

STATE OF NORTH CAROLINA

JOHNSTON COUNTY

SHERRY WORLEY and GINGER MASSENGILL, individually, and as members of the special committees of the respective Board of Directors for ORMOND OIL & GAS COMPANY, INC., and ORMOND'S SALES AND SERVICE, INCORPORATED,

Plaintiffs,

v.

WILLIAM E. ORMOND, JR., individually, and in his capacity as an Officer, and Director of ORMOND OIL & GAS COMPANY, INC., and ORMOND'S SALES AND SERVICE, INCORPORATED; ORMOND OIL & GAS COMPANY, INC.; and ORMOND'S SALES AND SERVICE, INCORPORATED,

Defendants.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

23 CVS 5586

**ORDER ON PLAINTIFFS' MOTION
FOR INJUNCTIVE RELIEF,
AND IN THE ALTERNATIVE,
FOR APPOINTMENT OF
INDEPENDENT PERSON TO LEAD
SPECIAL COMMITTEE(S) AND MAKE
CERTAIN DETERMINATIONS ON
DERIVATIVE CLAIMS**

1. **THIS MATTER** is before the Court on Plaintiffs' Motion for Injunctive Relief, and in the Alternative, for Appointment of Independent Person to Lead Special Committee(s) and Make Certain Determinations on Derivative Claims ("the Motion"), (ECF No. 10).

2. Having considered the Motion, affidavits, related briefing, and arguments of counsel at a hearing on the Motion held 8 November 2023, the Court hereby **GRANTS in part** and **DENIES in part** the Motion, as stated below.

I. PROCEDURAL HISTORY

3. Plaintiffs filed their Complaint on 12 October 2023 seeking issuance of a Writ of Mandamus to permit inspection of corporate documents demanded by them in their capacities as shareholders and members of special committees of the Boards of Directors of both Ormond Oil & Gas Company, Inc. (“OOG”) and Ormond’s Sales and Service, Incorporated (“OSS”). Plaintiffs also allege (1) a claim against OOG for failure to pay declared dividends, (2) claims against Eddie Ormond, the majority shareholder of both OOG and OSS, for breach of fiduciary duty to them as minority shareholders, as well as for constructive fraud, (3) a claim by OOG against Eddie Ormond for breach of his duties as an officer and director of the company, and (4) claims for the judicial dissolution of both companies. (Compl., ECF No. 3.)

4. On 25 November 2023, Plaintiffs filed the Motion with supporting affidavits. (ECF No. 10; Compl., Ex. A, First Aff. of Fred Monroe [“First Monroe Aff.”], ECF No. 10.2; Compl., Ex. B., Aff. of Ginger Massengill [“First Massengill Aff.”], ECF No. 10.3.) They filed supplemental affidavits on 31 October 2023. (Aff. of Sherry Worley [“Worley Aff.”], ECF No. 15.1; Second Aff. of Ginger Massengill [“Second Massengill Aff.”], ECF No. 15.2.) On 3 November 2023, Defendants submitted a timely response to the Motion, along with supporting affidavits. (ECF No. 17; Aff. of Shawn Wiggins [“First Wiggins Aff.”], ECF No. 18; Aff. of William E. Ormond Jr. [“Aff. Eddie Ormond”], ECF No. 19.)

5. The Court held a hearing on the Motion on 8 November 2023, during which all parties participated through counsel. (Not. of Hr'g, ECF No. 16.) The Motion is now ripe for disposition.

II. FINDINGS OF FACT¹

6. OOG and OSS (together, the “Ormond Companies”) are both North Carolina corporations with their principal place of business in Princeton, Johnston County, North Carolina. Both entities are privately owned, closely-held family businesses. (Compl. ¶¶ 3-4, 7.)²

7. Plaintiffs Sherry Worley (“Sherry”), Ginger Massengill (“Ginger”), and Defendant William E. Ormond, Jr. (“Eddie”) are siblings who inherited their ownership interests in the Ormond Companies from their parents. (Compl. ¶¶ 19-20.)

8. Originally a plumbing, wiring, and small appliance business, OSS now owns and leases real estate. (Compl. ¶¶ 10, 12.) Since it was founded in 1978, OOG has functioned as a fuel business, primarily selling heating oil and propane. (Compl. ¶¶ 10-11.)

