WL 5260548 (Del. Ch. Dec. 17, 2008) (\$115 million settlement); *In re Rural Metro Corp. S’holder Litig.*, 2015 WL 725425 (Del. Ch. Feb. 19, 2015) (partial settlement and post-trial recovery totaling \$109.4 million), *aff’d sub nom. RBC Cap. Markets, LLC v. Jervis*, 129 A.3d 816 (Del. 2015); *In re Pattern Energy Grp. Inc. S’holders Litig.*, 2024 WL 2045461 (Del. Ch. May 6, 2024) (\$100 million settlement).

¹⁴⁴ See, e.g., *Dell Class V*, 300 A.3d at 727 (considering that “an army of skilled defense counsel fought the plaintiffs at every turn”).

V. THE COURT SHOULD APPROVE SERVICE AWARDS FOR THE PLAINTIFFS

The Court should approve the payment of modest \$1,500 service awards to each of the Plaintiffs, to be paid out of the fees awarded to Plaintiffs' Counsel, to compensate them for the time and effort that they devoted to this matter. This Court has recognized that modest service awards are appropriate where, as here, Plaintiffs have “step[ped] forward and take[n] the risk” of getting involved in representative litigation in a culture in which people increasingly are unwilling to “do things for the benefit of others.”¹⁴⁵

In determining the appropriateness of a service award, the Court considers the time and effort expended by the class representative and the size of the benefit to the class.¹⁴⁶ Here, Plaintiffs monitored the work of Plaintiffs' Counsel, reviewed and verified pleadings, and regularly communicated with counsel regarding litigation strategy and significant litigation developments. These efforts are in line with those of the plaintiffs in other litigation where the Court awarded a similar service award and amply support the modest \$1,500 awards requested.¹⁴⁷

¹⁴⁵ Tab 20, *In re EZCorp Inc. Consulting Agreement Deriv. Litig.*, C.A. No. 9962-VCL (Del. Ch. Apr. 3, 2018) (TRANSCRIPT), at 22, 35 (awarding \$5,000 incentive awards).

¹⁴⁶ *Raider v. Sunderland*, 2006 WL 75310, at *1 (Del. Ch. Jan. 5, 2006).

¹⁴⁷ See also *In re AMC Ent. Holdings, Inc. S'holder Litig.*, 2023 WL 5165606, at *41 (Del. Ch. Aug. 11, 2023) (“In typical baseline circumstances, an incentive award of \$5,000 rewards competent participation.”), *aff'd* 319 A.3d 210 (Del. 2024).

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court approve the Settlement and Plan of Allocation, certify the Class pursuant to Rules 23(a) and 23(b)(1), award Plaintiffs' Counsel the requested fee and expense award, and authorize the payment of the requested service awards from Plaintiffs' Counsel's fees.

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