



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

DSM HOLDCO, INC.; DEMOULAS)
SUPER MARKETS, INC.; and JAY K.)
HACHIGIAN, STEVEN J. COLLINS,)
and MICHAEL KEYES, in their)
capacities as Directors of the Board of)
DSM HoldCo, Inc. and the Board of)
Demoulas Super Markets, Inc.,)
)
Plaintiffs / Counterclaim) C.A. No. 2025-1020-JTL
Defendants,)
)
v.)
)
ARTHUR T. DEMOULAS,)
)
Defendant / Counterclaim)
Plaintiff.)

**DEFENDANT'S ANSWER TO VERIFIED COMPLAINT
PURSUANT TO 8 *DEL. C.* § 225(a) AND VERIFIED COUNTERCLAIM**

Defendant Arthur T. Demoulas (“Mr. Demoulas” or “Defendant”), by and through his undersigned counsel, hereby (i) answers the Verified Complaint pursuant to 8 *Del. C.* § 225(a) (the “Complaint”), filed on September 9, 2025 by plaintiffs DSM HoldCo, Inc., (“DSM”), Demoulas Super Markets, Inc., (“OpCo” and, together with DSM, “Market Basket” or the “Company”), and Jay K. Hachigian, Steven J. Collins, and Michael Keyes (collectively, the “Director-Plaintiffs”) (together, “Plaintiffs”), and (ii) asserts Mr. Demoulas’s verified counterclaim for improper removal and reinstatement as President and CEO, pursuant to 8 *Del. C.* § 225(a), as follows:

INTRODUCTION

As set forth further below in his verified counterclaim, Mr. Demoulas’s removal from his positions as President and CEO of DSM Holdco, Inc. (“DSM”) was effectuated by the Director-Plaintiffs in breach of their fiduciary duties.

The Director-Plaintiffs' unlawful actions were not motivated by any rational business purpose or to advance the Company's best interests, but instead were taken at the behest of Mr. Demoulas's three sisters and their family members (the "Sisters"), who together own ~60% of DSM and to whom the Director-Plaintiffs are beholden, to further the Sisters' goals in their family infighting with Mr. Demoulas and the family's trust litigation pending in Massachusetts. As explained below, all of the Director-Plaintiffs were appointed by the Sisters and have family and/or business connections with them. As a result of these conflicts, the beholden Director-Plaintiffs purged the Company's renowned management team using two false pretexts without first implementing a plan for the succession of leadership of the highly successful multibillion-dollar enterprise.

Mr. Demoulas acknowledges that it is rare to challenge a board of directors' decision about to whom it delegates day-to-day management. However, the systematic actions of the Director-Plaintiffs at the Sisters' direction for personal rather than business reasons make this case unique. Those unlawful actions include:

- The Sisters spent years packing DSM's board of directors (the "Board") with loyalists whose primary qualification was that they would do the Sisters' bidding and removing any directors who would stand in the way of their personal goals.
- The Board created an unlawful shadow "Executive Committee" to box out the one director remaining at the time who was not subject to the Sisters' control, Bill Shea, who had served on the Board mostly as Chairman for decades, and purported to endow the Executive Committee with virtually the full authority of the Board.
- The Executive Committee then initiated a pretextual investigation into Mr. Demoulas to justify his improper termination, which was preordained by the Sisters, and later asked the lone remaining independent director to ratify the decision without providing him with any information about the decision. The Sisters then used these

developments to support their positions in unrelated Massachusetts trust litigation they were supporting against Mr. Demoulas.

- The Executive Committee hired a purported “independent” law firm, Quinn Emanuel Urquhart & Sullivan, LLP (“Quinn Emanuel”), to conduct the sham investigation, even though Quinn Emanuel also purports to -- then and now -- represent the Executive Committee, the Board, and the Sisters.
- The Director-Plaintiffs rebuffed former-director Shea’s informal and formal requests for books and records under 8 *Del. C.* § 220(d) concerning the Executive Committee and its purported basis for launching the sham investigation.
- The Executive Committee, made up of the Director-Plaintiffs, wasted substantial corporate resources by causing Quinn Emanuel to conduct the pretextual investigation, including requiring that numerous Market Basket employees be interviewed, in search of a sham justification to terminate Mr. Demoulas.
- The Sisters removed Mr. Shea from the Board following his latest demand for books and records to the Director-Plaintiffs relating to the removal of Mr. Demoulas and his management team from the Company.
- The Director-Plaintiffs placed six of DSM’s top executives, including Mr. Demoulas’s oldest daughter, Madeline, and son, Telemachus (T.A.), on administrative leave pending the outcome of the so-called investigation without any basis, creating a void at the Company without a plan for interim replacement executives.
- The Director-Plaintiffs immediately orchestrated a media campaign to damage Mr. Demoulas’s reputation in the New England community by falsely portraying him throughout the region as an uncooperative “dictator.”
- The Director-Plaintiffs permitted one of the Sisters’ sons, who had previously misappropriated corporate assets for his personal business endeavors, to assume the *de facto* leadership role in Mr. Demoulas’s absence.
- The Director-Plaintiffs engaged in a campaign to manipulate and falsify the minutes of Board meetings, including modifying minutes over the objection of the corporate Secretary -- and then barring the Secretary from attending Board meetings after she refused to whitewash the minutes to omit evidence that the Board lacked any business rationale to remove Mr. Demoulas.
- Employees aligned with the Sisters’ goals reportedly deleted relevant text messages in the days immediately following Mr. Demoulas’s

placement on administrative leave and initiation of the pretextual investigation.

- Following the conclusion of the investigation, the Director-Plaintiffs terminated Mr. Demoulas on September 9, 2025, just minutes after the 10:00 p.m. conclusion of an unsuccessful mediation between the parties before The Honorable Joseph R. Slight III, then filed this pre-prepared lawsuit at 10:37 p.m.

By way of background, before his purported termination, Mr. Demoulas was the President and Chief Executive Officer (“CEO”) of DSM since its inception in 2014. He has been involved in managing Market Basket for more than 50 years. Under Mr. Demoulas’s leadership, Market Basket has generated higher Retailer Preference Index (“RPI”) scores than Costco, Trader Joe’s, Sam’s Club, and Publix. In fact, Market Basket has the second highest RPI score among 71 companies nationwide.¹

Given the Company’s exceptional performance and Market Basket’s vibrant culture, it came as a surprise to Mr. Demoulas when three members of DSM’s Board purportedly formed the illicit Executive Committee, which proceeded unlawfully to put Mr. Demoulas and his management team on leave for an indefinite period. The limbo in which the Executive Committee placed Mr. Demoulas lasted nearly three-and-a-half months until the Board finally terminated Mr. Demoulas on September 9, 2025, late in the evening, at the conclusion of an unsuccessful mediation, and immediately filed this pre-prepared baseless lawsuit. As detailed below in the verified counterclaim, the process that led to Mr. Demoulas’s termination was riddled with conflicts, trickery, deceit, and pervasive breaches of DSM’s Bylaws and the Director-Plaintiffs’ fiduciary duties.

¹ <https://www.dunnhumby.com/resources/reports/retail-trends/en/eighth-annual-retailer-preference-index-rpi-for-u-s-grocery/>.

Accordingly, Mr. Demoulas denies each and every allegation in the Complaint, including those contained in structural headings, except as expressly admitted herein, and specifically denies that Plaintiffs are entitled to the relief sought in their prayer for relief. Except when noted otherwise, the capitalized terms appearing hereunder shall refer to the capitalized terms defined in the Complaint. Mr. Demoulas does not admit the accuracy or completeness of any terms defined in the Complaint. Further, Mr. Demoulas reserves the right to amend and/or supplement this Answer. Finally, Mr. Demoulas herein asserts his affirmative defenses and Section 225 counterclaim for improper removal and reinstatement as President and CEO.

ANSWER

1. Plaintiffs DSM HoldCo, Inc., a Delaware corporation (“DSM”); Demoulas Super Markets, Inc., a Massachusetts corporation and a wholly-owned subsidiary of DSM (“OpCo” and, together with DSM, “Market Basket” or the “Company”); and Jay K. Hachigian, Steven J. Collins, and Michael Keyes, the latter in their capacities as the three Directors of Plaintiffs DSM HoldCo, Inc. and OpCo; by and through their undersigned counsel, hereby bring this Verified Complaint as follows:

ANSWER: The allegations in Paragraph 1 purport to state that Plaintiffs bring their Complaint, to which no response is required. To the extent a response is required, Mr. Demoulas denies the allegations in Paragraph 1, except admits that Plaintiffs purport to bring the Complaint, that DSM is a Delaware corporation, that OpCo is a Massachusetts corporation, and that Jay K. Hachigian, Steven J. Collins, and Michael Keyes currently make up the entirety of the Board of Directors for both DSM and OpCo, even though DSM’s Bylaws explicitly state that there must be a minimum of five directors seated on the Board—and the Sisters unlawfully removed the two independent directors.

NATURE OF THE ACTION

2. DSM Holdco, Inc. is a Delaware corporation that is well known in New England for its operation, through its wholly-owned subsidiary OpCo, of an iconic group of ninety supermarkets now named Market Basket. For more than a century, customers and communities throughout New England have relied on Market Basket to deliver the highest quality fresh meats, produce and other grocery products at the lowest possible prices. It is fair to say that Market Basket has one of the best known and most beloved brands in New England.

ANSWER: Mr. Demoulas admits the allegations in Paragraph 2.

3. Plaintiffs Hachigian, Collins, and Keyes (the “Plaintiff Directors”) are the members of the Board of Directors of Market Basket,² with Collins the longest serving member of the three (since 2019) and Keyes the most recently elected (since 2023). The Plaintiff Directors are charged with the fiduciary responsibility of overseeing the Company’s operations on behalf of the Company and all its stockholders.

ANSWER: Mr. Demoulas admits the allegations in the first sentence and footnote 2 of Paragraph 3. The second sentence of Paragraph 3 states legal conclusions to which no response is required. To the extent a response is required, Mr. Demoulas denies the allegations in the second sentence of Paragraph 3, except admits that the Director-Plaintiffs have a fiduciary duty to act in the best interests of the Company and all of its stockholders in their management of the Company’s business and affairs.

4. Up through his recent termination on September 9, 2025, Market Basket’s then-CEO and President, Defendant Arthur T. Demoulas (“Defendant” or “Mr. Demoulas”), had a long-standing history of exercising his own unfettered discretion as to virtually every important decision at the Company—while ignoring and stonewalling the Market Basket Board. After joining the Board, the Plaintiff Directors decided to depart from the path of the

² The Board of Directors of each of DSM and OpCo is composed of the same individuals and similarly constituted. For the sake of efficiency and convenience, the Board of Directors of each of DSM and OpCo typically convene and hold joint meetings. Except as otherwise expressly provided herein, and unless the context clearly provides otherwise, references to the “Board” should be construed to be references to the Boards of Directors of both DSM and OpCo.

prior Board members, who either had capitulated to Mr. Demoulas's bullying tactics or, like the recently removed fourth Board Member Bill Shea, willingly did Mr. Demoulas's bidding. The Plaintiff Directors decided to put their foot down and, in the words of an immortal football coach in New England, "Do Your Job"—which they began to try to do several years ago by seeking to discharge their fiduciary responsibilities of oversight over Mr. Demoulas and the Company's operations. This did not sit well with Mr. Demoulas, who fought the Plaintiff Directors every step of the way.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 4, except that he opoadmits being the President and CEO of DSM and OpCo until he was improperly placed on administrative leave by the Executive Committee on May 28, 2025, and that the Director-Plaintiffs purported to officially terminate Mr. Demoulas as President and CEO of the Company on September 9, 2025.

5. As Mr. Demoulas has said, "*[t]here's only one boss in the company. There's not two. There's not three. There's not five.*"³ Even though he is only a minority stockholder, owning just 28.4% of DSM's outstanding stock, for years Mr. Demoulas has acted as if he were the sole owner of the Company and rejected any form of even the most basic oversight by the Board. Contrary to Delaware law and basic principles of corporate governance, he has refused to provide the Board with basic information about the Company and its plans or to comply with basic, lawful directives of the Board. He also insisted that he, and not the Board, would select his successor, stating to the Board that he would unilaterally install his children into the top positions in the C-suite following his eventual departure—without regard for the Board's views on the matter. Under Delaware law, Mr. Demoulas—like all CEOs and other corporate officers—has a fiduciary duty, at minimum, to keep the Board informed of operational and other significant matters and to follow the lawful directives of the Board. But not according to Mr. Demoulas, who acknowledged no one's authority but his own.

ANSWER: The first sentence of Paragraph 5 purports to attribute statements from a news article to Mr. Demoulas, and Mr. Demoulas respectfully refers the Court to that news article for a complete description of

³ Welker, Grant, *Market Basket CEO Power Struggle: What You Need to Know*, BOS. BUS. J. (May 29, 2025), <https://www.bizjournals.com/boston/news/2025/05/29/market-basket-demoulaspower-struggle-explained.html>, attached as **Ex. A**.

its contents and denies any allegations in the first sentence of Paragraph 5 that are inconsistent with its contents. By way of further response, Mr. Demoulas states that the quote is taken out of context and that in context the statement was: “I’m running this company in the best interest of this organization. I’m running this company with the philosophy, very strong philosophy there’s only one boss in the company. There’s not two. There’s not three. There’s not five.” Mr. Demoulas denies the allegations in the second sentence of Paragraph 5, except admits that he controls approximately 28.4% of DSM’s outstanding stock. The third and fifth sentences of Paragraph 5 state legal conclusions to which no response is required. To the extent a response is required, Mr. Demoulas denies the allegations in the third and fifth sentences of Paragraph 5. Mr. Demoulas denies the remaining allegations in Paragraph 5.

6. When it started with a single store at its founding in 1917, the Company was run almost single-handedly by Mr. Demoulas’s grandfather. The same was true for Mr. Demoulas’s father, Mike Demoulas, who took over when Mr. Demoulas’s grandfather died. The present Mr. Demoulas for years exercised the same centralized power as his forebears. But today, thanks to the contributions of many stakeholders, Market Basket has grown into a ninety-store powerhouse, with revenues of almost \$8 billion per year, employing over 30,000 dedicated associates, and providing groceries at “More For Your Dollar” prices to its customers and dozens of underserved communities in New England. A company of Market Basket’s size, operational structure, and importance to so many stakeholders simply cannot tolerate the risks of consolidating all decision-making authority and power in a single individual—particularly one who outright refuses any attempt at oversight.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 6, except admits that the first Market Basket store was founded in 1917, and Market Basket grew under the leadership of Mr. Demoulas’ grandfather, under the leadership of Mr. Demoulas’ father, and under Mr. Demoulas’ leadership. Mr. Demoulas further admits that Market Basket has grown to 90 stores,

nearly \$8 billion in revenue, and approximately 30,000 associates thanks to the combined efforts of company leadership and, most importantly, the associates at each store working to make the customer experience special all across New England.

7. The Plaintiff Directors repeatedly tried to work with Mr. Demoulas *for years* to gain his cooperation. Mr. Demoulas would have none of it. For example, despite numerous requests, Mr. Demoulas never gave the Board an annual budget, did not give the Board advance notice (let alone seek input) about significant capital outlays, and never permitted the Board to meet with a single officer or senior manager of the Company, other than the Company's CFO. Mr. Demoulas even forbade the Board from *entering* the Market Basket headquarters in Tewksbury, Massachusetts; the Board had to hold its meetings at a local hotel. Mr. Demoulas at one point openly dared the Plaintiff Directors to fire him rather than submit to meaningful Board oversight, apparently banking on an employee walkout and customer boycott—like the one that followed his temporary ouster in 2014, discussed below.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 7, except admits that the Board holds its meetings at a nearby local hotel in Andover, Massachusetts as has been Market Basket's practice for decades.

8. In addition, recognizing that one of the principal responsibilities of any board of directors is overseeing management and ensuring that the Company at all times has appropriate senior leadership in place to safeguard the long-term health of the business, the Board sought to engage in discussions with the now 70-year-old Mr. Demoulas about succession planning. But Mr. Demoulas hijacked the process, thwarting the Board's efforts to identify and evaluate successors, thereby impeding the Board's ability to discharge one of its most fundamental duties. He categorically refused to participate in any substantive discussions with the Board about a succession plan, other than his unilateral plan to install his own children upon his eventual departure. He dictated this plan without even permitting the Board to meet his children, denying the Directors a meaningful opportunity to assess whether Mr. Demoulas's children would have the baseline qualifications and experience to manage a business of this size, let alone determine whether they would be the best candidates. Mr. Demoulas treated the decision as his and his alone and expected the Board and the Company's owners simply and blindly to rubber stamp it.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 8. Mr. Demoulas expressly denies that he “dictated” succession planning to the Board. To the contrary, Mr. Demoulas has stated clearly to the Board on multiple occasions that if there were an immediate or unexpected need for a new CEO he would recommend Madeline and T.A. But he recognizes that it is the Board’s duty to evaluate qualified potential candidates to succeed him as President and CEO and to choose the right successor who is in the best interests of the Company and its stockholders. Mr. Demoulas has also told the Board that the most qualified people to succeed him as CEO are Madeline and T.A. Demoulas, that if the Board did not appoint them to succeed him, it should consider the elevation of only inside candidates who understood the culture of the Company, and, if it could not find a qualified internal candidate, only then should it consider candidates from outside the Company.

9. Finally, having gotten nowhere with Mr. Demoulas, in August 2024, the Plaintiff Directors adopted a formal resolution directing Mr. Demoulas to comply with basic requirements of Board oversight, including: (1) providing the Board with an annual budget and periodic budget updates during the course of the year; (2) giving the Board advance notice of and obtaining approval for all capital expenditures (“CapEx”) in excess of \$10 million, and informing the Board of any material events at the Company; (3) requiring senior management of Market Basket to attend and present at Board meetings, so that the Board could assess their roles and performance and form functional relationships with them; and (4) directing Mr. Demoulas to work together with the Board on a mutually satisfactory succession plan. Despite the Plaintiff Directors’ persistent requests that Mr. Demoulas comply with these straightforward directives, months and months went by without Mr. Demoulas even beginning to perform a single one of them.

ANSWER: The allegations in the first sentence of Paragraph 9 purport to characterize resolutions from August 2024, and Mr. Demoulas respectfully refers the Court to the document entitled, “Minutes of Executive Session”, and dated August 22, 2024, for a complete and accurate description of its contents

and denies any allegations that are inconsistent with its contents. Mr. Demoulas further states that Mr. Demoulas understood the items listed in the document to be topics for discussion only—which topics were discussed productively at the August 22, 2024, meeting—not a list of resolutions or directives. All matters were discussed and it was left that some of these discussion items were unresolved and no directive was given. Mr. Demoulas denies the allegations in the second sentence of Paragraph 9. Mr. Demoulas further responds that Plaintiffs’ rendition of events is misleading and that, in reality: (1) Company management has historically provided the Board with budgets through 2021, which were later replaced with forward-looking cash flow statements, among other financial statements, at each Board meeting and explained to the Board that it was open to changing the format of that reporting to formal budgets if the Board so desired; (2) Company management provided CEO updates of the status of all CapEx projects at every Board meeting and was willing to work with the Board on a process to provide notice of capital expenditures in excess of some dollar value to be agreed upon, while safeguarding the secrecy of potential new real estate acquisitions for store locations given the potential for information of that sort to be leaked in a closely held family corporation in which the stockholders enjoy extensive information rights; (3) Company management was willing to attend Board meetings at the request of the Board to report on specific topics and interact with the Board; and (4) Mr. Demoulas was open to discussing long-term succession planning with the Board.

10. Worse still, when Mr. Demoulas saw the proverbial writing on the wall—that he would not be able to continue skirting the Board’s directives and just get his way—he apparently began plotting with his closest lieutenants to sabotage the Company in an effort to pressure and exert leverage over the Board.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 10. Mr. Demoulas further responds that there is no basis for this false narrative, which was manufactured by the Director-Plaintiffs as a pretext to form the Executive Committee and initiate the allegedly independent investigation.