9. Eddie has had an active role in both Ormond Companies for over a decade. (Compl. ¶ 16; Aff. Eddie Ormond, ¶¶ 14-16.) He now owns sixty two percent (62%) of

¹ To the extent that any findings of fact are more properly considered conclusions of law, the Court intends for them to be considered as such, and vice versa. *See Sheffer v. Rardin*, 208 N.C. App. 620, 624 (2010) (citing *In re Helms*, 127 N.C. App. 505, 510 (1997)).

² Factual findings derived from the Verified Complaint and affidavits are undisputed in the Defendants’ affidavits and Answers.

the shares of OOG and fifty six percent (56%) of the shares of OSS. (Compl. ¶¶ 19-20.)

10. Eddie's sisters, Sherry and Ginger, each own approximately nineteen percent (19%) of the shares of OOG and approximately twenty-two percent (22%) of the shares of OSS. At the time this action was initiated, both Sherry and Ginger were directors of OOG.³ Eddie disputes their allegation that they are also directors of OSS. (Compl. ¶¶ 19-20; Aff. Sherry Worley ¶ 2; Second Massengill Aff. ¶ 2; Aff. Eddie Ormond ¶¶ 40, 42-46.)

11. Plaintiffs allege that both of the Ormond Companies have the same three-member Board of Directors consisting of Eddie, Sherry, and Ginger. (Compl. ¶ 42, Worley Aff. ¶ 2; Second Massengill Aff. ¶ 3.) Eddie disputes their assertion and has produced Articles of Incorporation for OSS stating that it has only one director, which he contends is him. (Aff. Eddie Ormond, Ex. 1 ["OSS's Articles of Incorporation"], art. vii, ECF No. 19).⁴ Eddie also serves as President and Chief Executive Officer of both Companies. (Aff. Eddie Ormond ¶ 2; First Wiggins Aff. ¶ 3, ECF No. 18.)

³ Counsel informed the Court during the hearing that Eddie, as majority shareholder of OOG, has taken recent steps intended to remove Ginger from the Board and to elect a new director who is not a member of the Ormond family. *See* Aff. Eddie Ormond ¶ 77, ECF No. 19 (expressing Eddie's intention to remove one of his sisters from the board of directors and instead appoint a "neutral third party knowledgeable of the oil and gas industry"). Following the hearing, there were additional developments. *See infra* note 6.

⁴ Eddie also claims that his sisters are relatively new to the Board of OOG. He testified that the directors changed in early 2023 after he, as majority shareholder, voted Sherry's son, Jay, and his own son, Rodney, off the Board and replaced them with Sherry and Ginger. (Aff. Eddie Ormond ¶ 39.)

To support their allegation that they are directors of OSS, Sherry and Ginger point to an unsigned copy of a document titled, "6 January 2020 Waiver of Notice of Minutes of Meeting of the Board of Directors of Ormond's Sales and Service, Incorporated" that they

12. Sherry and Ginger believe that Eddie has been engaging in self-interested transactions and misappropriating assets from the Ormond Companies. (Compl. ¶¶ 23-24, 27-31, 33-37.) Among other things, they are concerned that Eddie has leased bulk propane storage tanks and office space to Ormond Oil & Gas Company through another entity, R.E.S. Investors, LLC, which Eddie owns. (Compl. ¶¶ 31, 33-37.)

13. Plaintiffs were prompted to file this lawsuit when, in August 2023, Eddie informed them that he intended to purchase the assets of New Hope Gas Company, Inc. (“New Hope”) for \$3 million. Sherry and Ginger complain that, as directors and shareholders of OOG, they were not provided sufficient information to evaluate the proposed acquisition. They also fear that Eddie intended to use OOG’s assets to acquire New Hope Gas Co.’s bulk propane storage tanks for himself and then lease them back to OOG at a profit. (Compl. ¶¶ 38-40.)

