

FOR IMMEDIATE RELEASE

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Court Of Chancery Publishes Revised Supplemental Information Form

Court of Chancery Rule 3 requires that litigants file a cover sheet in a form, adopted by the Court, containing information determined necessary and appropriate by the Court. The Court of Chancery has revised the Supplemental Information Form to better facilitate internal case management. The revisions affect three areas: (1) identifying related cases, (2) identifying cases that rely on particular statutory sources of subject matter jurisdiction, and (3) distinguishing particular types of summary proceedings from other expedited matters. Filing parties must use the new form beginning no later than March 1, 2023.

Question 6 asks parties to identify any related cases. This question promotes judicial efficiency by enabling the Chancellor to assign cases involving similar parties or issues to a single judicial officer. For several possible reasons, parties seem to take a narrow view of what qualifies as a related case. The Court wants parties to take a broad and practical view under which a related case is one where the administration of justice would benefit from assigning the cases to a single judge. Factors that make a case related include overlapping parties, a common nucleus of operative fact, or a trending issue.

By signing the Supplemental Information Form, a filing party represents that they have conducted reasonable diligence sufficient to identify related cases. At a minimum, reasonable diligence includes conducting searches on the eFiling system for cases involving the same or similar parties and involving a common nucleus of operative facts. If a filing party has been in contact with the defendants or their counsel, the party should consider consulting with the defendants about what related actions to identify.

The filing party is bound by the representation regarding reasonable diligence. Identifying any action as “related” will otherwise have no effect for the merits of the action.

Question 7, which asks parties to identify the basis for subject matter jurisdiction, now asks the parties to specify whether 8 *Del. C.* § 111, 6 *Del. C.* § 17-111, or 6 *Del. C.* § 18-111 provides a primary or alternative basis for subject matter jurisdiction. Question 7 also asks parties to identify actions that seek money damages for breach of a merger agreement, asset purchase agreement, or equity purchase agreement. The Court uses this information to identify these categories of actions at the outset of the case. The Court is also tracking this information for internal management purposes.

Question 8 asks parties to state whether the complaint initiates a summary proceeding under DGCL Sections 145(k), 205, 211(c), 220, or comparable statutes. The purpose of this question is to distinguish summary proceedings that are comparatively straightforward for purposes of scheduling from other types of summary or expedited actions that require

additional upfront assessment. The information also will be used to track these categories of cases for internal case management purposes.

As to the categories of cases listed in Question 8, filing parties have the option of either filing a motion to expedite with a proposed schedule or submitting a letter explaining why expedition is not requested. For example, the Court understands that a filing party may initiate a books-and-records action to preserve standing, while at the same time working constructively with the corporation to obtain books and records. A party in that position can opt to explain the situation in a letter so that the Court does not take steps to move the case forward.

Chancellor McCormick provided the following comment on the new form: “We appreciate the effort that the members of our Bar make to provide the information the Court requests. We use the information internally and having accurate information on these topics will help the Court use its limited resources to continue to administer justice efficiently and fairly.”

The revised Supplemental Information Form is available on the Court’s website. Beginning March 1, 2023, the Register in Chancery will reject case-initiating filings that fail to use the revised Supplemental Information Form and instruct the filing party to refile the case using the correct form. If the Court determines that inaccurate or incomplete information has been provided, the Court may require the filing party to provide supplemental information with an explanation.