11. In a meeting of the Board in March 2025, it was decided that Plaintiff Hachigian would replace Bill Shea as Chairman of the Board. Mr. Demoulas, who was present at the meeting, reacted angrily at the replacement of his last hand-picked Director, going on a half-hour tirade against the Plaintiff Directors and then cutting the meeting short. Later that month, the Board learned that Mr. Demoulas appeared to have a secret plan: If the Board were to take disciplinary action against him for refusing to comply with its directives, he would instigate through his closest lieutenants a disruptive employee work stoppage and customer boycott, attempting to repeat what occurred in 2014 during a dispute between him and his cousin, Arthur S. Demoulas, over Mr. Demoulas's termination at that time for insubordination. As Mr. Demoulas (and the Board) knows, that 2014 work stoppage cost the Company hundreds of millions of dollars and only ended when Mr. Demoulas and his three siblings were collectively able to borrow \$1.6 billion to buy out his cousins. Now, ten years later, Mr. Demoulas was planning to run the same playbook again if the Board did not stand down. Fortunately, the Plaintiff Directors got wind of his plans, which would have been extremely harmful to the Company.

ANSWER: Mr. Demoulas admits the allegations in the first sentence of Paragraph 11. Mr. Demoulas denies the remaining allegations in Paragraph 11, except he admits that in 2014, Market Basket customers conducted a boycott and employees conducted a work stoppage that led to Mr. Demoulas and the Sisters borrowing \$1.6 billion to buy out their cousins.

12. In response to learning of these plans, the Board suspended Mr. Demoulas and several of his top lieutenants with pay on May 28, 2025. Since that time, Mr. Demoulas, directly and through various proxies, has engaged in a scorched-earth campaign to disrupt Company operations, threaten and intimidate Company associates to stay loyal to him, and smear the Board and the other stockholders of the Company in the media—all in his own self-interest to return to power. For example, Mr. Demoulas has been behind numerous television and radio appearances, as well as interviews in the press, by his top two lieutenants, Joseph Schmidt and Tom Gordon, who were terminated from the Company in July 2025 for misconduct, blasting the Board

and other Company stockholders. He was also behind, among other things: Schmidt and Gordon's illegal trespassing at twenty-six stores in a matter of days and Schmidt's unlawful after-hours entry into the Market Basket headquarters in an effort to intimidate associates, necessitating the Company to obtain an injunction against their continuing trespass; inducing a third party named David D'Alessandro, former CEO of John Hancock and a close friend of the head of Mr. Demoulas's public relations firm, to "write" an op-ed in *The Boston Globe* calling for a boycott, despite acknowledging that he was unfamiliar with the facts; and causing then-Board member Bill Shea to leak to *The Boston Globe* a confidential letter to the Board under his signature, but which he admittedly did not write, containing numerous untruths, accompanied by various confidential Market Basket documents that were also provided to the media and which the media then used in their published reports.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 12, except admits that on May 28, 2025, the Board suspended Mr. Demoulas and several key members of the Company's management team, including two of Mr. Demoulas's children, Madeline and T.A. Demoulas, and that the supposed basis for the suspensions was the false narrative that Mr. Demoulas was not cooperating with the Board and planning an employee walkout and a customer boycott.

13. Lest there be any doubt about Mr. Demoulas's role in these activities, at any time since his suspension Mr. Demoulas could have put the word out publicly or privately to stop his side's media attacks. Instead, Mr. Demoulas has done the opposite. He issued a public statement in support of his lieutenants and their actions, and he (directly and through his designated spokesperson) has targeted the Board and the majority stockholders, trying to paint them as villains who would ruin the Market Basket culture and sell the company to private equity firms (despite the fact that the Company's Charter effectively requires his consent to any such sale).

ANSWER: Mr. Demoulas denies the allegations in Paragraph 13, except admits that during his suspension he generally refrained from commenting on the sham investigation or the circumstances of the suspensions

other than to show support for his Market Basket colleagues who the Board unfairly made into pariahs without any basis.

14. No company, no matter how successful, can tolerate this type of behavior from a corporate officer, let alone the President and CEO. Mr. Demoulas's actions interfered with the Board's ability to fulfill its fiduciary responsibilities to set the strategic direction of the Company and oversee the Company's management, and to ensure the Company's continued success ***for the long term***—for ***all*** its stockholders, customers, associates, and the New England communities it serves. And Mr. Demoulas revealed his true colors, that he cared more about getting his own way than about the Company and its constituents' best interests and future—just the opposite of the carefully cultivated public persona that Mr. Demoulas portrays to the outside world.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 14.

15. Accordingly, Mr. Demoulas forced the Board to choose between accepting his autocratic control of Market Basket or terminating him in order to protect a vibrant and growing business that cannot flourish over the long-term under the leadership of a dictator. As is its right, the Board therefore terminated Mr. Demoulas as President and CEO of the Company effective September 9, 2025. The Plaintiff Directors were duty-bound to act in the best interests of the Company and all of its stockholders and took this step to ensure a solid long-term future for Market Basket, its associates and customers.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 15, except admits that the Plaintiff Directors purported to terminate Mr. Demoulas on September 9, 2025, in breach of their fiduciary duties to Market Basket.

16. Mr. Demoulas contests his termination. Accordingly, Plaintiffs now bring this proceeding under 8 *Del. C.* § 225(a) for a judicial declaration that the resolution adopted at the September 9, 2025 special meeting of the Board of DSM removing Mr. Demoulas as CEO and President of DSM is valid and effective. Plaintiffs also seek a judicial declaration that the resolution adopted at the September 9, 2025 special meeting of the Board of OpCo removing Mr. Demoulas as CEO and President of OpCo is also valid and effective.

ANSWER: Mr. Demoulas admits the allegation in the first sentence of Paragraph 16. The remainder of Paragraph 16 purports to summarize

Plaintiffs claims and states legal conclusions, to which no response is required. To the extent a response is required, Mr. Demoulas denies the remaining allegations in Paragraph 16 and specifically denies that Plaintiffs are entitled to the relief they seek in this action.

PARTIES

17. Plaintiff DSM HoldCo., Inc., is a Delaware corporation with its principal place of business in Tewksbury, Massachusetts. DSM is a family-owned Delaware corporation that, through Plaintiff OpCo, a wholly-owned subsidiary incorporated in the Commonwealth of Massachusetts, operates ninety stores in Massachusetts, New Hampshire, Maine, and Rhode Island, known familiarly as Market Basket. Market Basket employs more than 30,000 associates throughout New England. The associates are provided with a lucrative profit-sharing plan; they want stability and continued financial success for a company whose bottom line they believe and share in.

ANSWER: Mr. Demoulas admits the allegations in Paragraph 17.

18. Plaintiff Jay K. Hachigian has served as a Director of Market Basket since 2021, and he currently serves as the Chairman of the Board and of the Board's Executive Committee (defined below). Mr. Hachigian is a prominent New England attorney who recently, for example, was involved in a major transaction for the region's beloved Boston Celtics. He is a name partner of the law firm Gunderson Dettmer Stough Villeneuve Franklin & Hachigian, LLP and a founding partner and leader of that firm's Boston office. During his forty years of practice, Mr. Hachigian has provided advice to hundreds of companies, both public and private, including advice about corporate governance issues such as those posed by Mr. Demoulas here.

ANSWER: Mr. Demoulas admits the first sentence of Paragraph 18, except denies that the Executive Committee was ever properly formed, and therefore, states that the Executive Committee cannot have a Chairman appointed to it. Mr. Demoulas is without knowledge as to the remainder of the allegations in Paragraph 18 and therefore denies them, except admits that Mr. Hachigian is a named partner at the law firm Gunderson Dettmer Stough Villeneuve Franklin & Hachigian, LLP.

19. Plaintiff Steven J. Collins has served as a Director of Market Basket since 2019 and is a member of the Board's Executive Committee. Mr. Collins is a founding member and Managing Director of Boston-based Exeter Capital. Before that he was a partner in the prestigious firm Advent International in Boston. Mr. Collins is a very experienced director, having served on the boards of various consumer and retail companies, both public and private, throughout his long career.

ANSWER: Mr. Demoulas admits the first sentence of Paragraph 19, except denies that the Executive Committee was ever properly formed, and therefore, states that the Executive Committee cannot have members. Mr. Demoulas is without knowledge as to the remainder of the allegations in Paragraph 19 and therefore denies them, except admits that Mr. Collins is a founding member and a Managing Director of the Boston-based private equity firm Exeter Capital.

20. Plaintiff Michael Keyes has served as a Director of Market Basket since 2023 and is a member of the Board's Executive Committee. Mr. Keyes is a Senior Director and member of the Investment Committee at Intercontinental Real Estate Corporation, a major Massachusetts real estate investment management company. One of the unique attributes of Market Basket that separates it from its competition is that it typically owns the real estate on which its stores are located; Mr. Keyes therefore brings his strong expertise in real estate to bear as a Director of Market Basket.

ANSWER: Mr. Demoulas admits the first sentence of Paragraph 20, except denies that the Executive Committee was ever properly formed, and therefore, states that the Executive Committee cannot have members. Mr. Demoulas is without knowledge as to the allegations in the second sentence of Paragraph 19 and therefore denies them, except admits that Mr. Keyes is a Senior Director of acquisitions at Intercontinental Real Estate Corporation, where he is an Investment Committee member. Mr. Demoulas further states that on one occasion in 2022 Mr. Keyes and his employer competed against Market Basket in an effort to purchase one of DSM's most successful store

locations and the underlying real estate from an entity owned by Joseph Pasquale, a stockholder and the husband of Caren Demoulas. Thus, what Plaintiffs describe as an attribute that Mr. Keyes brought to the DSM Board was actually a demonstrated conflict. Mr. Demoulas denies the allegations in the third sentence of Paragraph 20, except admits that Market Basket owns much of the real estate on which its stores are located.

21. Defendant Arthur T. Demoulas is a resident of Lowell, Massachusetts. Mr. Demoulas is a minority stockholder of Market Basket, owning 28.4% of DSM's outstanding stock. Prior to his removal, Mr. Demoulas served as the CEO and President of Market Basket. Since DSM's incorporation in 2014, Mr. Demoulas has not served as a member of the Market Basket Board of Directors

ANSWER: Mr. Demoulas denies the allegations in Paragraph 21, except admits that he is a resident of Lowell, Massachusetts, that he has not served as a member of the Market Basket Board of Directors, and that he has control over approximately 28.4% of DSM's outstanding stock. Mr. Demoulas further states that he was improperly placed on administrative leave on May 28, 2025, but that he remains the President and CEO of Market Basket because his purported termination was done in breach of DSM's Bylaws and the Director-Plaintiffs' fiduciary duties to Market Basket.

JURISDICTION

22. This Court has jurisdiction under 8 *Del. C.* § 225(a), as relevant here, to hear the application of any director to determine the validity of any removal of an officer of any Delaware corporation and to make such order or decree as may be just and proper in connection therewith.

ANSWER: The allegations in Paragraph 22 are legal conclusions to which no response is required.

23. This Court also has subject matter jurisdiction pursuant to 10 *Del. C.* § 341 because Plaintiffs seek equitable relief as alleged herein.

ANSWER: The allegations in Paragraph 23 are legal conclusions to which no response is required.

FACTUAL BACKGROUND

I. Market Basket Was Incorporated In 2014 By The Demoulas Family, Which Intentionally Chose A Non-Family Board To Oversee The Company's Management And Operations

24. Market Basket is an iconic company, operating ninety supermarkets across New England, with its headquarters in Tewksbury, Massachusetts. The Company originated from a single store started in 1917 by Athanasios Demoulas, who had immigrated from Greece to Lowell, Massachusetts.

ANSWER: Mr. Demoulas admits the allegations in Paragraph 24.

25. The progeny of Athanasios Demoulas includes (in birth order) Francis *[sic]* Demoulas Kettenbach, Glorianne Demoulas Farnham, Arthur T. Demoulas, and Caren Demoulas Pasquale, all the children of Athanasios's son, Mike Demoulas. On December 10, 2014, these four siblings incorporated Market Basket in Delaware, under the name DSM HoldCo, Inc.

ANSWER: Mr. Demoulas admits the allegations in Paragraph 25, except to note that his father, who was referred to by many as "Mike," was formally named Telemachus Arthur Demoulas.

26. The creation of DSM followed a major dispute in 2014 regarding the management and ownership of the business between two sets of Athanasios's descendants: the four siblings, and the then-majority owner of the predecessor company, Arthur S. Demoulas ("Arthur S."), and his immediate family. Arthur S. had been awarded majority ownership of what is now Market Basket back in 1994 by a Massachusetts Superior Court Judge, after a finding that Arthur T. Demoulas, the Defendant here, had taken corporate opportunities and engaged in self-dealing transactions to the detriment of the Arthur S. family. *See Demoulas v. Demoulas Super Markets, Inc.*, 424 Mass. 501 (1997). The two sides of the family had no love lost between them, and when Arthur S. removed Mr. Demoulas as CEO in 2014, Mr. Demoulas and his lieutenants orchestrated a retaliatory "walkout," inducing Market Basket associates to walk off the job, suppliers to refuse to fulfill shipments, and customers to boycott the stores. Mr. Demoulas's walkout had its intended effect and brought Market Basket to its knees, causing approximately three-quarters of a billion dollars in lost sales in just a few weeks. Ultimately, the dispute was

resolved when the four siblings together bought out Arthur S. and his family's majority share of the business for \$1.6 billion, and incorporated DSM. All four siblings have since collectively repaid the \$1.6 billion of debt that was undertaken as part of the 2014 buyout.

ANSWER: Mr. Demoulas admits the first sentence of Paragraph 26. The second sentence of Paragraph 26 purports to characterize the opinion of the Massachusetts Superior Court, to which no response is required. To the extent a response is required, Mr. Demoulas refers the Court to the Massachusetts Superior Court opinion, cited as *Demoulas v. Demoulas Super Markets, Inc.*, 424 Mass. 501 (1997), for a complete and accurate description of its contents and denies any allegations that are inconsistent with its contents. Mr. Demoulas denies the remaining allegations of Paragraph 26, except admits that Mr. Demoulas' removal in 2014 caused employees to walk out and customers to boycott Market Basket stores in support of Mr. Demoulas, which cost Market Basket millions of dollars, and which ended after Mr. Demoulas was reinstated as President and CEO, and Mr. Demoulas and the Sisters bought out Arthur S.'s side of the family for \$1.6 billion. Mr. Demoulas further admits that the \$1.6 billion in debt that Market Basket undertook to buy out Arthur S.'s side of the family has since been paid off by the Company and that it is the Company's longstanding practice to operate without debt, instead reinvesting excess cash flow back into the business and Market Basket's employees.

27. Shares of DSM were issued to the Demoulas family as follows: The Demoulas sisters collectively own 61.3%; Mr. Demoulas owns 28.4%; and the remaining 10.3% is held in a trust for the fourteen children of the four Demoulas siblings.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 27, except admits that shares of DSM were issued consistent with the ownership

of the Massachusetts corporation, which was the predecessor entity. Mr. Demoulas further responds that the current ownership breakdown of DSM is as follows:

Stockholder Name	Percent Owned	Number of Shares
Arthur T. Demoulas Revocable Trust	.04%	1.00
The Arthur T. Demoulas Family Trust (2020)	28.27%	692.50
Maureen Demoulas	.12%	3.00
T.A.D. Family Trust	10.29%	252.00
Frances I. Demoulas Revocable Trust	.04%	1.00
The Frances Demoulas Family GST Exempt Trust	14.25%	349.03
The Frances Demoulas Family GST Non-Exempt Trust	6.22%	152.47
Glorianne Demoulas Revocable Trust	.06%	1.50
Glorianne Demoulas Family Trust (2020)	20.45%	501.00
Caren L. Demoulas Revocable Trust	.08%	2.00
Caren L. Demoulas 2020 Irrevocable Trust-GST Exempt Trust	7.08%	173.58
Caren L. Demoulas 2020 Irrevocable Trust-GST Non-Exempt Trust	5.93%	145.34
Caren L. Demoulas 2020 Irrevocable Trust-Flex Trust	7.08%	173.58
Joseph B. Pasquale	.08%	2.00
	100%	2,450.00

28. Although Market Basket has been and continues to be a family-owned enterprise, consistent with Delaware law, DSM’s organizational documents—which were negotiated and agreed to by all four of the Demoulas siblings (including Mr. Demoulas)—provide that the business and affairs of the Company shall be managed under the direction of the Board of Directors, where each Director is elected annually by the stockholders, acting by a plurality vote. Since 2014, the stockholders of DSM have elected an outside, independent Board (i.e., a board that does not include any Demoulas family member) so as to provide third-party and professional oversight of the Company’s management and operations and to foster impartial, unbiased decision-making.

ANSWER: The first sentence of Paragraph 28 purports to characterize DSM’s organizational documents, and Mr. Demoulas respectfully refers the Court to DSM’s organizational documents for a complete and accurate description of their contents and denies any allegations that are inconsistent with their contents. Mr. Demoulas denies the allegations in the second sentence of Paragraph 28, except admits that the Board does not consist of Demoulas family members. Mr. Demoulas further states that DSM’s Bylaws require a five-member minimum Board, but that the Sisters have purged the Board in recent years, leaving only the three Director-Plaintiffs, who are beholden to the Sisters.

29. Specifically, and consistent with Section 141(a) of the Delaware General Corporation Law, DSM’s Charter provides, in Section 5.1, that “[t]he business and affairs of the [Company] shall be managed under the direction of the Board of Directors. The Board of Directors shall have the authority to delegate or assign to appropriate officers of the [Company] the authority and duty to manage the day-to-day operations of the [Company].”⁴

⁴ Amended and Restated Certificate of Incorporation of DSM HoldCo, Inc. (the “DSM Charter”), attached as **Ex. B**, § 5.1. The operative bylaws of OpCo contain a similar provision. *See* Amended and Restated By-Laws of Demoulas Super Markets, Inc., Oct. 2017 (“OpCo Bylaws”), attached as **Ex. C**, § 2.1. As noted above, however, OpCo is a wholly-owned and controlled subsidiary of DSM. Therefore, the Board of DSM, subject to the provisions in OpCo’s Articles of Organization, is the sole stockholder entitled to vote in an election of OpCo directors.

ANSWER: The allegations in Paragraph 29 purport to quote from and describe DSM's Charter and Opco's Bylaws, and Mr. Demoulas respectfully refers the Court to DSM's Charter and OpCo's Bylaws for a complete and accurate description of their contents and denies any allegations that are inconsistent with their contents. The allegations in Paragraph 29 further consist of legal conclusions with respect to Section 141(a) of the Delaware General Corporation Law, to which no response is required. To the extent a response is required, Mr. Demoulas respectfully refers the Court to the Delaware General Corporation Law for a complete and accurate description of its contents and denies any allegation inconsistent with its contents. Mr. Demoulas admits that Exhibit B to the Complaint purports to be the Amended and Restated Certificate of Incorporation of DSM, and that Exhibit C purports to be an undated version the Amended and Restated By-Laws of OpCo. Mr. Demoulas denies the remaining allegations in Paragraph 29, except admits that OpCo is a wholly owned and controlled subsidiary of DSM.

30. Similarly, consistent with Section 216 of the Delaware General Corporation Law, DSM's Bylaws provide that directors are elected by a "plurality of the votes cast" at each annual stockholders' meeting.⁵ Vacancies on the Board may be filled only by "affirmative vote of the holders of at least a majority in voting power of the issued and outstanding capital stock of" the Company.⁶ And consistent with Section 141(k) of the Delaware General Corporation Law, Directors may be removed with or without cause by the affirmative vote of stockholders representing a majority of the issued and outstanding shares entitled to vote.⁷

ANSWER: The allegations in Paragraph 29 consist of legal conclusions with respect to Sections 141 and 216 of the Delaware General Corporation Law, to

⁵ Amended and Restated By-Laws of DSM HoldCo, Inc. (the "DSM Bylaws"), attached as Ex. D, § 3.1.