14. Sherry and Ginger confronted Eddie with their concerns but were dissatisfied with his response. (Compl. ¶ 38-39.) As a consequence, Sherry and Ginger decided to call a special meeting of the Board of Directors of OOG to be held on 25 September 2023 and to immediately follow it with a special meeting of the Board of Directors of OSS. On 20 September 2023 they sent Eddie written notices of these special meetings and included inspection demands for both OOG and OSS. (*See* Compl., Exs. A, B, ECF No. 3.2.)

were asked to sign as “directors” of OSS after their father’s death in December 2018. (Aff. Sherry Worley ¶ 3, ECF No. 15.1; Second Aff. Ginger Massengill ¶ 3, ECF No. 15.2.) Given that OSS’s Articles of Incorporation specify that it has only one director, the Court cannot conclude at this stage that the company has three directors or the identity of its director(s).

15. For OOG, Plaintiffs requested that the following records be provided for inspection by 25 September 2023:

1. Any document containing the terms or proposed terms of any agreement or proposed agreement for the purchase of New Hope's assets;
2. A list of assets covered under the New Hope asset purchase agreement;
3. Any proposed lease agreement associated with the sale/purchase of any of New Hope Gas/Oil's assets;
4. Documentation of any other companies or Eddie's involvement in the purchase of New Hope's assets outside of Ormond Oil & Gas Company, Inc.'s purchase;
5. A current balance sheet; and
6. A current income statement or profit and loss statement.

(Compl. Ex. A.)

16. For OSS, Plaintiffs requested that the following records be provided for inspection by 25 September 2023:

1. A current balance sheet; and
2. A current income statement or profit and loss statement.

(Compl. Ex. B.)

17. In response, Eddie stated that he could not be present for the meetings because he was attending a propane gas conference in Orlando, Florida, on 25 September 2023. Plaintiffs contend that Eddie refused to provide them with access to any records in response to their inspection requests. (Compl. ¶¶ 48-50; Eddie Ormond Aff. ¶ 60, ECF No. 19.)

18. To accommodate Eddie's scheduling conflict, Sherry and Ginger amended the meeting notices to reschedule the meetings to take place on 27 September 2023. Eddie was invited to participate by telephone if he could not be there in person. The amended notices added a request to inspect both companies' current monthly bank statements. (Compl., Exs. C, D, ECF No. 3.2.)

19. On 27 September 2023, Plaintiffs convened the special meetings. Eddie was not present but was contacted by telephone. He declined to participate. (Compl., Exs. F, G, ECF No. 3.2.)

20. Plaintiffs, determining that their presence constituted a quorum of the Board of each company, proceeded to adopt resolutions to establish a special committee for each company and to appoint themselves as members. The committees were authorized to retain a forensic accountant (and any other necessary professionals) to investigate "related party transactions, conflict of interest transactions, transactions with insiders, misappropriations of assets, usurpation of company opportunities, and diversion of revenue streams." (Compl., Exs. F, G.)

21. Sherry and Ginger also passed a resolution tabling the New Hope acquisition, and they forwarded a copy of the relevant portions of the resolution to New Hope. (Compl., Exs. F, H.)

22. Through counsel, Sherry and Ginger forwarded copies of the resolutions passed at the special meetings to Eddie. However, Sherry and Ginger allege that Eddie informed them that OOG's acquisition of New Hope's assets was completed on 19 September 2023. (Compl. ¶¶ 61-62.) Eddie disagrees and contends New Hope

decided not to move forward with the deal after it received a copy of the resolution that Plaintiffs forwarded. (Aff. Eddie Ormond, ¶¶ 64-65, Ex. 3.)

23. Eddie contests Plaintiffs' authority to convene special meetings of the Boards of either OSS or OOG, as well as the validity of any resolutions passed during those meetings. He contends that he is the sole director of OSS and therefore the only person who can call a special meeting of that Board. As for OOG, Eddie contends that, as President, the bylaws require that he be present and preside over all meetings, special or annual, of OOG's Board of Directors. (Answer of Defendants Ormond Oil & Gas Company, Inc. and Ormond's Sales and Service, Inc. ¶¶ 59, 70, 140, ECF No. 22; Answer of Eddie Ormond ¶¶ 9, 52-59, 70.)