⁶ *Id.* § 3.3.

⁷ *Id.* § 3.7.

which no response is required. To the extent a response is required, Mr. Demoulas respectfully refers the Court to the Delaware General Corporation Law for a complete and accurate description of its contents and denies any allegation inconsistent with its contents. The allegations in Paragraph 29 further purport to describe DSM's Bylaws, and Mr. Demoulas respectfully refers the Court to DSM's Bylaws for a complete and accurate description of their contents and denies any allegations inconsistent with their contents. Mr. Demoulas admits that an undated version of DSM's Bylaws purports to be attached as Exhibit D to the Complaint.

31. The organizational documents of OpCo reflect arrangements pursuant to which internal governance matters would be addressed principally at the holding company level. For example, Section 6.16 of the Articles of Organization of OpCo provides that "the directors of [OpCo] shall at all times be the individuals who are then serving as directors of DSM Holdco, Inc., a Delaware corporation and the sole shareholder of the Corporation" and that "[e]xcept as may be provided in the Bylaws, vacancies and newly created directorships shall be filled only by the shareholders [i.e., DSM] and not by the Board of Directors [of OpCo]."⁸

ANSWER: The allegations in Paragraph 31 purport to describe the organizational documents of OpCo, and Mr. Demoulas respectfully refers the Court to the organization documents of OpCo for a complete and accurate description of their contents and denies any allegations inconsistent with their contents. Mr. Demoulas admits that a purported version of the OpCo Articles of Organization is attached as Exhibit E to the Complaint.

32. After the Company was incorporated in 2014, the stockholders of DSM elected directors to the Board, including Terrence Carleton and then-Chairman Bill Shea. It was intentional that none of the four Demoulas siblings, including Mr. Demoulas, has been appointed to or served on the DSM Board, although there is no prohibition on stockholders serving as directors in

⁸ Restated Articles of Organization, Demoulas Super Markets, Inc., Oct. 11, 2017 ("OpCo Articles of Organization"), attached as **Ex. E**, § 6.16.

DSM's Charter or Bylaws.⁹ It was also important that the Board operate independently by majority vote—and that no individual director could thwart the will of a majority. Section 3.8 of the DSM Bylaws therefore implements the default rules under Section 141(b) of the Delaware General Corporation Law, specifying that a majority of the total number of directors (currently three, with two vacancies) will constitute a quorum for the transaction of business at a meeting of the Board and that the Board may take action by the affirmative vote of a majority of the Directors present at a meeting of the Board at which a quorum is present. OpCo's corporate organizational documents are to the same effect.¹⁰

ANSWER: Mr. Demoulas admits the allegation in the first sentence of Paragraph 32. Mr. Demoulas denies the allegations in the second sentence of Paragraph 32, except admits that DSM's Charter and Bylaws do not strictly prohibit a stockholder from being a member of DSM's Board of Directors. Mr. Demoulas denies the allegations in the third sentence of Paragraph 32, except admits that the Board of Directors operates by majority vote. The remaining allegations in Paragraph 32 purport to describe DSM's Bylaws, OpCo's corporate documents, and Delaware General Corporation Law, and Mr. Demoulas respectfully refers the Court to DSM's Bylaws, OpCo's corporate documents, and Delaware General Corporation Law for a complete and accurate description of their contents and denies any allegation inconsistent with their contents. Mr. Demoulas admits that the current Board consists of the Director-Plaintiffs and has two vacancies, and further states that the vacancies are in violation of DSM's Bylaws.

33. The stockholders of DSM—again, including Mr. Demoulas—also ensured that the Company's officers would be answerable to the Board, and specified that they did not have to be family members. Section 4.1 of the DSM Bylaws provides that “[t]he officers of the Corporation shall be chosen by the

⁹ See DSM Bylaws § 3.1 (providing that “Directors need not be stockholders,” an implicit recognition that they could be).

¹⁰ See OpCo Bylaws §§ 2.11-2.12.

Board of Directors . . . [and] need not be stockholders of the Corporation.”¹¹ Section 4.2 further provides that the officers elected by the Board “shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors....”

ANSWER: The allegations in Paragraph 33 purport to characterize and describe the DSM Bylaws, and Mr. Demoulas respectfully refers the Court to the DSM Bylaws for a complete and accurate description of their contents and denies any allegation inconsistent with their contents.

34. Particularly important for purposes of this Complaint is the fact that the stockholders (including Mr. Demoulas) specified that officers are removable by the Board *at will*: Section 4.2 of the DSM Bylaws provides: “Any officer elected by the Board of Directors may be removed at any time by the Board of Directors; provided, that in the event of the removal of an officer for cause, such officer shall be entitled to prior notice of the alleged basis therefor and an opportunity to be heard by the Board of Directors in respect thereof.”¹²

ANSWER: The allegations in Paragraph 34 purport to characterize and describe the DSM Bylaws and the OpCo Bylaws, and Mr. Demoulas respectfully refers the Court to the DSM Bylaws and OpCo Bylaws for a complete and accurate description of their contents and denies any allegation inconsistent with their contents.

¹¹ DSM Bylaws § 4.1. Similarly, Section 4.1 of the OpCo Bylaws provides that OpCo “shall have a President, a Treasurer and a Secretary,” and Section 4.2 of the OpCo Bylaws provides that the “officers shall be appointed by the Board of Directors,” each of whom “has the authority and shall perform the duties set forth in these By-laws or, to the extent consistent with these By-laws, the duties prescribed by the Board of Directors or by direction of an officer authorized by the Board of Directors to prescribe the duties of other officers.”

¹² DSM Bylaws § 4.2. Section 4.6 of the OpCo Bylaws includes a corresponding provision, stating that the OpCo Board “may remove any officer at any time with or without cause; provided, that in the event of the removal of an officer for cause, such officer shall be entitled to prior notice of the alleged basis therefor and an opportunity to be heard by the Board of Directors in respect thereof.”

II. Mr. Demoulas Fought All Attempts By The Board To Collaborate With Him Or Exercise Any Meaningful Oversight

35. When DSM was incorporated in 2014, the new Board permitted Mr. Demoulas to resume his role of President and CEO. For the next several years, Mr. Demoulas unilaterally decided what information the Board would receive and when, almost always *after* major Company actions were taken, and the Board provided little to no oversight.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 35, except admits that he has been the President and CEO of DSM since it was incorporated until his purported termination.

36. Beginning in 2019, three of the four siblings (i.e., the Demoulas sisters) decided to professionalize the Board and began to elect Directors who would truly exercise independent oversight over the Company—and over Mr. Demoulas. Mr. Demoulas voted against each of the Plaintiff Directors because he viewed them as a threat to his unfettered autonomy who would not simply rubber-stamp his decisions, no questions asked.

ANSWER: Mr. Demoulas lacks knowledge or information sufficient to form a belief about the truthfulness and accuracy of the allegations in the first sentence of Paragraph 36 and therefore denies them. Mr. Demoulas denies the allegations in the second sentence of Paragraph 36, except admits that he did not support the election of the Director-Plaintiffs, each of whom is beholden to the Sisters, to the Board because it was clear that their loyalties lay with the Sisters personally and not with Market Basket.

37. As they settled into their positions as Directors of Market Basket and learned more about the business, the Plaintiff Directors were surprised by the lack of oversight and control that had historically been exerted over Mr. Demoulas's actions. As Mr. Demoulas put it, "***my style is not to come back to this board and ask for permission. I'm going to do it.***"¹³

ANSWER: Mr. Demoulas denies the allegations in the first sentence of Paragraph 37. The second sentence of Paragraph 37 purports to attribute

¹³ Welker, *supra* n.2.

statements from a news article to Mr. Demoulas, and Mr. Demoulas respectfully refers the Court to that news article for a complete and accurate description of its contents and denies any allegations in second sentence of Paragraph 37 that are inconsistent with its contents. By way of further response, Mr. Demoulas denies the accuracy of the quote that is attributed to him, which is both dated and, in the sense that previous iterations of the Board endorsed management's autonomy on many matters, taken out of context.

38. The Plaintiff Directors became increasingly concerned that, under Mr. Demoulas's leadership, they could not fulfill their obligations, recited in the DSM Charter and OpCo Bylaws, to oversee the management of the business and affairs of the Company. Whenever they tried to exercise oversight and satisfy their fiduciary obligations, Mr. Demoulas rebuffed them, tried to bully them, or completely ignored them. Illustrating Mr. Demoulas's unrelenting efforts to keep the Board at arm's length from the business, Mr. Demoulas insisted that Board meetings be held at local hotels, rather than the Company's offices and did not maintain an email account, making it very difficult for the Board to communicate with Mr. Demoulas outside of scheduled board meetings.

ANSWER: Mr. Demoulas lacks knowledge or information sufficient to form a belief about the truthfulness and accuracy of the allegations in the first sentence of Paragraph 38 and therefore denies them. Mr. Demoulas denies the allegations in the second sentence of Paragraph 38. Mr. Demoulas denies the allegations in the third sentence of Paragraph 38, except admits that Board meetings are held at a local hotel as they have been for decades, and that he does not maintain an email account.

39. As Mr. Demoulas continued to rebuff their efforts to do their jobs, the Plaintiff Directors also became increasingly concerned about the lack of an appropriate succession plan. Over time, it became clear that Mr. Demoulas—who had concentrated power in his own hands and those of a small group of key lieutenants, including Joseph Schmidt and Tom Gordon—intended to unilaterally appoint his children to succeed him, tying the Board's hands and preventing the Directors from pursuing or implementing properly vetted succession plans. Yet Mr. Demoulas refused even to introduce his

children to the Board, denying the Board a meaningful opportunity to assess whether the children would be qualified, prepared, or even wanted to lead an \$8 billion company like Market Basket—not to mention preventing the Board entirely from identifying and selecting the candidates that they believed would be best suited to lead the Company.

ANSWER: Mr. Demoulas lacks knowledge or information sufficient to form a belief about the truthfulness and accuracy of the allegations in the first sentence of Paragraph 39 and therefore denies them. Mr. Demoulas denies the remainder of Paragraph 39, except admits that he recommended to the Board that Madeline and T.A. Demoulas be considered as candidates to succeed him as President and CEO of Market Basket and recommended to the Board that they were the best candidates to take on such a role with the support of the existing leadership team.

III. Mr. Demoulas Defied Board Resolutions Requiring Basic Corporate Oversight

40. By the summer of 2024, it had become clear that the Board members' attempts to obtain Mr. Demoulas's cooperation had reached a stalemate. On August 8, 2024, Directors Hachigian and Shea met to discuss a path forward, resulting in a list of four basic requirements that, they agreed, at least as a start, were the ***bare minimum*** any board of a company the size of Market Basket would require of a CEO and President.

ANSWER: Mr. Demoulas denies the allegations in the first sentence of Paragraph 40. Mr. Demoulas lacks knowledge or information sufficient to form a belief about the truthfulness and accuracy of the allegations in the first sentence of Paragraph 40 and therefore denies them.

41. On August 22, 2024, the Board convened for a meeting with Mr. Demoulas in attendance and reviewed their requirements of him going forward:

ANSWER: Mr. Demoulas denies the allegations in Paragraph 41, except admits that he attended a Board meeting on August 22, 2024.

42. *First*, Mr. Demoulas would be required to provide annual and quarterly budgets to the Board that included a balance sheet, income statement, and cash flows, and that provided a detailed CapEx budget by project, which the Board could review and approve as appropriate.

ANSWER: The allegations in Paragraph 42 purport to characterize a document entitled, “Minutes of Executive Session,” from August 22, 2024, and Mr. Demoulas respectfully refers the Court to that document for a complete and accurate description of its contents and denies any allegations that are inconsistent with its contents. Mr. Demoulas further responds that the items listed in the document were for discussion at the August 22, 2024, meeting and thereafter, and those topics were productively discussed with the expectation (reflected in the document) of follow-up conversations initiated by the Board. That follow-up never occurred. Mr. Demoulas further responds that Company management has historically provided the Board with budgets through 2021 which were later replaced with forward-looking cash flow statements, among other financial statements, at each Board meeting and that Company management explained to the Board that it was open to changing the format of that reporting to formal budgets if the Board so desired.

43. *Second*, Mr. Demoulas would present for approval by the Board any CapEx project with an anticipated total cost of \$10 million or more *before* committing to any new projects. Mr. Demoulas and senior management would also inform the Board of any material events at the Company, including, but not limited to, new store openings; any anticipated performance that deviated from the approved budget; any material changes to Company policies or its profit-sharing plan; and any advertising or promotional activities outside the ordinary course of business.

ANSWER: The allegations in Paragraph 43 purport to characterize a document entitled, “Minutes of Executive Session,” from August 22, 2024, and Mr. Demoulas respectfully refers the Court to that document for a complete and accurate description of its contents and denies any allegations that are

inconsistent with its contents. Mr. Demoulas further responds that the items listed in the document were for discussion at the August 22, 2024, meeting, and those topics were productively discussed with the expectation (reflected in the document) of follow-up conversations initiated by the Board. That follow-up never occurred. Mr. Demoulas further responds that Company management provided CEO updates of the status of all CapEx projects at every Board meeting and was willing to work with the Board on a process to provide notice of capital expenditures at some dollar level to be agreed upon, while safeguarding the secrecy of potential new real estate acquisitions for store locations given the potential for information of that sort to be leaked in a closely held family corporation in which the stockholders enjoy extensive information rights and thereafter used by a supermarket or real estate competitor.

44. *Third*, Mr. Demoulas would make senior management and heads of key functional areas of the Company available to meet with and present to the Board on a regular basis, so the Board could build relationships with the Market Basket management team and perform customary oversight activities.

ANSWER: The allegations in Paragraph 44 purport to characterize a document entitled, “Minutes of Executive Session,” from August 22, 2024, and Mr. Demoulas respectfully refers the Court to that document for a complete and accurate description of its contents and denies any allegations that are inconsistent with its contents. Mr. Demoulas further responds that the items listed in the document were for discussion at the August 22, 2024, meeting, and those topics were productively discussed with the expectation (reflected in the document) of follow-up conversations that would be initiated by the Board. That follow-up never occurred. Mr. Demoulas further responds that Company

management was willing to attend Board meetings at the request of the Board to report on specific topics and interact with the Board.

45. *Fourth*, Mr. Demoulas would work together with the Board to prepare an appropriate succession plan and to identify a qualified leader for the future; Mr. Demoulas could *not* unilaterally appoint his children as his successors.

ANSWER: The allegations in Paragraph 45 purport to characterize a document entitled, “Minutes of Executive Session,” from August 22, 2024, and Mr. Demoulas respectfully refers the Court to that document for a complete and accurate description of its contents and denies any allegations that are inconsistent with its contents. Mr. Demoulas further responds that the items listed in the document were for discussion at the August 22, 2024, meeting, and those topics were productively discussed with the expectation (reflected in the document) of follow-up conversations initiated by the Board. That follow-up never occurred. Mr. Demoulas further responds that he advised the Board to look for a qualified member of the family; if no one fit the bill, then to look inside the company; and only after ruling out people within the company should they look outside.

46. *Fifth*, Mr. Demoulas would not produce, promote, or participate in content or activities celebrating the 2014 walkout—which had severely harmed the Company and threatened the livelihood of its associates—on its upcoming ten-year anniversary that year.

ANSWER: The allegations in Paragraph 46 purport to characterize a document entitled, “Minutes of Executive Session,” from August 22, 2024, and Mr. Demoulas respectfully refers the Court to that document for a complete and accurate description of its contents and denies any allegations that are inconsistent with its contents. Mr. Demoulas further responds that the items listed in the document were for discussion at the August 22, 2024, meeting,

and those topics were productively discussed with the expectation (reflected in the document) of follow-up conversations initiated by the Board. That follow-up never occurred. Mr. Demoulas further responds that he inquired of the Board during the meeting why it would decline to celebrate the momentous events that precipitated Market Basket's meteoric growth since 2014, and decline to show appreciation to Market Basket's employees, customers, and communities for their trust in and loyalty to the Market Basket brand.

47. Three of the Company's then-five Directors voted to deliver these basic requirements to Mr. Demoulas and to seek his affirmative cooperation in allowing the Board to perform its fiduciary duties and oversight responsibilities. True to form, after initially supporting the requests, Mr. Demoulas's hand-picked Director, Mr. Shea, did an about-face and voted against these basic obligations, including requiring Mr. Demoulas to even submit a budget to the Board. Subsequently, Mr. Shea went on a PR campaign to help bolster Mr. Demoulas's authoritarian regime, even leaking confidential letters and various corporate and Board documents to *The Boston Globe* and other media outlets. As a consequence of Mr. Shea's blind loyalty to Mr. Demoulas and his inability to act as an independent director serving the interests of all stockholders, by majority vote, the Demoulas sisters removed Mr. Shea from the Board on August 7, 2025.

ANSWER: The allegations in the first two sentences of Paragraph 47 purport to characterize a document entitled, "Minutes of Executive Session," from August 22, 2024, and Mr. Demoulas respectfully refers the Court to that document for a complete and accurate description of its contents and denies any allegations that are inconsistent with its contents. Mr. Demoulas further responds that the items listed in the document were for discussion at the August 22, 2024, meeting, and those topics were productively discussed with the expectation (reflected in the document) of follow-up conversations initiated by the Board. That follow-up never occurred. Mr. Demoulas denies the remaining allegations of Paragraph 47, except admits that Bill Shea was removed as a director by the Sisters on August 7, 2025, after Mr. Shea

requested books and records from the Director-Plaintiffs under 8 *Del. C.* § 220(d) about the Executive Committee, its basis for the investigation, and the changes the Director-Plaintiffs were making to the Company.

IV. Mr. Demoulas And His Lieutenants Were Suspended For Misconduct Allegations

48. By the next Board meeting in January 2025, not only had Mr. Demoulas not cooperated with the Board on a single one of its requests, two weeks after specifically directing Mr. Demoulas **not** to engage in any celebration of the 2014 walkout that so badly damaged Market Basket, in defiance of the Board's directive Mr. Demoulas rolled out a full-blown media campaign—complete with articles in local press including the *Boston Globe* and over a dozen video testimonials from associates who were “asked” to participate.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 48.

49. At the January Board meeting, the Board spent literally *hours* with Mr. Demoulas reviewing what items he would and would not agree to comply with voluntarily. But Mr. Demoulas was so defiant and so uncooperative that at one point he dared Board members to fire him.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 49, except Mr. Demoulas admits that the topics from the August 2024 memo and meeting were further discussed at length.

50. Mr. Demoulas made clear by his words and conduct that he was never going to cooperate with the Board to make any meaningful changes to his role as President and CEO. Rather, his clear intention was to continue sidelining the Board and acting in his own self-interest to keep power in his own hands, the future of Market Basket be damned.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 50.

51. At a subsequent Board meeting in March 2025, Mr. Demoulas's conduct was so egregious that the Plaintiff Directors believed if they did not forego their demands and allow him to continue to act at his will, he would take affirmative action to harm the Company.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 51.

52. At virtually the same time that the Board was trying to obtain Mr. Demoulas's cooperation, the Board began to receive information from credible sources that Mr. Demoulas and his closest lieutenants, Schmidt and Gordon, were intimidating and pressuring associates at Market Basket to "choose sides" and to be prepared to follow others in a Company "walkout." These threats harkened back to the 2014 walkout, which paralyzed and severely harmed the Company. The Plaintiff Directors were highly concerned that Mr. Demoulas and his lieutenants were going to run that same playbook, preparing the ground for another work stoppage, which they would use to force the Board into submission. Such a disruption, if executed, could devastate the Company and jeopardize the livelihoods of over 30,000 Market Basket associates, to say nothing of the disruption to the Company's cherished shoppers who rely on Market Basket (and who drive its revenues) or the severe destruction in stockholder value.

ANSWER: Mr. Demoulas lacks knowledge or information sufficient to form a belief about the truthfulness and accuracy of the allegations in Paragraph 52 and therefore denies them and specifically denies that he or anyone on his behalf was involved in an effort to intimidate or pressure associates to "choose sides" or engage in a "walkout."

53. On May 25, 2025, Board Chairman Hachigian sent a notice by email for a special meeting of the Executive Committee of the Board (the "Executive Committee") scheduled for May 27, 2025. The Executive Committee is a committee consisting of the three Plaintiff Directors and was formed in large part to allow for confidential discussion and deliberation over corporate matters involving the conduct of Mr. Demoulas and his key lieutenants without the risk that Mr. Shea—who was completely allied with Mr. Demoulas, in disregard of his fiduciary responsibility to act in the best interests of the Company—would funnel confidential information back to Mr. Demoulas and to the media, and thus thwart efforts at responsible planning over personnel matters and corporate strategy. The Executive Committee retained Richards, Layton & Finger, P.A., to advise it as to fiduciary and corporate matters. The meeting notice was given via e-mail to all Directors (including Mr. Shea) and all stockholders (including Mr. Demoulas), as contemplated by the notice provisions in the Company's Bylaws. In the same email, Mr. Hachigian directed the Secretary, Andrea Batchelder, to provide notice to Mr. Demoulas, who does not use email, through such means as she customarily used to give him notice, and Mr. Demoulas received notice of the meeting.

ANSWER: Mr. Demoulas lacks knowledge or information sufficient to form a belief about the truthfulness and accuracy of the allegations in the first sentence of Paragraph 53 and therefore denies them. Mr. Demoulas denies the allegations in the second sentence of Paragraph 53, except admits that the Board purported to form an illicit Executive Committee that excluded a member of the Board, Bill Shea. Mr. Demoulas lacks knowledge or information sufficient to form a belief about the truthfulness and accuracy of the remaining allegations in Paragraph 53 and therefore denies them, except admits that Mr. Demoulas received notice of the Executive Committee meeting scheduled for May 27, 2025.

54. At the May 27, 2025 meeting, the Executive Committee unanimously voted to approve placing Mr. Demoulas and several members of senior management on paid administrative leave. None of those individuals' positions and/or employment was terminated at the time, and all continued to receive their full pay and benefits.

ANSWER: Mr. Demoulas lacks knowledge or information sufficient to form a belief about the truthfulness and accuracy of the allegations in the first sentence of Paragraph 54 and therefore denies them, except admits that he and most key members of the Company's management team were placed on paid administrative leave the day after the May 27, 2025, Executive Committee Meeting. Mr. Demoulas further states that the actions of the purported Executive Committee are null and void because the Executive Committee was formed in breach of the Plaintiff Directors' fiduciary duties to Market Basket.

55. On May 28, 2025, Plaintiff Directors Hachigian and Collins went to Market Basket's Tewksbury headquarters and hand-delivered letters to Mr. Demoulas, his two children Madeline Demoulas and T.A. Demoulas, and Messrs. Schmidt, Gordon, and a third individual Gerard Lewis (Mr. Demoulas's brother-in-law), confirming that they were on paid administrative leave. Contrary to some of these individuals' subsequent false statements to

the press, there were no “armed guards” present, and nobody was asked to clean out their desks.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 55, except admits that Messrs. Hachigian and Collins were present at the Market Basket headquarters in Tewksbury to deliver notice that Mr. Demoulas and several members of the Company’s management team were placed on paid administrative leave on May 28, 2025, and that security personnel were both inside and outside the building. Mr. Demoulas further admits that Messrs. Hachigian and Collins delivered the letters notifying Mr. Demoulas, his two children Madeline Demoulas and T.A. Demoulas, and Messrs. Schmidt, Gordon, and Gerard Lewis of their paid administrative leave.

56. On May 30, 2025, the Board held a previously scheduled regular meeting. All Directors were present and participated, including Bill Shea. Upon a motion duly made, a majority of the Directors, including all three Plaintiff Directors, voted to ratify the suspension of Mr. Demoulas. Mr. Shea abstained from that vote.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 56, except admits that on May 30, 2025, the Board voted to ratify the placement of Mr. Demoulas on paid administrative leave, and that Bill Shea abstained from that vote.

57. After being placed on paid administrative leave, Mr. Demoulas began to retaliate against the Board, including by using his lieutenants Schmidt and Gordon and his Director Bill Shea to initiate a smear campaign in the press. Specifically, and among other things, Mr. Demoulas engaged a hired spokesperson to prepare various statements for Schmidt, Gordon, and Shea for issuance to the press, even though those statements were knowingly untrue and concerned matters about which these individuals had no personal knowledge.¹⁴ Mr. Demoulas’s spokesperson and his allies similarly made a

¹⁴ See, e.g., Date, Terry, *A Culture in Limbo: Suspended Market Basket Execs Just Want to Remain Part of Something Greater*, EAGLE TRIB. (June 21, 2025), https://www.eagletribune.com/news/merrimack_valley/market-baskets-suspended-execsand-a-culture-in-limbo/article_ef526377-1a8a-4165-a9e9-1718fbbfb7af.html, attached as **Ex. F**.

number of false and damning statements to the media. Those untruths included, among others, that Mr. Demoulas and his children were forced to clear out their desks and were escorted off the premises of the Market Basket headquarters by “armed guards”¹⁵; that the Board and the majority of the Market Basket stockholders planned to “sell” the Company to private equity firms and “giv[e] shares of the company to outsiders” by promising “big dividends”; that Mr. Demoulas’s removal was part of a “coup” by his siblings to “extract cash from the company”.¹⁶ Mr. Demoulas and his team apparently were also behind another employee signing her name to a letter to the Board—which appears to have been ghostwritten by Mr. Demoulas’s PR team—complaining about alleged “concerns” she had at the Company, which would continue until Mr. Demoulas, Schmidt, and Gordon were reinstated. After the associate sent the letter, Mr. Demoulas’s PR team apparently caused her to leak the letter to the media and go on a press tour.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 57. By way of further response, Mr. Demoulas states that Messrs. Hachigian, Collins, and Keyes, acting with the aid of several public relations firms and their legal counsel, launched a scorched earth public relations campaign to smear the reputations of Mr. Demoulas and those who had been placed on administrative leave within hours of placing the members of the management team on leave on May 28, 2025.

58. Through it all, Mr. Demoulas sought to remain above the fray and hide his involvement through the use of proxies, when in fact he was the proverbial “man behind the curtain,” orchestrating the entire public relations campaign. He revealed himself when, on July 22, 2025, the Board was forced to terminate the employment of Schmidt and Gordon for their continued insubordinate and unlawful conduct. Despite Schmidt’s and Gordon’s weeks-long public campaign of falsehoods against the Company, the Board, and its stockholders, Mr. Demoulas issued a press statement, in his own name, fully supporting and vouching for them: “*To Market Basket, Tom and Joe are part of the heart and soul of the company and key executives in its immense success*

¹⁵ Currier, Peter, *Against Our Culture: Ousted Market Basket Officials Speak Out About ‘Pre-Planned Attack’*, LOWELL SUN (June 29, 2025), <https://www.lowellsun.com/2025/06/29/completely-against-our-culture-ousted-marketbasket-officials-speak-out-about-pre-planned-attack/>, attached as **Ex. G**.

¹⁶ Rea, Dan, *The Market Basket Drama Continues*, NIGHTSIDE WITH DAN REA (July 14, 2025), [https://podcasts.apple.com/us/podcast/the-market-basket-dramacontinues/](https://podcasts.apple.com/us/podcast/the-market-basket-dramacontinues/id440308136?i=1000717286925) id440308136?i=1000717286925.

*to date. They are men of integrity and honor and belong on the Market Basket team, and we will use all efforts to reverse this heartless and unwarranted decision.”*¹⁷

ANSWER: Mr. Demoulas denies the allegations in Paragraph 58, except admits he issued a press statement, which stated: “In addition to being men of strong character, these are two of the brightest and best grocery store operators in the business, and their extraordinary work has been key to building this company and its culture. This is among the worst decisions that could be made by this board. To them, Tom, after 50 years with the company, and Joe after 39 years, are easily cast aside. They are just collateral damage in this pre-planned coup. To Market Basket, Tom and Joe are part of the heart and soul of the company and key executives in its immense success to date. They are men of integrity and honor and belong on the Market Basket team, and we will use all efforts to reverse this heartless and unwarranted decision.”

59. Mr. Demoulas’s campaign of guerilla warfare against the Company through Schmidt and Gordon continued, and actually accelerated, even after they were terminated. Despite repeated, express instructions to stay off Market Basket property, during just a six-day period from August 4 through 9, 2025, Schmidt and Gordon made the rounds to **twenty-six** Market Basket stores in three states—upon information and belief at Mr. Demoulas’s direction, and certainly with his approval—as an open show of defiance against the Board. They wore suits and ties, as they used to do when still employed, defiantly waved to surveillance cameras, and spoke to numerous on-the-job associates, sending the clear message that, no matter what the Board said, they and Mr. Demoulas were still in charge and would be back—and they were watching which associates were loyal to Mr. Demoulas.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 59, except admits that Mr. Demoulas has learned that Messrs. Schmidt and Gordon

¹⁷ Chesto, Jon, *Market Basket Board Fires Two Top Lieutenants of Arthur T. Demoulas, Accusing Them of Insubordination*, THE BOS. GLOBE (July 22, 2025), <https://www.bostonglobe.com/2025/07/22/business/market-basket-fires-executivesdemoulas/> (emphasis added), attached as **Ex. H**.

traveled to various Market Basket store locations to visit longtime friends and associates in August 2025.

60. That same week, Mr. Schmidt (who, again, had been terminated) unlawfully entered the Company's corporate headquarters through a side door after regular business hours, marching past multiple signs stating that entry was for employees and authorized personnel only, and lingering out of view of security cameras in the private corporate offices. At this time, Mr. Schmidt had retained a master key which would let him into all Market Basket properties and offices, which he had refused to return. Mr. Schmidt also left his locked Company car in the headquarters parking lot on that occasion, with pictures of Mr. Demoulas taped to the inside of the windows (apparently to send a message), and then took the car keys with him.

ANSWER: Mr. Demoulas lacks knowledge or information sufficient to form a belief about the truthfulness and accuracy of the allegations in Paragraph 60 and therefore denies them, except admits that Mr. Demoulas was made aware that Mr. Schmidt returned to Market Basket headquarters to return his Company vehicle.

61. If there was any doubt that Mr. Demoulas was in charge and calling the shots on this conduct, the doubt was removed when Market Basket was forced to take legal action on August 11, 2025, to stop Messrs. Schmidt and Gordon's campaign of public defiance. In response to the Company's legal complaint laying out the indisputable evidence, including photos, of their trespassing at Market Basket's stores and headquarters, *Mr. Demoulas's personal spokesperson* issued a public statement on their behalf trying to explain away their behavior and lashing out at the Board, claiming that "they are lying." When a Massachusetts Superior Court judge found that Schmidt and Gordon *had* committed "continuing trespass" and granted a preliminary injunction against them on August 14, 2025, forbidding them from entering Market Basket properties, Mr. Demoulas's spokesperson again was front-and-center in their defense, even sitting with the two men in open court and orchestrating a courthouse-steps press conference for them. And Mr. Demoulas has *never* retracted his prior public statements supporting Schmidt and Gordon and saying that they were "men of integrity and honor" who should be brought back to the Company—even after the judge in the case found that they had "ignored" "clear and unambiguous instructions" and "numerous notices prohibiting them from entering" Market Basket property and, at one location, had "caused an employee to feel frightened, pressured, intimidated, and

distracted with respect to their workplace experience.”¹⁸ Mr. Demoulas has given every indication that he approves of such conduct.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 61, except admits that a Massachusetts Superior Court judge ruled on Messrs. Schmidt’s and Gordon’s alleged trespasses and granted a preliminary injunction against them on August 14, 2025, as outlined in *Demoulas Super Markets, Inc. d/b/a Market Basket, Inc. v. Schmidt et al.*, No. 2581CV01952 (Mass. Super. Ct. Middlesex Cnty. Aug. 14, 2025), which purports to be attached as Exhibit I to the Complaint. The allegations in Paragraph 61 purport to describe the opinion of the Massachusetts Superior Court, and Mr. Demoulas respectfully refers the Court to the Massachusetts Superior Court opinion attached as Exhibit I to the Complaint for a complete and accurate description of its contents and denies any allegation inconsistent with its contents.

62. Through it all, Mr. Demoulas and his allies have suggested that Market Basket could not possibly function without him and his lieutenants at the helm. The record shows that is simply untrue. Since Mr. Demoulas’s suspension on May 28, 2025, Market Basket’s same store sales have *increased*; it successfully celebrated the grand re-opening of one of its stores in a larger footprint; and, on August 11, 2025, an open letter from Market Basket associates working at the Tewksbury headquarters was issued, strongly rebutting the false statements made by Mr. Demoulas’s allies in the press, and stating that, “[I]n many ways the culture [at Market Basket] is better today than it was before the suspensions in May. The managers and supervisors running Market Basket today have been with the company for many decades, [and] they are trusted mentors and friends.” Referring to the statements of Mr. Demoulas’s terminated lieutenants and allies in the press, the letter continued, “We do not understand how these lies, horrible images and insults, about the owners and leaders of our company achieve anything. ***These people do not speak for us.***” Since being issued, dozens of Market Basket associates have signed on to this letter.

¹⁸ Order, *Demoulas Super Markets, Inc. d/b/a Market Basket, Inc. v. Schmidt et al.*, No. 2581CV01952 (Mass. Super. Ct. Middlesex Cnty. Aug. 14, 2025), attached as **Ex. I**.

ANSWER: Mr. Demoulas denies the allegations in the first two sentences of Paragraph 62. Mr. Demoulas lacks knowledge or information sufficient to form a belief about the truthfulness and accuracy of the allegations as to whether Market Basket's same store sales have increased and therefore denies it. Mr. Demoulas admits that Market Basket celebrated the reopening of one of its stores in a larger footprint since he was placed on administrative leave. Mr. Demoulas denies the remaining allegations in Paragraph 62, except admits that a small number of Market Basket associates signed a prepared letter which purports to report on the working conditions at Market Basket's corporate office.

V. The Board Terminated Mr. Demoulas's Employment At Market Basket

63. Mr. Demoulas's outright resistance to any oversight, and his attacks on the Board, the majority stockholders, and virtually everyone else associated with the Company apart from himself, were the last straw. Mr. Demoulas's conduct has been at all relevant times contrary to the best interests of Market Basket and all its constituents, and is directed only at preserving his own power. That is not how the leader—the President and CEO—of an iconic company like Market Basket is supposed to or required to act.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 63, except to say that Market Basket is an iconic company.

64. On September 9, 2025, a duly noticed special meeting of the Board was held at which the Board unanimously voted to remove Mr. Demoulas from the positions of Market Basket's CEO and President.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 64, except admits the Director-Plaintiffs voted to remove Mr. Demoulas from his positions as President and CEO in violation of their fiduciary duties to Market Basket.

CAUSES OF ACTION
COUNT I
(Declaratory Judgment)

65. Plaintiffs repeat and re-allege each of the foregoing paragraphs as if fully set forth herein.

ANSWER: Mr. Demoulas re-alleges and incorporates by reference his answers to Paragraphs 1-64 as if fully set forth herein.

66. Until September 9, 2025, Mr. Demoulas was an officer of DSM, holding the position of President and CEO. Mr. Demoulas was also an officer of OpCo, holding the same positions.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 66 insofar as they insinuate that Mr. Demoulas was effectively removed as an officer, the President, or the CEO of DSM and OpCo. Mr. Demoulas further states that he still holds the titles of President and CEO at DSM and OpCo because his alleged termination was invalid and improper.

67. At a duly called and convened meeting of the Board of DSM and OpCo held on September 9, 2025, at which all Directors (constituting a quorum) were present, the Directors unanimously adopted resolutions terminating Mr. Demoulas and removing him as President and CEO of both companies.

ANSWER: Mr. Demoulas denies the allegations in Paragraph 67, except admits the Directors convened on September 9, 2025, at which time the Directors purported to terminate Mr. Demoulas and remove him as President and CEO of DSM and OpCo; however, that termination was invalid and ineffective because it was in violation of DSM's Bylaws and the Director-Plaintiffs' fiduciary duties to DSM and OpCo.

68. The DSM Board was authorized to take this action pursuant to Delaware law, which provides that Delaware corporations like Market Basket are "managed by or under the direction of a board of directors." 8 *Del. C.* § 141(a); *see also Unanue v. Unanue*, 2004 WL 5383942, at *15 (Del. Ch. Nov. 9, 2004) ("It is well settled that officers of a corporation serve at the pleasure of

the board of directors” and that terminations of officers by a corporate board are “appropriate in the exercise of their business judgment.”). Further, DSM’s Bylaws in Section 4.2 allow the Board to remove an officer of the Company at “any time,” with or without cause. Similarly, the OpCo Board was authorized to take this action under Massachusetts law, which provides, in relevant part, that “[a]ll corporate power shall be exercised by or under the authority of, and the business and affairs of the corporation shall be managed under the direction of, its board of directors.” Mass. Gen. Laws c. 156D, § 8.01. Section 4.6 of the OpCo Bylaws also provides that the “Board of Directors may remove any officer at any time with or without cause.”

ANSWER: The allegations in Paragraph 68 purport to state legal conclusions to which no response is required. To the extent a response is required, Mr. Demoulas denies that the Director-Plaintiffs were entitled to remove Mr. Demoulas under the circumstances here.

69. Accordingly, DSM and the Plaintiff Directors are entitled to a declaration pursuant to 8 *Del. C.* § 225(a) that Mr. Demoulas’s removal was valid, that he is no longer the President or CEO of DSM, and that he has no right to hold or continue to hold such office or any other office of DSM. Similarly, OpCo and the Plaintiff Directors are entitled to a declaration that Mr. Demoulas’s removal was valid, that he is no longer the President or CEO of OpCo, and that he has no right to hold or continue to hold such office or any other office of OpCo.

ANSWER: The allegations in Paragraph 69 purport to state legal conclusions to which no response is required. To the extent a response is required, Mr. Demoulas denies the allegations in Paragraph 69. Mr. Demoulas specifically denies that Plaintiffs are entitled to the relief they request in this action.

RESPONSE TO PRAYER FOR RELIEF

Mr. Demoulas denies that Plaintiffs are entitled to the relief requested in their Prayer for Relief, or to any other relief. Mr. Demoulas requests that the Court deny the requests sought in Plaintiffs’ Prayer for Relief; dismiss the Complaint with prejudice; award Mr. Demoulas his attorneys’ fees and other expenses; and award Mr. Demoulas such other and further relief as the Court

deems just and proper, including the relief sought in the verified counterclaim set forth below.

FIRST AFFIRMATIVE DEFENSE

Mr. Demoulas asserts that the Director-Plaintiffs' removal of Mr. Demoulas from his roles as President and CEO was improper because the creation of the unlawful Executive Committee, to which the Board purported to delegate indefinitely all authority of the Board to manage the business and affairs of the Company, was a breach of the Director-Plaintiffs' fiduciary duties and inequitable. The scope and duration of the power delegated to the Executive Committee is inconsistent with the principle that the full board manages a corporation's business and affairs, and directors cannot be singled out for exclusion from fulfilling their role. Because the formation of the Executive Committee fundamentally contravenes Delaware law, no meeting of the Executive Committee could have been properly convened, and all actions purportedly taken by the rogue faction of Director-Plaintiffs masquerading as the Executive Committee, including the removal of Mr. Demoulas and initiation of the Investigation, are void *ab initio*.