24. On 27 September 2023, Plaintiffs, now acting in their role as shareholders of the Ormond Companies, made additional demands to inspect documents. In addition to the documents already requested for OOG, Sherry and Ginger requested:

1. A copy of any written shareholders' agreement, bylaws, and articles of incorporation, and all amendments or modifications to the articles of incorporation, bylaws or shareholders' agreement for the Company, together with executed copies of any written powers of attorney pursuant to which the shareholders' agreement, bylaws, and any articles of incorporation, all amendments thereto, have been executed;
2. A list of all shareholders of the Company and their respective stock shares;
3. The full general ledger including all account entries, journal entries and adjusted trial balance in native format since 31 December 2020;
4. Financial statements for the company on a monthly and annual basis since 31 December 2020;

5. All annual statements of the Company's receipts and operating expenses since 31 December 2020;
6. All documents regarding the Company's outstanding loans since 31 December 2020;
7. The Company's check registers since 1 January 2020;
8. All state and federal tax returns including accompanying schedules and corresponding work papers since 31 December 2020;
9. All vendor contracts for goods and services rendered to the Company from 31 December 2020;
10. All agreements between Eddie, or any business entity affiliated with him, and the Company;
11. Any agreement, proposal, or offer concerning the sale or transfer of substantially all of the assets or its revenue streams of the company since 1 January 2020;
12. Documents describing, referencing, or memorializing any related party transactions with or involving the company after 1 January 2020;
13. All leasing agreements with Eddie or Eddie's family or any business affiliated with Eddie since 1 January 2020;
14. Export of all cash disbursements after 31 December 2020;
15. Bank reconciliations and bank statements after 31 December 2020;
16. Accounts receivable aging reports and reconciliations to the trial balance since 31 December 2020;
17. All write offs and credit memos issued from 31 December 2020;
18. Payroll registers after 31 December 2020;
19. Compensation agreements or contracts for directors and officers after 31 December 2020;

20. All offers, letters of intent, or written negotiations to sell, lease, or encumber the assets of the Company;

21. All letters of intent, term sheets, proposed agreements, concerning Eddie or any of Eddie's affiliates' acquisitions of New Hope's assets; and

22. All documents received from, or sent to, New Hope Energy, or New Hope Oil in connection with the proposed or potential sale of any of its assets to Eddie, Eddie's affiliates, or the Company.

(Compl. Ex. J, ECF No. 3.2.) The request to OSS repeated the first twenty requests sent to OOG and replaced the last two requests with these three:

21. All invoices, purchase orders, receipts in connection with any improvements, renovations or purchases of furniture, equipment or any personal property for any of the assets (real property) owned by the Company or for its operations after 1 January 2020;

22. All leases that are currently effective or that were in place after 1 January 2020 in connection with all tenants of any real property owned by the Company; and

23. Any rent roll(s) for the company and its assets after 1 January 2020.

(Compl. Ex. K, ECF No. 3.2.)

25. In addition to their inspection requests, by letters dated 27 September 2023, Plaintiffs made derivative demands pursuant to N.C.G.S. § 55-7-42 that both companies "fully and completely investigate all of the matters identified in th[ese] letters and [] rectify them by pursuing claims against" Eddie and any other person.

(Compl., Exs. J, K.)

26. On 6 October 2023, Plaintiffs notified Eddie that the special committees had retained a forensic accountant, and they demanded to inspect certain records the

accountant required to complete his investigation. Their lists included many of the same documents previously requested but widened the date range as far back as 2015. In addition, the lists included information regarding R.E.S. Investors, LLC. Plaintiffs requested that the information be produced for inspection and copying by 11 October 2023. (Compl., Ex. L, ECF No. 3.2.)

27. Eddie responded through counsel that a records inspection could not take place on 11 October 2023, but that the Ormond Companies were in the process of scanning and labeling responsive documents. (Compl. ¶ 72.)

28. Since the filing of the Complaint on 12 October 2023, Plaintiffs' and Defendants' counsel have communicated regarding both the status of Plaintiffs' records inspection requests and Eddie's intention as majority shareholder to remove one or both Plaintiffs from the Board of OOG. (First Monroe Aff., Exs. 1, 3, ECF No. 10.2.)