SECOND AFFIRMATIVE DEFENSE

Mr. Demoulas asserts that his removal was improper under the DSM Bylaws. Section 4.2 of the DSM Bylaws states that "in the event of the removal of an officer for cause, such officer shall be entitled to prior notice of the alleged basis therefor and an opportunity to be heard by the Board of Directors in respect thereof." Mr. Demoulas's purported termination followed a months-long administrative leave and an extensive investigation. Nevertheless, Mr. Demoulas was not provided advance notice of the bases for his "for cause" termination, nor was he afforded a reasonable "opportunity to be heard by the

Board” in response to the Board’s accusations prior to his removal. The Director-Plaintiffs cannot deprive Mr. Demoulas of his rights under the Bylaws in the event of a “for cause” termination by pretending that his termination was not for cause, because doing so would obviate the “for cause” termination provision of the Bylaws.

THIRD AFFIRMATIVE DEFENSE

Mr. Demoulas asserts that the justifications provided for removing him are pure artifice and were contrived in bad faith by the Director-Plaintiffs in dereliction of their fiduciary duties to the Company. Instead of exercising their independent judgment to evaluate continuation of Mr. Demoulas’s service to Market Basket as President and CEO of the Company, the Director-Plaintiffs succumbed to the whims of the Sisters, to whom the Director-Plaintiffs admittedly view themselves as beholden. The Director-Plaintiffs’ decision to remove Mr. Demoulas was a conflicted one in which they placed their personal interests in maintaining their Board seats and appeasing Mr. Demoulas’ sisters over the best interests of the Company. That action by the Director-Plaintiffs was in breach of their fiduciary duty to Market Basket and should be found invalid and ineffective.

FOURTH AFFIRMATIVE DEFENSE

Mr. Demoulas asserts that the Director-Plaintiffs breached the implied covenant of good faith and fair dealing inherent in the DSM Bylaws by exercising their discretion under Section 4.2 of the DSM Bylaws to remove Mr. Demoulas unreasonably and arbitrarily, not for any rational business purpose, but rather in bad faith and for the purpose of appeasing the Sisters’ personal interests and maintaining their seats on the Board.

FIFTH AFFIRMATIVE DEFENSE

Mr. Demoulas asserts that even assuming, *arguendo*, that he had been properly removed from his President and CEO positions (he was not), the Executive Committee has acted improperly and in contravention of the Bylaws in filling Mr. Demoulas's roles with a replacement officer during the investigation. Section 3.11 of the DSM Bylaws prohibits the Executive Committee from backfilling any officer positions in the leadership void that the Director-Plaintiffs heedlessly created. And Section 4.5 of the DSM Bylaws provides that, in the absence of a President, that office may be filled by either the Company's Secretary or its Treasurer. The Executive Committee disregarded both Sections of the Bylaws by allowing Mr. Kettenbach, Jr.—who is neither the Company's Secretary nor its Treasurer—to assume the role of *de facto* President and CEO in Mr. Demoulas's absence, without conferring the titles on him, during and after the time that Mr. Demoulas was on administrative leave.

SIXTH AFFIRMATIVE DEFENSE

The claims in the Complaint are barred in whole or in part by the doctrine of unclean hands. Among other misconduct, the Director-Plaintiffs and the Sisters (as a majority stockholder block) have breached DSM's Bylaws by allowing the Board to exist for more than nine months with fewer than the required five directors. Further, the Director-Plaintiffs intentionally withheld material information about the Executive Committee, its investigation into Mr. Demoulas, and the changes in management they were enacting from their then and now former Board colleague, Bill Shea. The Director-Plaintiffs also whitewashed Board minutes and barred the corporate Secretary from Board meetings because she insisted on accurately reporting Board discussions in

minutes drafted by her. The Director-Plaintiffs did so to hide the record demonstrating that they lacked any business purpose to terminate Mr. Demoulas and that the Director-Plaintiffs were instead acting for ulterior motives, namely because the Sisters instructed them to remove Mr. Demoulas.

RESERVATION OF RIGHTS

Mr. Demoulas reserves the right to raise any additional defense of which he becomes aware through discovery or other investigation. In asserting these defenses, Mr. Demoulas does not assume any burden of proof, persuasion, or production with respect to any issue where the applicable law places the burden upon Plaintiffs.

VERIFIED COUNTERCLAIM

Counterclaim plaintiff Arthur T. Demoulas (“Mr. Demoulas” or “Counterclaim Plaintiff”), by and through his undersigned counsel, hereby brings this verified counterclaim (the “Counterclaim”) against DSM HoldCo, Inc., (“DSM”), Demoulas Super Markets, Inc., (“OpCo” and, with DSM, “Market Basket” or the “Company”) and Jay K. Hachigian, Steven J. Collins, and Michael Keyes (the “Director Defendants,” and with the Company, “Counterclaim Defendants”), as follows:

INTRODUCTION

1. This case concerns the dismantling of the management of a thriving, family-owned supermarket business by the Director Defendants. The actions of the Director Defendants were not motivated by a legitimate business rationale—there is none. Instead, the Director Defendants acted at the behest of a control group of stockholders to which the Director Defendants are beholden to exact retribution in connection with intra-family disputes. The result was the Board’s purging of the Company’s proven management team without implementing a plan for the succession of leadership of the multibillion-dollar enterprise.

2. That purge included the termination of Mr. Demoulas from his positions as President and Chief Executive Officer (“CEO”) of Market Basket. As a wrongfully terminated officer, Mr. Demoulas is the natural plaintiff to bring an action under 8 *Del. C.* § 225 (“Section 225”). As discussed below, Counterclaim Defendants’ initiation of this action minutes after terminating Mr. Demoulas is further confirmation of what the record reveals: Mr. Demoulas’s termination was a *fait accompli* and not a valid exercise of the Director Defendants’ business judgment.

3. Mr. Demoulas understands that the business and affairs of every corporation organized under the laws of the state of Delaware are managed by and under the corporation's board of directors. The implicit check on that entrusted authority is that directors of Delaware corporations must use their powers consistent with their fiduciary duties. Unfortunately, that did not happen here. Instead, the Director Defendants acted to further the personal objectives of Mr. Demoulas's three stockholder sisters and their families, including their adult children (collectively, the "Sisters")—who together control about 60% of DSM stock and to whom the Director Defendants are beholden—to Market Basket's detriment.

4. The troubling sequence of actions by the Director Defendants and the Sisters that led to Mr. Demoulas's unlawful removal include:

- The Sisters spent years packing DSM's board of directors (the "Board") with loyalists whose relevant qualifications were that they would do the Sisters' bidding, and removing any directors who would stand in the way of the Sisters' personal goals.
- The Director Defendants created an "Executive Committee" to box out the one director remaining at the time who was not subject to the Sisters' control, Bill Shea, and purported to grant the Executive Committee virtually the full authority of the Board.
- The Director Defendants caused the Executive Committee to initiate a pretextual investigation into Mr. Demoulas and key members of his management team (the "Investigation") in an attempt to justify his unlawful suspension in advance of his inevitable termination, which was preordained by the Sisters, and later asked the lone remaining independent director to ratify the suspension decision without providing him with any information supporting the decision.
- The Sisters used the facts of Mr. Demoulas's suspension and the pretextual Investigation, which they had orchestrated through the Director Defendants, to support their self-interested positions in unrelated pending litigation in Massachusetts involving the Demoulas family's trust.
- The Executive Committee hired a purported "independent" law firm, Quinn Emanuel Urquhart & Sullivan, LLP ("Quinn Emanuel"), to

conduct the sham Investigation, even though Quinn Emanuel also purports to represent the Executive Committee, the Board, and the Sisters.

- The Director Defendants rebuffed Mr. Shea's informal and formal requests for books and records under 8 *Del. C.* § 220(d) concerning the Executive Committee and its purported basis for launching the Investigation.
- The Sisters removed Mr. Shea from the Board following his latest demand for books and records relating to the Director Defendants' scheme to remove Mr. Demoulas and his management team from the Company.
- The Director Defendants, through the Executive Committee, wasted substantial corporate resources by causing Quinn Emanuel to conduct the pretextual Investigation, including requiring that dozens of Market Basket employees be interviewed, in search of a justification to terminate Mr. Demoulas.
- The Director Defendants placed six of DSM's top executives, including Mr. Demoulas's oldest daughter, Madeline, and son, Telemachus (T.A.), on administrative leave alongside Mr. Demoulas and two of his most senior executives, Tom Gordon and Joe Schmidt, pending the outcome of the Investigation without any basis, creating a void at the Company without a plan for interim replacement executives.
- The Director Defendants permitted one of the Sisters' sons, who had previously misappropriated corporate assets for his personal business endeavors, to assume the role of *de facto* chief executive in Mr. Demoulas's absence during the Investigation.
- The Director Defendants refused to keep accurate minutes of Board meetings, including by modifying Board minutes over the objection of the corporate Secretary and then barring the Secretary from attending Board meetings after she refused to whitewash the minutes to omit evidence that the Board lacked any business rationale to remove Mr. Demoulas.
- Members of management aligned with the Sisters' goals reportedly deleted relevant text messages in the days immediately following Mr. Demoulas's placement on administrative leave and initiation of the pretextual Investigation.
- Following the conclusion of the investigation, the Director-Plaintiffs terminated Mr. Demoulas on September 9, 2025, just minutes after the 10:00 p.m. conclusion of an unsuccessful mediation between the

parties before The Honorable Joseph R. Slight III, then filed this pre-prepared lawsuit at 10:37 p.m.

5. For more than 50 years, Mr. Demoulas has been intimately involved in managing DSM's operating company subsidiary, Demoulas Super Markets, Inc., a beloved New England area grocery store chain known as "Market Basket." In 2008, Mr. Demoulas became the President and CEO of Market Basket, selected after a search firm process initiated by the Board that was in place at the time, and in 2014, when DSM was formed, he also became the President and CEO of DSM. Under Mr. Demoulas's leadership, Market Basket has generated higher Retailer Preference Index ("RPI") scores than Costco, Trader Joe's, Sam's Club, and Publix. In fact, Market Basket has the second highest RPI score among 71 companies nationwide.¹⁹

6. Market Basket's high performance—from \$2.9 billion in revenue in 2008 to a projected \$8 billion in revenue for 2025—is no accident. Rather, it is reflective of Mr. Demoulas's business acumen and the people-over-profits ethos that he has sought to instill at all levels of the organization. Notably, Mr. Demoulas continued to grow Market Basket's lucrative employee profit-sharing plan that was initially implemented by his father. The plan, which typically allocates 15% of employees' annual income into investments and has made millionaires out of many longtime Market Basket employees, contributes to a familial culture deeply rooted in institutional pride and staunch loyalty among Market Basket's employees (referred to as "associates") and customers. The plan has also enhanced recruitment and retention, ensuring that Market Basket employees are among the best and longest tenured in the industry.

¹⁹ <https://www.dunnhumby.com/resources/reports/retail-trends/en/eighth-annual-retailer-preference-index-rpi-for-u-s-grocery/>

7. Given the Company's exceptional performance and vibrant culture, it came as a surprise to Mr. Demoulas when three members of DSM's Board purportedly formed the illicit Executive Committee, which proceeded unlawfully to put Mr. Demoulas and his management team on indefinite leave.

8. The limbo in which the Executive Committee placed the Company by suspending Mr. Demoulas and other executives lasted nearly three-and-a-half months, until the Board finally terminated Mr. Demoulas on September 9, 2025. The process that led to Mr. Demoulas's termination was riddled with conflicts, trickery, deceit, and pervasive breaches of fiduciary duties.

9. The Executive Committee, formed on May 23, 2025, and purportedly endowed with the ability to "exercise all the powers and authority of the Board in the management of the business and affairs of the" Company, is composed of the three Director Defendants. The Director Defendants were handpicked by the Sisters, none of whom have ever worked at Market Basket, but who together control about 60% of DSM. None of the Director Defendants have relevant experience in the grocery store industry. Rather, the Director Defendants were voted onto the Board (without Mr. Demoulas's support) because of one key quality that they share: personal loyalty to the Sisters and their immediate families. As a few examples of the Director Defendants' conflicts:

- Director Defendant Jay K. Hachigian, the current Chairman of the Board and neighbor of one of the Sisters, Caren Pasquale, has advised the Sisters and their families for years on personal estate planning, investing, tax, and other legal matters.
- Director Defendant Steven J. Collins has a track record of doing the Sisters' bidding, even at the cost of wasting corporate resources. Mr. Collins previously advocated for two of the Sisters' husbands (Michael Kettenbach, Sr. and Joseph Pasquale) to receive unwarranted multi-million dollar payouts from Market Basket in connection with the winddown of their personal real estate

development firm that once did business with Market Basket. The gratuitous payment to the Sisters' husbands lacked a corporate purpose and would have constituted a waste of Company resources, but Mr. Collins advocated for the payment anyway because of his close relationship with and subservience to the Sisters and their families.

- Director Defendant Michael Keyes' real estate firm, Intercontinental Real Estate, was involved in a 2022 attempt to purchase the real estate where one of Market Basket's most successful stores is located from an entity controlled by Joseph Pasquale, a stockholder and the husband of Caren Pasquale, even though Mr. Demoulas had a prior understanding with Mr. Pasquale for Market Basket to buy the property. Mr. Pasquale attempted to sell the property to Intercontinental without notifying Market Basket of his intention. When Mr. Demoulas learned of the effort, he brought it to the attention of the Board, and the matter was considered by the Board and DSM's stockholders. The effort by Intercontinental to purchase the property had the effect of artificially raising the price Market Basket had to pay for the real estate. Ultimately, the Board and the Sisters voted to purchase the property, over the objection of Mr. Demoulas due to the inflated price, and the Company bought the site on July 28, 2022. Mr. Keyes was then added to the Board by the Sisters fifteen months later, on October 5, 2023.

10. Improperly singled out for exclusion from the Executive Committee was the former fourth Board member, Bill Shea, who served on the Board since the Company's 2014 incorporation and had been a director of Demoulas Super Markets, Inc. for more than 15 years before then. *See J. Travis Laster & John Mark Zeberkiewicz, The Rights and Duties of Blockholder Directors*, 70 Bus. Law. 33, 60 (2015) ("If the director has been excluded for an extended period of time, and if the committee has been tasked with the full power of the board and is effectively carrying out the board's role, then the excluded director may have powerful equitable arguments in his favor."). In response to his exclusion from the Executive Committee, Mr. Shea asked his Board colleagues for basic information surrounding the purpose, formation, and authority of the Executive Committee, as well as the supposed bases for

the Investigation, including by serving multiple formal books and records demands under 8 *Del. C.* § 220(d). Mr. Shea's efforts were rebuffed by the Director Defendants, and he was ultimately removed from the Board by the Sisters for seeking information about their plans with the Director Defendants to remove Mr. Demoulas.

11. On May 27, 2025, without notifying Mr. Shea or Mr. Demoulas of any basis or details, the Executive Committee purportedly met and decided to put Mr. Demoulas and certain members of the management team on indefinite administrative leave while the Executive Committee conducted the internal Investigation, which would prove to be a pretense to manufacture a reason to justify permanently removing Mr. Demoulas as President and CEO. Among those placed on leave alongside Mr. Demoulas were Madeline and Telemachus ("T.A.") Demoulas, two of Mr. Demoulas' adult children who, like their father, have devoted their working lives to Market Basket's success and future.

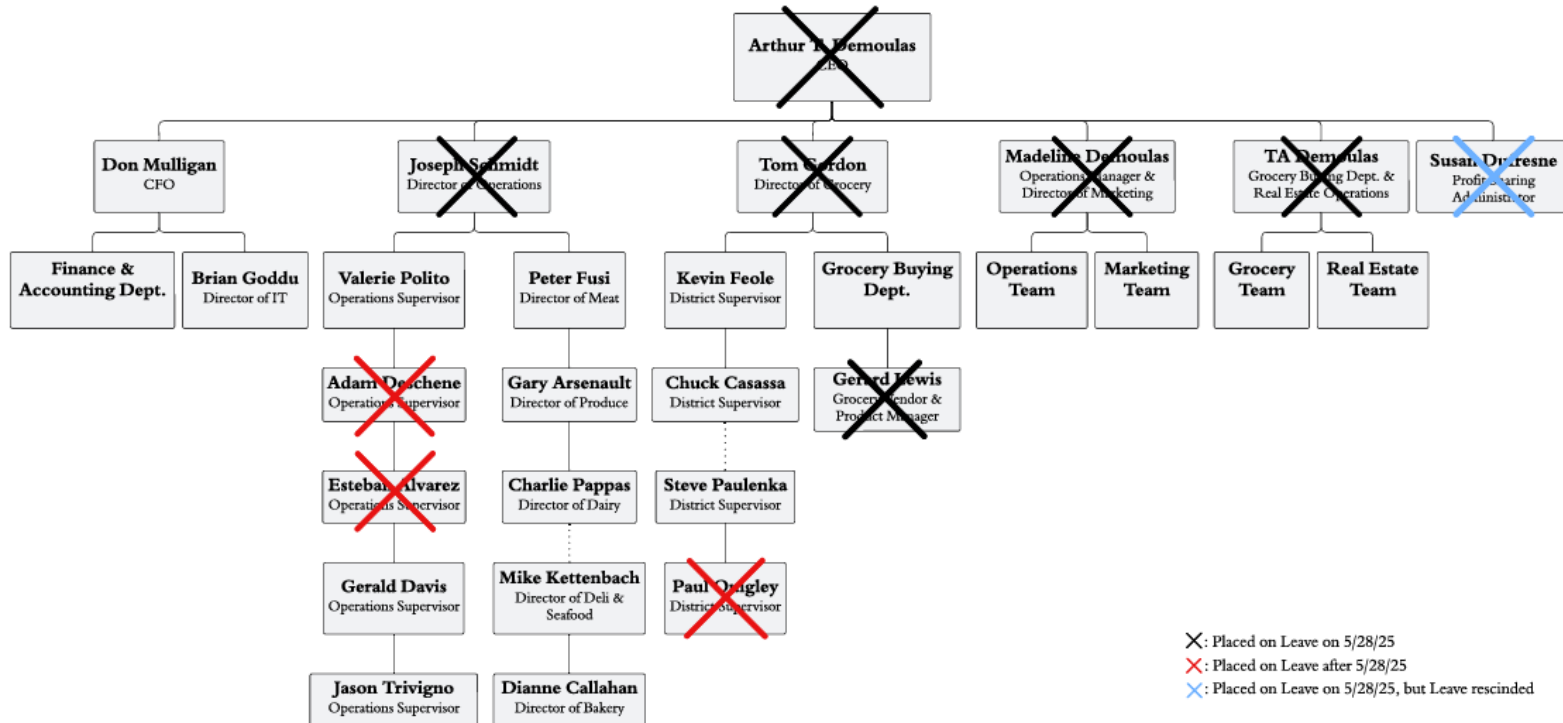
12. The next day, the Executive Committee notified Mr. Demoulas by letter of his administrative leave and immediately thereafter issued a letter to Market Basket's employees announcing that Mr. Demoulas was being stripped of his executive role. *See* Exhibit 1 (May 28, 2025, Ltr. From Executive Committee for Mr. Demoulas); Exhibit 2 (May 28, 2025, Ltr. From Executive Committee for Market Basket Associates). The supposed justification for Mr. Demoulas's administrative leave and initiation of the Investigation was "credible allegations that [Mr. Demoulas] ha[s] begun to plan a disruption of the business and operations of Market Basket with a work stoppage." The Executive Committee then immediately began a media campaign to promote this narrative. Based on information and belief, those "credible allegations" were complete fabrications.