29. Concerned that an independent person might be needed to oversee the special committees' investigation, Plaintiffs noticed a second special meeting of the Board of each company to be held on 24 October 2023. (First Massengill Aff., Exs. 1-2, ECF No. 10.3.) Shortly thereafter, Eddie gave notice of a special shareholders' meeting for each company to be held on 6 November 2023. The notice for OOG stated that the purpose of the meeting was "the removal and replacement by election of one or more of the current Directors of the Company." The notice for OOS stated that the purpose of the meeting was "the election of one or more Directors of the Company." (First Massengill Aff., Exs. 8-9, ECF No. 10.3.)

30. Plaintiffs commenced their special Board meetings on 24 September 2023 over Eddie's objection. They allege that resolutions were passed authorizing the filing of a motion pursuant to N.C.G.S. § 55-7-44(f) for a court-appointed individual to "oversee the Special Committee(s)' investigation and to determine whether there are meritorious claims on behalf of the Corporation that should be brought, derivatively against Eddie Ormond." (First Massengill Aff., Exs. 3-4, ECF No. 10.3.)

31. This Motion followed. At the hearing on the Motion, both counsel for the Ormond Companies and counsel for Eddie represented to the Court that the records requested by Plaintiffs, both individually and on behalf of the special committees, were being compiled and would be produced. Defendants complained that they had not been given sufficient time to respond to the requests, which they considered to be extensive, but they did not otherwise object to Plaintiffs' authority to inspect the records.⁵

32. Since the hearing, counsel for both parties have updated the Court regarding the status of the inspection requests. While records were produced on 7 November and again on 22 November 2023, and although it appears that Defendants

⁵ See Defs.' Resp. Opp. Pls.' Mot. Injunctive Relief, and in the Alternative, for the Appointment of Independent Person to lead Special Committee(s) and Make Certain Determinations on Derivative Claims ["Defs.' Br."] 1, ECF No. 17 ("Defendants have agreed to provide the documents that have been requested."); First Wiggins Aff. ¶ 20 ("All the documents requested by Sherry and Ginger through their attorney will be provided as they always would have been . . ."); Aff. Eddie Ormond ¶¶ 67, 78a. ("The companies should produce and will produce all records that exist and can be located."); Second Aff. of Fred Monroe ["Second Monroe Aff."], Ex. C, ECF No. 26 (emails from Defendants' counsel concerning the production of documents stating "We have not withheld anything. We do not plan on 'withholding' anything."). Eddie does, however, object to Plaintiffs' allegation that they are directors of OSS, as stated above.

are continuing efforts to produce records, it is clear that some records for each company have yet to be produced. [(Aff. Shawn Wiggins [“Second Wiggins Aff.”], Ex. A [“Redlined Summary Chart”] ECF No. 25.)⁶

33. Defendants admit that they have not produced all requested documents. They promise to produce the balance of the Quickbooks records by 1 December 2023, and they have made efforts to replace bank records that were destroyed in a flood. They expect to receive bank records by 15 December 2023. (Second Wiggins Aff. ¶¶ 35, 37-39.)

34. In addition, Plaintiffs contend that other records remain outstanding, including both Ormond Companies’ (1) minutes, resolutions, and bylaws; (2) financial statements from 2015 until the present and all annual statements of receipts and operating expenses; (3) promissory notes for underlying OOG and OSS loans; (4) October 2023 bank statements; (5) records of related party transactions including any leases either Ormond Company has with Eddie, Ginger, or other family members; (6) accounts receivable aging reports; (7) write-offs and credit memos; and (8) payroll registers. Plaintiffs also contend that they have not received any letters of intent or

⁶ In addition, on 17 November 2023, Eddie, through his counsel, sent notice to Plaintiffs’ counsel of special meetings of the Board of Directors of OOG and the Board of Directors of OSS scheduled for 22 November 2023 at 3:00 PM. The stated purpose of the special meetings was to rescind the formation of the Special Committee and its associated resolutions, including the hiring of a forensic accountant and the declaration of dividends. Plaintiffs objected to the special meeting of OOG’s Board of Directors on three grounds: (1) notice for the meeting was improper; (2) rescinding the special committee would improperly halt its investigation; and (3) the Board of Directors was without power to rescind any declared dividends. Similarly, the Plaintiffs objected to the special meeting of OSS’s Board of Directors because (1) notice to shareholders was improper; (2) notice should have been sent to the Plaintiffs; and (3) rescinding the special committee would improperly halt its investigation. (Second Monroe Aff. ¶¶ 6, 8, Exs. E, F, H; ECF No. 26.)

non-disclosure agreements from the New Hope Deal. Finally, Plaintiffs contend that they have not received any invoices, purchase orders, or receipts in connection with any improvements, renovations, or purchases of furniture regarding real estate held by OSS. (Second Monroe Aff., Ex. L, ECF No. 26.)