13. The Director Defendants' manufactured allegations that Mr. Demoulas was planning a work stoppage or interference were informed by the Company's past. In 2014, Market Basket's employees and community had rallied behind Mr. Demoulas, staging a months-long walkout and boycott when Mr. Demoulas was terminated by his cousin who controlled the Company at that time. But no such business disruption or work stoppage has occurred since Mr. Demoulas was put on leave, and the Director Defendants' accusations that Mr. Demoulas was pre-planning one are unfounded. Indeed, the Director Defendants' accusations that Mr. Demoulas would do anything to harm Market Basket are not credible given that Mr. Demoulas is the long-term leader who has devoted his professional career to the Company, and that he controls more than 28% of DSM's shares. Any insinuation that Mr. Demoulas would intentionally inflict harm on the Company defies reason and is untrue and defamatory.

14. In short, the Director Defendants, acting through the Executive Committee, manufactured a reason for suspending Mr. Demoulas with the predetermined plan that Mr. Demoulas would never return to his positions. That reality has been confirmed by statements from employees; the Executive Committee and its allies had been scheming to remove Mr. Demoulas for months before he was placed on leave, with indifference to any negative impact that removing Mr. Demoulas would have on Market Basket's business.

15. In an attempt to humiliate Mr. Demoulas and the management team and disrupt the Company's culture, the Executive Committee orchestrated an unnecessary spectacle during regular business hours by forcing Mr. Demoulas and his team to leave the Company's offices on May 28, 2025, while security guards were stationed inside and outside of the building. Mr. Demoulas and his team were instructed not to return to Company property

or to communicate with employees until the Investigation was concluded. The immediate aftermath of the suspensions saw the Company's management decimated:



16. One employee, store operations supervisor Valerie Polito, published an open letter to the Board summarizing the collective mood at Market Basket in response to the suspensions: “What was once a culture grounded in mutual respect, integrity, and accountability has, in recent months, devolved into one defined by fear, hostility, and lack of direction.” The Director Defendants’ heedless actions caused that change.

17. The Investigation was overseen by the Executive Committee, composed exclusively of the Director Defendants. The Executive Committee hired Quinn Emmanuel to run the Investigation, even though Quinn Emanuel

has at various times since the start of the Investigation purported to represent the whole Board, the Executive Committee, the Company, and the Sisters.

18. The Investigation included interviews of dozens of Market Basket employees. Mr. Demoulas was interviewed for more than three hours as part of the Investigation. During Mr. Demoulas's interview, the focus of the questioning was on hypothetical future situations regarding Mr. Demoulas' potential responses to events that have not happened—like what he would do or say if an employee walkout were to occur. The interview did not address “credible allegations” of the past actions that supposedly served as the basis for placing Mr. Demoulas on administrative leave and initiating the Investigation in the first place. The Investigation interview process further confirmed that the Director Defendants had contrived the notion of an impending work stoppage as a pretense for placing Mr. Demoulas on leave and launching a witch-hunt for any justification to remove Mr. Demoulas.

19. Notwithstanding the impropriety of the Director Defendants' actions, Mr. Demoulas sought to improve his relationship with the Board and take responsibility for any perceived shortcomings on his part. To move forward for the best interests of the Company, its stakeholders, and associates, Mr. Demoulas and his children, Madeline and T.A., requested to engage in formal mediation with the Sisters and the Director Defendants. The Director Defendants agreed to conduct a mediation on September 3, 2025, in front of The Honorable Joseph R. Slight III, but without the Sisters. Unfortunately, the mediation process, which extended for two sessions over approximately a week, was unsuccessful.

20. The mediation ended shortly after 10:00 pm ET on September 9, 2025. Afterwards, without Mr. Demlous present, the Board called a meeting, which began around 10:30 pm ET. At the meeting, the Board terminated Mr.

Demoulas from his positions as President and CEO, without providing Mr. Demoulas a reasonable opportunity to be heard, as is required under DSM's Bylaws. Then, at 10:37 pm ET, the Counterclaim Defendants filed their Verified Complaint in this lawsuit against Mr. Demoulas.

21. The process of placing Mr. Demoulas and his management team on leave, conducting the Investigation, and engaging in mediation was a charade by the Director Defendants. The plan that the Sisters had instructed the Director Defendant to carry out was to remove Mr. Demoulas from the Company. The Sisters' plan was not motivated by business rationale. Instead, it was in furtherance of their positions in intra-family disputes about greater liquidity, public recognition, and management of a family trust by Mr. Demoulas who was the trustee.

22. The Director Defendants carried out the Sisters' plan in conscious disregard of the adverse consequences it would have on the Company, and without regard for any legitimate business rationale for removing Mr. Demoulas. In doing so, the Director Defendants abdicated their fiduciary duties and improperly adopted the Sisters' personal motivations as their own.

23. In recent years, the Sisters have vocalized desires for their children to take more active roles in the Company, for T.A. and Madeline to be excluded from the Company's succession planning, and for Market Basket to sacrifice its cherished people-first identity in favor of the pursuit of increased stockholder distributions to benefit the Sisters personally.

24. On information and belief, in Mr. Demoulas's absence during the pendency of the Investigation, day-to-day management of the Company was assumed by a group working with Michael Kettenbach, Jr., the son of one of the Sisters, Frances Kettenbach. While at the helm, Mr. Kettenbach, Jr. and others collaborating with him reshuffled the Company's management,

promoted the Sisters' loyalists, fired and demoted those who spoke up on Mr. Demoulas's behalf, curried favor with potential allies for the Sisters with pay increases and financial incentives, changed Company policies and practices, created uncertainty among Market Basket's employees about the organization's future, and instilled fear of retaliation among employees if they raised questions or concerns about the ongoing coup.

25. The Sisters' focus on removing Mr. Demoulas and his family from the Company, increasing the prominence of their immediate families, and extracting cash from the Company is being implemented at Market Basket through the Director Defendants. The Director Defendants' actions to appease the Sisters while ignoring Market Basket's business, employees, culture, and community is antithetical to everything that makes Market Basket unique and successful within its industry. Those actions by the Director Defendants are not based on the independent exercise of their business judgment or made with regard for the best interests of the Company and all its stockholders. Instead, the Director Defendants are following directions from the Sisters, who seek to line their own pockets, advance their interests in pending litigations in Massachusetts over a family spendthrift trust created by their father which has for decades been presided over by Mr. Demoulas as Trustee, and strike at Mr. Demoulas over petty family jealousies.

26. The Director Defendants' own words confirm that they have abandoned their fiduciary duties to the Company and are carrying out a multistep scheme at the direction of the Sisters to obliterate Mr. Demoulas's influence at Market Basket. In response to a June 16, 2025, letter (Exhibit 3) from Mr. Shea to the Director Defendants demanding information about the unlawful Executive Committee's actions and the Investigation, Director Defendant Mr. Hachigian made the revealing statement that he views each

DSM director as “*serv[ing] on the Board at the pleasure of the Demoulas [S]isters*” (Exhibit 4 ((June 19, 2025 Ltr. from Mr. Hachigian to Mr. Shea)). Further, when previously questioned by Mr. Shea about the basis for putting Mr. Demoulas on leave, Mr. Hachigian stated that the Director Defendants were willing to take a 20% hit to the Company’s bottom line to unseat Mr. Demoulas and satisfy the Sisters’ wishes.

27. The Board is currently comprised of only the Sisters’ handpicked representatives, the Director Defendants. In derogation of the Amended and Restated By-Laws of DSM Holdco, Inc. (“Bylaws,” Exhibit 5), the Sisters and their Board proxies have failed to fill the vacant Board seats as required under the Bylaws out of fear that filling them might disrupt the Sisters’ overwhelming control of the Board and its agenda. *See* Exhibit 5 § 3.1 (“The Board of Directors shall consist of not less than five (5) and not more than seven (7) members...”).

28. Through this Counterclaim, Mr. Demoulas seeks declarations under Section 225 that his removal as President and CEO was wrongful and invalid because the Director Defendants acted in breach of their fiduciary duties and the Bylaws, and that Mr. Demoulas is reinstated as the President and CEO of the Company.

PARTIES AND RELEVANT NONPARTIES

29. Counterclaim Plaintiff Arthur T. Demoulas worked in his family’s grocery store business for most of his childhood and his entire adult life. In 1974, he joined Demoulas Super Markets, Inc.’s board of directors. Over the ensuing years, Mr. Demoulas also held various employee positions within the organization, including being appointed President and CEO of Market Basket in 2008. Family infighting in mid-2013 resulted in Mr. Demoulas’s removal as Market Basket’s President and CEO on June 23, 2014. In response to Mr.

Demoulas's firing, multiple managers resigned, employees walked out, and customers boycotted Market Basket's stores. On August 27, 2014, after months of protests by Market Basket employees and customers, the feuding factions within the Demoulas family reached an agreement by which Mr. Demoulas and the Sisters acquired control of Market Basket through their ownership of DSM. Mr. Demoulas was the President and CEO of DSM from the time that acquisition closed on December 12, 2014, until the Board terminated him on September 9, 2025.

30. Director Defendant Jay K. Hachigian joined the Board in March 2021 after being nominated by the Sisters. He was appointed chairman of the Board on March 13, 2025, by the Sisters' other Board nominees. Mr. Hachigian is a founding partner of the international law firm Gunderson Dettmer Stough Villeneuve Franklin & Hachigian LLP. Mr. Hachigian has been the neighbor and close friend of one of the Sisters and her husband, Caren and Joseph Pasquale, for more than 20 years. Mr. Hachigian's wife has known Caren Pasquale for nearly 50 years. Mr. Hachigian has advised the Sisters and their families for years on personal estate planning, investing, tax, and other legal matters.

31. Director Defendant Steven J. Collins joined the Board in 2019 after being nominated by the Sisters. Mr. Collins is a founding team member and a Managing Director of the Boston-based private equity firm Exeter Capital. Over his career he has specialized in extracting cash for investors from companies, often through the use of debt. He has served as a director of a number of companies that have collapsed into bankruptcy under the weight of excessive debt, including Party City and Charlotte Russe. The family of Mr. Collins's former business partner, David Mussafer, has close personal

connections to the family of one of the Sisters, Caren Pasquale, and the Mussafer's children are friends with the Pasquale's children.

32. Director Defendant Michael Keyes joined the Board in 2023 after being nominated by the Sisters. Mr. Keyes is a Senior Director of acquisitions at Intercontinental Real Estate Corporation, where he is an Investment Committee member. As detailed above at Paragraph 9, bullet 3, Intercontinental Real Estate Corporation was involved with Joseph Pasquale, the husband of Sister Caren Pasquale, in 2022 in real estate dealings that resulted in Market Basket overpaying Joseph Pasquale's real estate company for a piece of real estate (over the objections of Mr. Demoulas), even though Joseph Pasquale had originally agreed with Market Basket to sell the property to Market Basket for a lower price.

33. DSM Holdco, Inc. is a Delaware corporation that was incorporated on December 10, 2014. *See* Exhibit 6 (Amended and Restated Charter). DSM was utilized by Mr. Demoulas and the Sisters to buy out their cousins' interest in Market Basket in 2014. Since that transaction, the Company has been the 100% owner of its operating subsidiary, Demoulas Super Markets, Inc. The ownership structure of DSM is as follows:

Controlling Faction	Stockholder Name	Percent Owned	Number of Shares
Arthur T. Demoulas	Arthur T. Demoulas Revocable Trust	.04%	1.00
	The Arthur T. Demoulas Family Trust (2020)	28.27%	692.50
	Maureen Demoulas	.12%	3.00
	T.A.D. Family Trust	10.29%	252.00
	Frances I. Demoulas Revocable Trust	.04%	1.00

Frances I. Demoulas (Demoulas Sisters)	The Frances Demoulas Family GST Exempt Trust	14.25%	349.03
	The Frances Demoulas Family GST Non-Exempt Trust	6.22%	152.47
Glorianne Demoulas (Demoulas Sisters)	Glorianne Demoulas Revocable Trust	.06%	1.50
	Glorianne Demoulas Family Trust (2020)	20.45%	501.00
Caren L. Demoulas (Demoulas Sisters)	Caren L. Demoulas Revocable Trust	.08%	2.00
	Caren L. Demoulas 2020 Irrevocable Trust-GST Exempt Trust	7.08%	173.58
	Caren L. Demoulas 2020 Irrevocable Trust-GST Non-Exempt Trust	5.93%	145.34
	Caren L. Demoulas 2020 Irrevocable Trust-Flex Trust	7.08%	173.58
	Joseph B. Pasquale	.08%	2.00
		100%	2,450.00

34. Demoulas Super Markets, Inc., d/b/a Market Basket, is a Massachusetts corporation. It operates 90 supermarkets across Massachusetts, New Hampshire, Maine, and Rhode Island. Market Basket grocery stores are lauded by the local communities they serve for their combination of low prices, high-quality products, and a strong sense of community and employee loyalty. The chain's commitment to its customers and employees, along with its "no-frills" approach and focus on value, resonates deeply with its constituents.

35. Non-party Bill Shea was an original Board member upon DSM's incorporation in 2014. Before that, Mr. Shea was a director of the predecessor company, Demoulas Super Markets, Inc., for more than 15 years. Mr. Shea was

the long-serving chairman of the Board until he was supplanted on March 13, 2025, by Mr. Hachigian, who was appointed as chairman of the Board by the Sisters' other Board nominees. As a director and the longtime chairman, Mr. Shea worked collaboratively for decades with Market Basket's management team to propel the organization's growth and foster its unparalleled culture and reputation. Mr. Shea was removed from the Board by the Sisters on August 7, 2025, in apparent retribution for demanding books and records from the Company under 8 *Del. C.* § 220(d).

36. The non-party Sisters are Glorianne Farnham, Caren Pasquale, and Frances Kettenbach. The Sisters have never worked at Market Basket or DSM. Over many years they have been motivated by their own self-interest and that of their now adult children.

37. Non-party Madeline Demoulas is the oldest daughter of Mr. Demoulas. Madeline began working at Market Basket during her childhood and joined the Company on a full-time basis shortly after graduating from college. She has held various management roles, with broad responsibilities on the executive operations team, including, but not limited to, marketing, human resources, logistics, and operating systems throughout the Company. Madeline also is one of the two most senior female executives at Market Basket. Madeline, together with her father, Mr. Demoulas, and brother, Telemachus Demoulas, were placed on administrative leave on May 28, 2025. Madeline has performed at an exceptionally high level during her career at the Company.

38. Non-party Telemachus ("T.A.") Demoulas is the son of Mr. Demoulas. T.A. has also worked at Market Basket since his childhood. Since joining the Company full-time following his graduation from college, T.A. has been instrumental in various executive roles, including overseeing the management of the Company's grocery procurement department, coordinating

the opening of a Massachusetts liquor store division, and leading critical aspects of the Company's real estate operations. T.A., together with his father and sister, was placed on administrative leave on May 28, 2025. T.A. has performed at an exceptionally level high during his career at the Company.

39. Non-party Michael Kettenbach, Jr. is the son of Sister Frances Kettenbach. Mr. Kettenbach, Jr. reportedly misappropriated many of the functions of the Company's President and CEO at the direction of the Executive Committee while Mr. Demoulas was placed on administrative leave. Mr. Kettenbach, Jr. was selected by the Director Defendants even though he previously abused his authority over deli procurement by sourcing cheese for Market Basket from a company of his own creation and in which he had a substantial undisclosed equity interest. Mr. Kettenbach, Jr. did this at a substantial profit to himself until the scheme was uncovered in 2017. This incident was the subject of Board attention when it was discovered, and Frances Kettenbach attempted to whitewash the corporate board minutes to remove negative references to her son. Mr. Kettenbach, Jr. has proven himself to be unfit to lead the Company.

JURISDICTION

40. The Court has personal jurisdiction over each of the Counterclaim Defendants because they submitted themselves to the jurisdiction of this Court for purposes of the matters addressed herein by filing the Complaint. The Court also has personal jurisdiction over DSM because it is a Delaware corporation, and over the Director Defendants because they are directors of DSM.

41. This Court has subject matter jurisdiction over this case under, *inter alia*, 8 *Del. C.* § 111, 8 *Del. C.* § 225, 10 *Del. C.* § 341, and 10 *Del. C.* § 6501, *et seq.*

FACTUAL BACKGROUND

A. Market Basket's History and Success Under Mr. Demoulas

42. Market Basket's story began in 1917 when the Greek immigrant progenitors of the Demoulas family, Athanasios and Efrosini Demoulas, opened Demoulas Market in Lowell, Massachusetts. Over the ensuing century, the grocery store chain expanded, as did the branches of the Demoulas family. Periodic legal clashes between family factions resulted in several realignments of control throughout the 1990s and 2000s.

43. By 2008, Arthur T. Demoulas was named President and CEO of Demoulas Super Markets, Inc. Under Mr. Demoulas's leadership from 2008 through 2014, revenues grew from \$2.8 billion to \$3.2 billion. Mr. Demoulas oversaw the expansion of the grocery store chain during that time through always enhancing the shopping experience, savvy real estate acquisitions, and new store openings.

44. Beyond Market Basket's quantitative successes under Mr. Demoulas, the organization was enriched by his leadership philosophy. Mr. Demoulas is renowned by Market Basket employees for his genuine concern for their personal lives and success.

45. Mr. Demoulas's business proficiency and devotion to Market Basket and its personnel endeared him so much to his colleagues and the local community that when Demoulas family infighting again threatened the business in 2014, the entire community came out in support of Mr. Demoulas.

46. In July 2014, Mr. Demoulas and the Sisters submitted a bid to acquire from their cousins the 50.5% of Market Basket that Mr. Demoulas and the Sisters did not already own. On August 27, 2014, Mr. Demoulas and the Sisters reached a deal to buy out their cousins' interest in Market Basket for

\$1.6 billion. The acquisition was heavily funded by debt secured by the Company's performance and its real estate.

47. Upon completion of the 2014 acquisition, Mr. Demoulas became the President and CEO of the newly formed DSM. With Mr. Demoulas's return, Market Basket's success not only resumed, but accelerated. Revenues have climbed every year since Mr. Demoulas's leadership resumed; from \$4.8 billion in 2015 to a forecasted \$8 billion in 2025. The number of Market Basket stores increased from 75 stores in 2015 to 90 stores today. The Company's \$1.6 billion acquisition financing debt was paid off by the end of 2024. Market Basket continued its popular profit-sharing program, contributing more than \$665 million to employees' investments between 2015 and 2024. And Market Basket has been routinely ranked as one of the best grocery store chains locally and nationally.

B. Tensions Reemerge Within the Demoulas Family

48. In the years following the 2014 acquisition, the Sisters, who have never worked at Market Basket or the Company in any capacity, grew uncomfortable with the recognition Mr. Demoulas received as a result of the 2014 transaction and carrying the Company's success into its new era. The Sisters coveted greater control of and recognition at the Company, and desired larger stockholder distributions and also were focused on limiting the executive roles of Madeline and T.A. Demoulas within the Company.

49. The latest unrest at the Company was precipitated by accusations from Sister Frances Kettenbach that the 2014 acquisition was somehow unfair to her, even though she and every stockholder had their own independent counsel at the time. To mitigate those concerns, Mr. Demoulas and the other Sisters agreed to add to the Bylaws the robust information rights set forth in Section 2.14 (which the Sisters ironically tried to deprive Mr. Demoulas of by

operating through the Executive Committee) with the intention that increased transparency would prevent accusations of subterfuge in the future.

50. Tensions between Mr. Demoulas and the Sisters worsened when, in 2018 and 2019, two of the Sisters' spouses, Michael Kettenbach, Sr. and Joseph Pasquale, sought to extract from Market Basket \$10 million each as a "buyout" when they decided to wind down a business that they owned ("RMD") which had provided real estate development services to Market Basket. While the request was under consideration, on December 30, 2018, Mr. Pasquale fired off to his industry contacts an email attacking Market Basket's management.

51. Market Basket had no material interest in any assets remaining in RMD and Mr. Demoulas initially refused to pay the spouses anything considering they had chosen to shut down their own business, but later offered to pay the two Sisters' husbands \$1 million each as a compromise. Michael Kettenbach, Sr. and Joseph Pasquale rejected the lesser sum offered to them.

52. The Board then became involved due to the related party nature of such a payment. Mr. Collins and fellow Board member, Terrence Carleton (who was later removed from the Board by the Sisters), studied the matter over a period of time. Ultimately, Mr. Carleton issued a report recommending a payment of \$3 Million to settle the matter. Mr. Collins advocated for a still higher payment. The full Board took up the matter on December 5, 2019, and voted on a motion to extend an offer from the Board to Messrs. Kettenbach and Pasquale of \$3M, conditioned on receipt of terms and releases typical of any settlement agreement. The motion passed by a vote of three-to-two with Mr. Collins casting a dissenting vote. Ultimately, Messrs. Kettenbach, Sr. and Pasquale rejected the offer.

53. The rejection of the two Sisters' spouses' request for a \$10 million handout each and circulation of the ill-advised email deepened the divide within the Demoulas family.

C. The Formation of the Current Board

54. As a result of the rising tensions, and despite Market Basket's strong growth and culture perpetuated by the Company's leadership, the Sisters set about replacing experienced, long-serving directors with the Sisters' puppets, who had no relevant experience or connections to the Company or the grocery store industry, but plenty of connections to the Sisters.

55. One at a time, the Sisters picked off the directors who had guided the Company for decades, leading it through the tumultuous 2014 acquisition period, and helping it attain its current profitability and prominence. The excised directors possessed tremendous institutional knowledge and experience that the Sisters cast aside in favor of obedient proxies for themselves.

56. In 2019, the Sisters removed Robert Paglia from the Board and replaced him with Mr. Collins. In 2021, the Sisters removed Charles Roazen, who had served on the Board more than 20 years, from the Board and replaced him with Mr. Hachigian. In 2022, Edward Pendergast voluntarily resigned. In 2023, Mr. Keyes was elected as a director. And on January 3, 2025, the Sisters removed Terrence Carleton, whose tenure as a director of the Company and Market Basket stretched over 20 years. Mr. Carleton was not replaced on the Board, and his seat remains vacant.

57. Most recently, the Director Defendants sought to diminish Mr. Shea's influence. During a March 13, 2025, Board meeting, Mr. Shea was ambushed with a Board resolution removing Mr. Shea from his position as chairman of the Board—a position he had held for more than two decades—

and replacing him with Mr. Hachigian. The vacancy of Mr. Carleton's Board seat at that time ensured that Mr. Collins and Mr. Keyes, the Sisters' appointees, could vote Mr. Hachigian into the chairman position even over Mr. Shea's objections.

58. Subsequently, on August 7, 2025, the Sisters removed Mr. Shea from the Board by consent of the stockholders after Mr. Shea sought books and records under 8 *Del. C.* § 220(d). Mr. Shea has not yet been replaced.

59. Mr. Demoulas objected to the removal of each of the experienced directors and their replacement with the Director Defendants because, among other reasons, they had no experience in the grocery store industry and they had no understanding of or exposure to the unique culture of the Company before being handed the reins of the Company by the Sisters.

60. As it stands, the Board is now comprised of only three members: Messrs. Hachigian, Collins, and Keyes. Each of the Director Defendants was handpicked by the Sisters to consolidate their control and usurp their brother's influence at the Company.

61. In violation of the Bylaws, the Sisters and their Board proxies have failed to fill the vacant Board seats left open by Mr. Carleton and now Mr. Shea. *See* Exhibit 5 § 3.1 ("The Board of Directors shall consist of not less than five (5) and not more than seven (7) members..."). Concerned that the addition of another director might upset the carefully curated culture of obedience to the Sisters exhibited by the Director Defendants, the Sisters purposely have failed to use their controlling voting power to appoint another director.

62. In circumstances like this where the Company's stockholders have not filled a vacancy within 90 days, the Bylaws provide that "such vacancy may be filled by a majority of the directors then in office." Exhibit 5 §

3.3. Yet the Director Defendants, taking cues from the Sisters, have directed their attention to dismantling the Company's management, rather than restoring the Board's compliance with the Bylaws.

63. By the Spring of 2025, the Sisters had reconstituted the Board with loyalist directors in control. The Director Defendants then set about manipulating the corporate machinery for the benefit of the Sisters and without regard for the Company's best interests.

D. The Sisters Seek Personal Benefits

64. With the \$1.6 billion debt from the 2014 acquisition fully repaid by the end of 2024, control of the Company's free cash flow became a greater prize than ever before. Mr. Demoulas wishes to use the increase in discretionary funds to grow Market Basket, improve its stores, invest in its people, and make reasonable distributions to the stockholders. Meanwhile, the Sisters wish to use the increase in discretionary funds principally to increase the stockholder distributions they receive from the Company each year beyond the \$40 million, after tax, that each Sister already receives.

65. Accordingly, a driving factor for the Sisters' actions to pad the Board with directors loyal to them and to eliminate Mr. Demoulas from the Company was to clear the path for the Board to approve larger distributions. In addition to seeking larger distributions, the Sisters are also collaborating to support litigation against Mr. Demoulas in Massachusetts over a spendthrift trust created by their father, Telemachus A. Demoulas, that Mr. Demoulas has served as trustee of for years. The Sisters and their families also seek to decrease the level of public recognition that Mr. Demoulas has earned as the long serving and dedicated leader of the Company.

66. To rewrite the public narrative, the Sisters have chosen to try to erase Mr. Demoulas and his family from Market Basket. The Sisters' desire to

tear down Mr. Demoulas and his family is apparent from the proposals that the Sisters submitted to the Board through their beholden nominee, Mr. Hachigian. During an August 22, 2024, Board meeting, Mr. Hachigian called for an executive session during which he presented proposals that, among other things, provided:

- The Company will not produce, promote or otherwise participate in any activity (including offline or digital) that in any way *recognizes, celebrates, or thanks customers, employees or others* in connection with the 2014 walkout/buyout.²⁰
- Leadership of the Company will not pass from the current CEO to any of his children.
- The Board will undertake a search with the assistance of the CEO for a qualified successor to be ready to assume leadership in the future.
- No family member will report to the current CEO and the new reporting structure will be approved by the Board.²¹

Exhibit 7 (August 22, 2024, Executive Session Minutes) (emphasis added).

67. In short, the Sisters' actions to overtake the Board and expel Mr. Demoulas from the thriving Company were fueled by greed and envy. The Director Defendants were instrumental in bringing the Sisters' misguided desires to fruition, and the Director Defendants serviced the wishes of the Sisters without regard for the best interests of the Company and its stockholders at large.

²⁰ This item concerns the Director Defendants' refusal to celebrate the 10th anniversary of the 2014 unified actions of Market Basket employees, customers, and local communities that precipitated Mr. Demoulas and the Sisters buying out the business.

²¹ This item was included despite the fact that four family members, Michael Kettenbach, Jr., Madeline Demoulas, T.A. Demoulas, and Andrea Pasquale, were already reporting directly and indirectly to the then-"current CEO."

E. The Director Defendants Begin Sanitizing Board Minutes to Paper Over Their Scheming

68. Under the Bylaws, the Company's Secretary, attorney Andrea Batchelder, "shall attend all meetings of the Board of Directors and all meetings of the stockholders and record all the proceedings thereat in a book or books to be kept for that purpose." Exhibit 5 § 4.6; *see id.* § 3.6 ("[T]he Secretary of the Corporation shall act as secretary at each meeting of the Board of Directors and of each committee thereof."). Notwithstanding the explicit responsibility appointed exclusively to the corporate Secretary, the Director Defendants attempted to cause Ms. Batchelder to revise Board minutes to reflect what the Director Defendants wanted them to say, rather than to reflect actual Board discussions. The reason for that is clear: The Director Defendants did not want an accurate record of the fact that they were trying for months to contrive a pretext to remove and ultimately terminate Mr. Demoulas (at the Sisters' behest).

69. One example of this whitewashing is that the Company's January 9, 2025, Board minutes were signed by Ms. Batchelder as the Secretary with the annotation: "This version of the minutes was approved by the Board of Directors on August 18, 2025, but I do not attest to their accuracy." Exhibit 8 (January 9, 2025, Minutes). When Ms. Batchelder circulated the minutes to the company's stockholders (pursuant to their information rights in the Bylaws), Ms. Batchelder included a cover letter explaining what the Director Defendants forced her to remove from the minutes. In that cover letter, Ms. Batchelder noted:

Enclosed please find copies of the following documents: Minutes of the January 9, 2025 (I am not attesting to the accuracy of these minutes as the statement "The CEO asked if there were any negatives that the Board sees and there were none" was removed from the minutes even though the question was asked numerous

times).

Exhibit 9 (September 2, 2025 Cover Letter).

70. Even back in January of 2025, the Director Defendants knew they had to hide the fact that Mr. Demoulas's performance was beyond reproach because they were scheming to manufacture a basis to remove him.

71. The Director Defendants evidently did not appreciate Ms. Batchelder commitment to the truth. In violation of Section 4.6 of the Bylaws, the Director Defendants prohibited Ms. Batchelder from acting as the corporate Secretary during the following March 13, 2025, meeting. The Director Defendants appointed a corporate attorney of their choosing, David Klebanoff, to sign the Board-approved version of the March 13, 2025, meeting minutes as the "Acting Secretary," even though Ms. Batchelder was at the meeting until she was told to leave before the start of the Executive Session. Exhibit 10 (March 13, 2025, Minutes).

72. The Director Defendants effectively stripped the Secretary of her duties under the Bylaws so they could manipulate the narrative and hide their scheming to manufacture reasons to terminate Mr. Demoulas. The Director Defendants' actions were in bad faith and in direct contravention of the Bylaws.

73. In a similar vein, Messrs. Hachigian, Collins, and Keyes petitioned Ms. Batchelder to change the minutes from a December 14, 2023, Board meeting to reflect that non-taxable stockholder distributions should be renamed to "income distributions" rather than "extraordinary distributions". Exhibit 11 (April 3, 2024 Ltr. from Mr. Demoulas to Mr. Shea). The Company had been calling non-taxable distributions "extraordinary distributions" for multiple decades originally under the direction of Mr. Demoulas' father. *Id.*

After Mr. Hachigian made the request, Messrs. Collins and Keyes also requested via email to change the designation of the distributions. *Id.*

74. On information and belief, Messrs. Hachigian, Collins, and Keyes made the request to recharacterize the distributions in the Board minutes to benefit the Sisters in the separate trust litigation because the issue had no bearing on legitimate Company interests, and it was an issue which the Board had no corporate purpose for intervening in or supporting.

F. The Director Defendants Form the Executive Committee

75. Given the powerful information rights afforded to Company stockholders under the Bylaws (*see* Exhibit 5 § 2.14) and the presence on the Board of Mr. Shea, the only director who was not in the pocket of the Sisters at the time, the Director Defendants needed a way to carry out their scheme to remove Mr. Demoulas in secret. Accordingly, the Director Defendants purported to form the Executive Committee on May 23, 2025, excluding Mr. Shea from the committee. But that plan was flawed from the start.

76. Mr. Shea was not provided with an explanation for why his Board colleagues were forming an Executive Committee that excluded him before Mr. Shea was asked to vote on the formation of the Executive Committee. The Director Defendants' secretive presentation of the matter to Mr. Shea flies in the face of proper governance practice under Delaware law.

77. Given the lack of candidness from his Board colleagues and the information deficit at which Mr. Shea was placed, Mr. Shea declined to approve the formation of the Executive Committee. Formation of the Executive Committee nevertheless ostensibly passed upon the affirmative vote of the Director Defendants.

78. The resolutions that purport to memorialize the Board's formation of the Executive Committee provide that the Executive Committee

is imbued with “all the powers and authority of the Board in the management of the business and affairs of the Corporation to the fullest extent permitted” under the law and the Company’s governing documents for an indefinite period of time. Exhibit 12 (May 27, 2025 Executive Committee Minutes and Resolutions). But the purported scope of the Executive Committee’s authority is impermissible under Delaware law, rendering its formation improper and unenforceable. *See* J. Travis Laster & John Mark Zeberkiewicz, *The Rights and Duties of Blockholder Directors*, 70 Bus. Law. 33, 60 (2015) (“If the director has been excluded for an extended period of time, and if the committee has been tasked with the full power of the board and is effectively carrying out the board’s role, then the excluded director may have powerful equitable arguments in his favor.”).

79. As conceived, the Executive Committee improperly divests the Board of its statutory charge by delegating forever the powers and responsibilities of the Board to a subset of directors without identifying the actual scope and purpose of the Executive Committee. Such a delegation is contrary to fundamental Delaware law and, therefore, the Executive Committee never legally existed, nor could it validly hold a meeting, and all actions that the Executive Committee has purported to take are unlawful and void *ab initio*.

80. Further, even if the Executive Committee had been lawfully formed (it was not) the Executive Committee is not a viable vehicle for accomplishing the secrecy that the Director Defendants intended with its creation. Under the Bylaws, all stockholders of the Company are entitled to notice and the agenda and materials provided to directors before all Board meetings or committee meetings if the committee is one to which the Board “delegates final decision-making authority.” *See* Exhibit 5 § 2.14(a).

Stockholders are further entitled to final minutes from any Board or committee meeting for which they are entitled to materials under Section 2.14(a). *See id.* § 2.14(b). Clearly, the Director Defendants' Board resolutions purported to grant "final decision-making authority" to the Executive Committee. *See* Exhibit 12 (May 27, 2025 Executive Committee Minutes and Resolutions).

81. The Director Defendants wrongfully failed to provide Mr. Demoulas, a Trustee of multiple stockholders of the Company, with any Executive Committee meeting materials or minutes. And the only Executive Committee notice provided was on May 25, 2025, announcing the fateful May 27, 2025, meeting during which the Executive Committee unilaterally and summarily put Mr. Demoulas on administrative leave from his positions as the Company's President and CEO. *See* Exhibit 13 (May 27, 2025 Executive Committee Meeting Notice). The only agenda item stated in the inadequate meeting notice was: "Discussion of various corporate matters;" a far-cry from the clear intent of the Bylaws to provide informational transparency to DSM's stockholders.

G. The Executive Committee Puts Market Basket's Management Team on Administrative Leave and Initiates the Investigation With the Predetermined Decision to Remove Mr. Demoulas

82. At the May 27, 2025, meeting of the Executive Committee, it was purportedly determined that Mr. Demoulas would be placed on administrative leave while the Investigation takes place. The Executive Committee issued letters the following day to Mr. Demoulas (*see* Exhibit 1 (May 28, 2025, Ltr. From Executive Committee for Mr. Demoulas)) and Market Basket's employees (*see* Exhibit 2 (May 28, 2025, Ltr. From Executive Committee for Market Basket Associates)) announcing Mr. Demoulas's leave and the Investigation, and claiming that the basis for the Executive Committee's

actions was his alleged “failure to cooperate with and take directions from the Market Basket Board” and “credible allegations that [Mr. Demoulas] ha[s] begun to plan a disruption of the business and operations of Market Basket with a work stoppage.” Mr. Demoulas, T.A. Demoulas, and Madeline Demoulas were removed from their roles at the Company, along with Thomas Gordon and Joseph Schmidt (two key executives) and Mr. Demoulas’s non-executive supervisor and brother-in-law, Gerard Lewis. The Executive Committee comprehensively purged most of Market Basket’s top managers and, as a display of the Executive Committee’s motivation to advance the Sisters’ intentions, the removal of Gerard Lewis effectively wiped-out Mr. Demoulas’s family from the Company.

83. Later, on May 30, 2025, the Director Defendants presented to the Board resolutions that purportedly ratified the actions of the Executive Committee to remove Mr. Demoulas and initiate the Investigation.

84. Mr. Shea was not provided at that time with any explanation of what the Executive Committee had discussed, the supposed “credible allegations” that justified Mr. Demoulas’s leave and the Investigation, or what the scope and duration of the Investigation would be. Accordingly, Mr. Shea opposed ratification of the Executive Committee’s actions. Ratification supposedly passed nevertheless upon the affirmative vote of the Director Defendants.

85. The Executive Committee’s actions were unlawful and deeply troubling for multiple reasons.

86. *First*, the justifications provided for putting Mr. Demoulas on leave were pure artifice and were contrived in bad faith by the Director Defendants in dereliction of their fiduciary duties to the Company. As an initial matter, it is untrue that Mr. Demoulas was planning a “work stoppage” prior

to his removal. It would be completely irrational for Mr. Demoulas to intentionally inflict the existential harm of a work stoppage on the Company, of which he owns 28%. Further, the farcical nature of the explanation for Mr. Demoulas's leave and the Investigation is evident from Mr. Hachigian's response to Mr. Shea's June 16, 2025, demand for information. In his response, Mr. Hachigian provided an entirely different (and equally inadequate) set of reasons for Mr. Demoulas to be put on leave and for the Investigation. *See* Exhibit 4 (June 19, 2025 Ltr. from Mr. Hachigian to Mr. Shea) (outlining instances where the Board thought it was difficult to work with Mr. Demoulas). It is also clear from the more than three-hour interview to which Mr. Demoulas was subjected as part of the investigation that the supposed "credible allegations" that Mr. Demoulas was planning a work interruption came from whole cloth. Mr. Hachigian's shifting explanations for putting Mr. Demoulas on leave and the conspicuous absence of any "credible allegations" supporting the Investigation reveals the truth that the Executive Committee had no legitimate cause to put Mr. Demoulas on leave and conduct a witch hunt. That was only done to buy time and manufacture a post hoc basis for the Director Defendants' misconduct.

87. *Second*, the Executive Committee selected Quinn Emanuel, which purported to conduct an "independent" and "unbiased" investigation while simultaneously representing the Board, the Executive Committee, and the Company. Quinn Emanuel has also recently spoken on behalf of the Sisters to the media.

88. *Third*, to the extent Mr. Demoulas' termination after the Investigation into purported wrongdoing was for cause, the removal is improper under the Bylaws. Section 4.2 of the Bylaws states that "in the event of the removal of an officer for cause, such officer shall be entitled to prior

notice of the alleged basis therefor and an opportunity to be heard by the Board of Directors in respect thereof.” But Mr. Demoulas was not presented with prior notice of the “cause” for his removal. In fact, Mr. Demoulas still does not know what “credible allegations” support the Director Defendants’ manufactured basis for removing him. Nor was Mr. Demoulas afforded a reasonable “opportunity to be heard by the Board” in response to such “credible allegations” prior to his removal. Rather, the Director Defendants’ removal of Mr. Demoulas as an officer for supposed “cause” was a *fait accompli* initiated secretly under the cover of the unlawfully convened Executive Committee and executed by the Director Defendants after the pretextual Investigation.

89. Instead of exercising their independent judgment to evaluate continuation of Mr. Demoulas’s service to Market Basket as President and CEO of the Company, the Director Defendants demonstrated blind obedience to the Sisters and followed their unlawful instructions without hesitation. Indeed, Mr. Hachigian has put in writing his view that each DSM director is “serv[ing] on the Board at the pleasure of the Demoulas [S]isters.” Exhibit 4 (June 19, 2025 Ltr. from Mr. Hachigian to Mr. Shea). And, prior to that, Mr. Hachigian had stated to Mr. Shea that the Director Defendants are willing to take a 20% hit to the Company’s bottom line to unseat Mr. Demoulas and satisfy the Sisters’ wishes.

90. Only minutes after an unsuccessful mediation in front of The Honorable Joseph R. Slights III concluded on September 9, 2025, the Director Defendants executed their premeditated plan to terminate Mr. Demoulas under the guise of the pretextual Investigation into purported wrongdoing that never occurred, then they filed the present Section 225 lawsuit against Mr. Demoulas.

91. The Director Defendants' decision to initiate the Investigation and remove Mr. Demoulas and his management team was a conflicted one in which the Director Defendants placed their personal interests in maintaining their Board seats and appeasing the Sisters over the best interests of the Company. The Investigation was merely a smokescreen for a predetermined decision by the Sisters and the Board to oust Mr. Demoulas as President and CEO of the Company. Their process and actions are inconsistent with the law and equity, and Mr. Demoulas's removal cannot be substantiated.

H. The Executive Committee Scrambles to Insert New Management

92. In addition to the Director Defendants' failures under the law and equity to remove Mr. Demoulas, they also failed to establish a leadership framework to support the Company in the absence of Mr. Demoulas and the Company's suspended management team.

93. In the disorganized morass that followed the Executive Committee's surprise announcement that it was putting Mr. Demoulas and his management team on leave, employees throughout the organization expressed concerns about who would be leading Market Basket and what the future of the business looks like. The Executive Committee did not have answers.

94. Instead, the Executive Committee encouraged loyalists of the Sisters to assume control of the Company and push the Sisters' agenda with impunity. In particular, Mr. Kettenbach, Jr., the son of one of the Sisters, Frances Kettenbach, has assumed the functional roles of President and CEO in Mr. Demoulas's absence during the Investigation. There was no Board action authorizing or approving Mr. Kettenbach, Jr.'s ascension. Even so, the Director Defendants permitted Mr. Kettenbach, Jr. to act as the *de facto* President and CEO despite his lack of experience and unfitness for the role

given his prior conflict of interest in connection with using his deli purchasing power to unjustly enrich himself.

95. On information and belief, in the role Mr. Kettenbach, Jr. assumed, he promoted employees loyal to the Sisters, demoted and fired employees who spoke up on behalf of Mr. Demoulas or challenged the Sisters' agenda, and incentivized employees in various ways to sway them to the side of the Sisters. For example, the vacancies that were created when the Executive Committee terminated longtime and loyal executives Thomas Gordon and Joseph Schmidt, who had each been with Market Basket for several decades, were filled by supporters of the new regime who are willing to accede to the Sisters' bidding—such as Chuck Casassa and Kevin Feole. Additionally, Steve Paulenka, a loyalist to the Sisters, was promoted to a new role in charge of strategic planning.

96. In stark contrast to the vibrant, people-first culture developed by Mr. Demoulas, Mr. Kettenbach, Jr. and his cohort instilled an environment of repression and fear of retaliation for even the slightest indication of support for Mr. Demoulas, fracturing the Company's culture.

97. The Executive Committee's endorsement of Mr. Kettenbach, Jr.'s seizure of the Company's President and CEO roles are further violations of the Director Defendants' duties to the Company. Section 3.11 of the Bylaws precludes any committee from backfilling officer positions. *See* Exhibit 5 § 3.11. And Section 4.5 of the Bylaws establishes that in "the absence or disability of the President, the Board of Directors may appoint the Corporation's Secretary or Treasurer as the acting President." *Id.* § 4.5. Thus, under the Bylaws, the Executive Committee has no authority to authorize anyone to step into the roles of President and CEO, and Mr. Kettenbach, Jr.'s actions in those roles in Mr. Demoulas's absence are invalid and must be unwound.

98. On September 16, 2025, following Mr. Demoulas's termination, the Board appointed Don Mulligan, Market Basket's longtime CFO and Treasurer, to serve as interim CEO.

I. The Director Defendants Are Beholden to the Sisters

99. The Director Defendants' complicity with the Sisters' instructions to remove Mr. Demoulas and upend Market Basket's management is driven by the Director Defendants' desire to retain their Board seats and their deep personal loyalties to the Sisters. Those relationships create conflicts of interest which render the Director Defendants incapable of exercising independent and disinterested business judgment on the matters of Mr. Demoulas's removal and instigation of the Investigation, which are initiatives pushed by the Sisters for personal reasons unrelated to the Company's best interests. By complying with the Sisters' instructions, the Director Defendants are damaging the Company in pervasive and ongoing breach of their fiduciary duties.

100. Each Director Defendant has either a single debilitating conflict or a constellation of connections that render them incapable of acting independent of the influence of the Sisters with regards to Mr. Demoulas's role as the CEO and President of the Company.

101. Mr. Hachigian has advised the Sisters and their families for years on personal estate planning, investing, tax, and other legal matters. It appears that he is a fiduciary to the Sisters personally. Moreover, Mr. Hachigian is a neighbor and close family friend of one of the Sisters, Caren Pasquale. Mr. Hachigian has been the neighbor and close friend of Caren and Joseph Pasquale for more than 20 years. Mr. Hachigian's wife has known Caren Pasquale for nearly 50 years. These loyalties are reflected in Mr. Hachigian's words professing his view that each of the directors are "serving on the Board at the pleasure of the Demoulas [S]isters." Exhibit 4 (June 19, 2025 Ltr. from

Mr. Hachigian to Mr. Shea). He cannot act independently of the Sisters' influence.

102. Mr. Collins's former business partner, David Mussafer, has close personal connections to the Pasquale family, and the Mussafer's children are friends with Caren Pasquale's children. Further, as detailed at Paragraphs 50-52 above, Mr. Collins previously advocated in 2019 for Michael Kettenbach, Sr. and Joseph Pasquale (husbands of the Sisters) to receive increased special payouts related to winding down a real estate development company, RMD. Mr. Collins's willingness to divert corporate assets to the Sisters' families at a higher level than that approved by the Board demonstrates a lack of independence.

103. Mr. Keyes is a Senior Director of acquisitions at Intercontinental Real Estate Corporation, where he is an Investment Committee member. Mr. Keyes' real estate firm, Intercontinental Real Estate, was involved in its attempted purchase of real estate from an entity controlled by Joseph Pasquale, a stockholder and the husband of Caren Pasquale. Mr. Keyes and his employer competed against Market Basket in 2022 in an effort to purchase one of DSM's most successful store locations without Joseph Pasquale notifying Market Basket of the intended sale, even though he had a prior understanding with Mr. Demoulas for Market Basket to buy the property. The effort by Intercontinental to purchase the property had the effect of artificially raising the price Market Basket had to pay for the real estate. Ultimately, the Board and the Sisters voted to purchase the property over the objection of Mr. Demoulas due to the inflated price and the Company bought the site on July 28, 2022. Mr. Keyes was added to the Board by the Sisters fifteen months later on October 5, 2023.

104. Messrs. Hachigian, Collins, and Keyes all participated in petitioning Ms. Batchelder to change the minutes from a December 14, 2023, Board meeting to reflect that non-taxable stockholder distributions should be renamed to “income distributions” rather than “extraordinary distributions”. Exhibit 11 (April 3, 2024 Ltr. from Mr. Demoulas to Mr. Shea). As explained above, the Company had been calling non-taxable distributions “extraordinary distributions” for multiple decades under the direction of Mr. Demoulas’ father. *Id.* After Mr. Hachigian made the initial request, Messrs. Collins and Keyes offered their support for the change via email. *Id.* On information and belief, the Sisters requested Messrs. Hachigian, Collins, and Keyes make the request to alter the name of the distributions in the Board minutes to benefit the Sisters in separate Massachusetts trust litigation because the issue had no bearing on legitimate Company interests, and it was an issue in which the Board had no business.

105. The Director Defendants have also witnessed the Sisters’ systematic reconfiguration of the Board and their willingness to remove any director for even the slightest perceived dissent. The most recent example is the Sisters’ removal of Mr. Shea, whose only apparent “transgression” was requesting information to understand why the Executive Committee was formed and why it was dismantling Market Basket’s management. For asking questions, the Sisters removed Mr. Shea from the Board. The Sisters also recently removed Terrence Carlton in January 2025 for his perceived support of Mr. Demoulas and his management team and his lack of support for the Sisters agenda.

106. The Director Defendants’ decision making is both infected by their subservience to the Sisters and compelled by their fear that they too will be expelled from the Board by the Sisters unless they do the Sisters’ bidding

without regard for the best interests of the Company. To preserve their own Board seats, the Director Defendants obediently set about removing Mr. Demoulas (unlawfully).

107. Further, the manner in which the Board went about following the Sisters' orders has exposed them to a substantial likelihood of liability. As described herein, the Director Defendants have taken multiple actions in direct contravention of the Company's Bylaws and in violation of their fiduciary duties to the Company, including their obligations to prioritize the best interests of the Company above the interest of any stockholder and to deal candidly with their Board colleague, Mr. Shea. Indeed, the Director Defendants' actions to remove Mr. Demoulas and his management team served no rational business purpose, and the process was a wasteful use of Company resources.

108. To summarize the actions that give rise to the substantial likelihood of liability that the Director Defendants face:

- The Director Defendants permitted the Board to fall and remain below the required five director minimum since January 3, 2025, in violation of Sections 3.1 and 3.3 of the Bylaws.
- The Director Defendants sanitized Board minutes to prevent them from accurately reflecting discussions that would demonstrate the reality that the Board has no legitimate issues with the way Mr. Demoulas was managing Market Basket's day-to-day affairs. *See* Exhibit 8 (January 9, 2025, Minutes); Exhibit 9 (September 2, 2025 cover letter).
- The Director Defendants prevented the corporate Secretary from serving in the capacity delegated to her under the Bylaws, in violation of Sections 3.6 and 4.6 of the Bylaws. *See* Exhibit 10 (March 13, 2025, Minutes).
- The Director Defendants caused the Board to form the Executive Committee composed of just the Director Defendants and excluding Mr. Shea and purported to delegate to the Executive Committee virtually all powers of the Board for an indefinite period, in contravention of Delaware law and policy.

- The Director Defendants failed to provide stockholders, including those for which Mr. Demoulas is the trustee, with adequate notice and materials for meetings of the Board and the Executive Committee, in violation of Section 2.14(a)-(b) of the Bylaws.
- Despite the Company's success under Mr. Demoulas's leadership, the Director Defendants, through the secretive Executive Committee, purported to initiate the Investigation into Mr. Demoulas on the contrived basis that he was planning an employee work stoppage or other business disruption, and retained Quinn Emanuel as the supposedly independent investigator (despite Quinn Emanuel also claiming to represent the Executive Committee, the Board, the Company, and the Sisters) knowingly causing the Company to waste corporate assets on a witch hunt.
- The Director Defendants grossly mismanaged the Company by purging nine of its top executives, supposedly because it was investigating whether Mr. Demoulas was planning a work stoppage, without any succession plan, throwing Market Basket into turmoil.
- The Director Defendants permitted Mr. Kettenbach, Jr. to functionally assume Mr. Demoulas's role as President during the nearly three-and-a-half months he has been on leave instead of appointing the Company's Treasurer or Secretary to that role in Mr. Demoulas's absence, in violation of Sections 3.11 and 4.5 of the Bylaws.
- The Director Defendants exercised their discretion under Section 4.2 to remove officers unreasonably and arbitrarily by terminating Mr. Demoulas while conducting a sham investigation into alleged wrongdoing (none of which would withstand scrutiny), not for any rational business purpose, but rather in bad faith and for the purpose of appeasing the Sisters' personal interests, in violation of the implied covenant of good faith and fair dealing that inheres in the Bylaws.
- The Director Defendants terminated Mr. Demoulas after conducting the Investigation into purported wrongdoing, but deprived him of his right to prior notice of the alleged basis for his termination, and a reasonable opportunity to be heard by the Board on the matter, in violation of Section 4.2 of the Bylaws.
- The Director Defendants terminated Mr. Demoulas on September 9, 2025, based on purported Investigation findings minutes after the 10:00 p.m. conclusion of an unsuccessful mediation between the parties before The Honorable Joseph R. Slight III, then filed the present lawsuit minutes later.

109. The Director Defendants' actions breached their fiduciary duties because, among other reasons, they violated the Bylaws, lacked a rational business purpose for suspending and terminating Mr. Demoulas, and wasted Company resources, which exposes the Director Defendants to a substantial likelihood of liability.

CAUSE OF ACTION
COUNT I
(Declaration Under 8 *Del. C.* § 225)

110. Mr. Demoulas repeats and realleges each of the foregoing paragraphs as if fully set forth herein.

111. Actual controversies exist concerning whether the Director Defendants actions to remove Mr. Demoulas from his offices were invalid and unenforceable.

112. Section 225(a) provides a mechanism for determining the validity of the appointment or removal of any officer of a corporation before the Court of Chancery. The statute states, in relevant part:

Upon application of any ... officer whose title to office is contested, the Court of Chancery may hear and determine the validity of any ... removal or resignation of any ... officer of any corporation, and the right of any person to hold or continue to hold such office ...; and to that end make such order or decree in any such case as may be just and proper

113. Mr. Demoulas's removal from his roles as President and CEO of the Company and the assumption of those roles by Mr. Kettenbach, Jr. during Mr. Demoulas's administrative leave are wrongful and unenforceable for multiple reasons.

114. *First*, the Director Defendants created the unlawful Executive Committee, to which they purported to delegate indefinitely all authority of the Board to manage the business and affairs of the Company. The scope and

duration of the power delegated to the Executive Committee is inconsistent with the bedrock principle that the business and affairs of every corporation organized under the laws of the State of Delaware are to be managed by and under the corporation's board of directors. Because the formation of the Executive Committee fundamentally contravenes Delaware law, no meeting of the Executive Committee could have been properly convened, and all actions purportedly taken by the rogue faction of Director Defendants masquerading as the Executive Committee, including the removal of Mr. Demoulas and initiation of the Investigation, are void *ab initio*.

115. *Second*, Mr. Demoulas's removal was improper under the Bylaws. Section 4.2 of the Bylaws states that "in the event of the removal of an officer for cause, such officer shall be entitled to prior notice of the alleged basis therefor and an opportunity to be heard by the Board of Directors in respect thereof." Mr. Demoulas was purportedly removed from his positions as President and CEO because of "credible allegations" that he had "begun to plan a disruption of the business and operations of Market Basket with a work stoppage." The Board and Quinn Emanuel conducted the months-long Investigation into Mr. Demoulas' purportedly wrongful conduct before terminating Mr. Demoulas, but Mr. Demoulas was never presented with prior notice of that "cause" for his removal. Indeed, Mr. Demoulas still does not know what "credible allegations" support the Director Defendants' manufactured basis for removing him. Nor was Mr. Demoulas afforded a reasonable "opportunity to be heard by the Board" in response to such "credible allegations" prior to his removal. Rather, the Director Defendants' removal of Mr. Demoulas as an officer for supposed "cause" was a *fait accompli* effectuated under the cover of the unlawfully convened Executive Committee.

116. *Third*, the Director Defendants exercised their discretion under Section 4.2 of the Bylaws to remove officers unreasonably and arbitrarily, not for any rational business purpose, but rather in bad faith and for the purpose of appeasing the Sisters' personal interests. In so doing, the Director Defendants violated the implied covenant of good faith and fair dealing that inheres in the Bylaws.

117. *Fourth*, the justifications provided for removing Mr. Demoulas are unfounded and were contrived in bad faith by the Director Defendants in dereliction of their fiduciary duties to the Company. Instead of exercising their independent judgment to evaluate continuation of Mr. Demoulas's service to Market Basket as President and CEO of the Company, the Director Defendants succumbed to the whims of the Sisters, to whom the Director Defendants are beholden. The Director Defendants' decision to remove Mr. Demoulas was a conflicted one in which they placed their personal interests in maintaining their Board seats and appeasing the Sisters over the best interests of the Company. Equity cannot substantiate the actions of the Director Defendants to place their own interests and the interests of their perceived masters, the Sisters, ahead of the Company's wellbeing.

118. *Fifth*, even assuming, *arguendo*, that Mr. Demoulas had been properly put on leave from his President and CEO positions during the pendency of the Investigation, the Executive Committee acted improperly and in contravention of the Bylaws by allowing Mr. Kettenbach, Jr. to functionally assume the roles of President and CEO. Section 3.11 of the Bylaws prohibits the Executive Committee from backfilling any officer positions in the leadership void that the Director Defendants heedlessly created. Section 4.5 of the Bylaws further provides that, in the absence of a President, that office may be filled by either the Company's Secretary or its Treasurer. The Executive

Committee disregarded both Sections of the Bylaws by endorsing Mr. Kettenbach, Jr.—who is neither the Company’s Secretary nor its Treasurer—taking over the Company’s President and CEO positions in Mr. Demoulas’s absence. The Executive Committee could not have been empowered to backfill as it did the officer positions in the leadership void that the Director Defendants heedlessly created.

119. For each of these reasons individually and collectively, Mr. Demoulas is entitled to declaratory judgments that:

- The Executive Committee’s formation was improper, and all actions purportedly taken by the Executive Committee are void *ab initio*;
- Any appointments by the Executive Committee to fill officer vacancies are prohibited by Section 3.11 of the Bylaws and are therefore invalid and ineffective;
- The appointment of any person other than the Company’s Secretary or Treasurer to the role of President of the Company in Mr. Demoulas’s absence while he was on administrative leave is improper under Section 4.5 of the Bylaws and therefore invalid and ineffective;
- All actions by Mr. Kettenbach, Jr. acting as the *de facto* President and CEO while Mr. Demoulas was on administrative leave are null and void;
- The Director Defendants’ decision to remove Mr. Demoulas from his officer positions was self-interested, at the behest of the Sisters, and in contravention of the Director Defendants’ fiduciary duties, and is therefore unenforceable as a matter of equity;
- The Director Defendants exercised their discretion under Section 4.2 of the Bylaws to remove officers unreasonably and arbitrarily, not for any rational business purpose, but rather in bad faith and for the purposes of maintaining their Board seats and appeasing the Sisters’ personal interests in contravention of the implied covenant of good faith and fair dealing, and the Director Defendants’ removal of Mr. Demoulas is therefore invalid and ineffective as a matter of equity;
- The Director Defendants’ termination of Mr. Demoulas from his roles as President and CEO violated the terms of Section 4.2 of the Bylaws because he was not given proper notice of the cause for his termination or a reasonable opportunity to be heard by the Board in

response to the supposed cause, and the Director Defendants' removal of Mr. Demoulas is therefore invalid and ineffective; and

- Mr. Demoulas was wrongfully removed from his President and CEO positions and he is reinstated as the President and CEO of the Company.

120. Mr. Demoulas lacks an adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Mr. Demoulas respectfully requests that the Court enter an Order:

a. Granting judgment in favor of Mr. Demoulas and against the Counterclaim Defendants;

b. Declaring that the Executive Committee's formation was improper, and all actions purportedly taken by the Executive Committee are void *ab initio*;

c. Declaring that any appointments by the Executive Committee to fill officer vacancies are prohibited by Section 3.11 of the Bylaws and are therefore invalid and ineffective;

d. Declaring that the appointment of any person other than the Company's Secretary or Treasurer to the role of President of the Company in Mr. Demoulas's absence while he was on administrative leave is improper under Section 4.5 of the Bylaws and therefore invalid and ineffective;

e. Declaring that actions by Mr. Kettenbach Jr. acting as the *de facto* President and CEO while Mr. Demoulas was on administrative leave are null and void;

f. Declaring that the Director Defendants' decision to remove Mr. Demoulas from his officer positions was self-interested, at the behest of the Sisters, and in contravention of the Director Defendants' fiduciary duties, and is therefore unenforceable as a matter of equity;

g. Declaring that the Director Defendants exercised their discretion under Section 4.2 of the Bylaws to remove officers unreasonably and arbitrarily, not for any rational business purpose, but rather in bad faith and for the purposes of maintaining their Board seats and appeasing the Sisters' personal interests in contravention of the implied covenant of good faith and fair dealing, and the Director Defendants' removal of Mr. Demoulas is therefore invalid and ineffective as a matter of equity;

h. Declaring that Director Defendants' termination of Mr. Demoulas from his roles as President and CEO violated the terms of Section 4.2 of the Bylaws because he was not given proper notice of the cause for his termination or a reasonable opportunity to be heard by the Board in response to the supposed cause, and the Director Defendants' removal of Mr. Demoulas is therefore invalid and ineffective;

i. Declaring that Mr. Demoulas was wrongfully removed from his President and CEO positions and he is reinstated as the President and CEO of the Company; and

j. Granting Mr. Demoulas such other and further relief as the Court deems just and proper under the circumstances.

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