35. To date, although Plaintiffs allege that Eddie has engaged in self-interested transactions and diverted the Ormond Companies' corporate assets and opportunities, there is no evidence suggesting that either OOG or OSS is at risk of insolvency.

III. CONCLUSIONS OF LAW

36. A Writ of Mandamus is a court order “to a board, corporation, inferior court, officer or person commanding the performance of a specified official duty imposed by law.” *Morningstar Marinas/Eaton Ferry, LLC v. Warren Cnty.*, 368 N.C. 360, 364 (2015) (quoting *Sutton v. Figgatt*, 280 N.C. 89, 93 (1971)). The Writ is appropriately issued when “(1) the petitioner has a clear legal right to the act requested, (2) the respondent has a legal duty to perform the act requested, (3) performance of the act is ministerial in nature and does not involve the exercise of discretion, (4) the respondent did not perform the act requested and the time for performance of the act has expired, and (5) no alternative, legally adequate remedy is available.” *Id.* (cleaned up). See *Richardson v. Utili-Serve, LLC*, 2020 NCBC LEXIS 135, at *14 (N.C. Super. Ct. Nov. 17, 2020).

37. The North Carolina Business Corporation Act, N.C.G.S. §§ 55-1-01, *et seq.* (“Corporation Act”) provides qualified shareholders with certain records inspection

rights. *See* N.C.G.S. § 55-16-02. A qualified shareholder is a “person who has been a shareholder in the corporation for at least six months immediately preceding the shareholder’s demand for inspection of records or who holds at least five percent (5%) of the corporation’s outstanding shares of any class.” N.C.G.S. § 55-16-01.1(3). Sherry and Ginger are qualified shareholders of both OOG and OSS.

38. The Corporation Act also permits a qualified shareholder to file an action seeking to enforce his statutory right of inspection. *See* N.C.G.S. § 55-16-04(a)-(b); *Erwin v. Myers Park Country Club, Inc.*, 2021 NCBC LEXIS 66, at **10-11 (N.C. Super. Ct. July 27, 2021).

39. Shareholders’ rights of inspection are divided into two categories: (1) an absolute right to inspect some documents pursuant to Section 55-16-02(a); and (2) a qualified right to inspect other documents pursuant to Section 55-16-02(b).

40. Directors’ rights to inspect business records are broader. Directors are entitled to inspect and copy the books, records, and documents of the corporation “at any reasonable time” and “to the extent reasonably related to the performance of the director’s duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the corporation.” N.C.G.S. § 55-16-05(a).

41. In this case, Defendants have raised no objection to Plaintiffs’ assertions that they have the right to inspect the documents requested.

42. Accordingly, Plaintiffs' Motion for summary relief to permit inspection of the corporate documents requested on 20 September 2023, 27 September 2023, and 6 October 2023 is hereby GRANTED.⁷

43. By statute, if the Court orders inspection of documents demanded by a shareholder:

it shall also order the corporation to pay the qualified shareholder's costs, including reasonable attorneys' fees, incurred to obtain the order unless the corporation establishes that it refused inspection in good faith due to any of the following:

(1) The corporation had a reasonable basis for doubt about the right of the shareholder to inspect the records demanded.

(2) The corporation required reasonable restrictions on the confidentiality, use, or distribution of the records demanded to which the demanding qualified shareholder had been unwilling to agree.

N.C.G.S. § 55-16-04(c).

44. Likewise, the Court may order a corporation to reimburse a director for the director's costs, including reasonable counsel fees, incurred in connection with the director's inspection request. N.C.G.S. § 55-16-05(c).

45. Accordingly, Plaintiffs, as qualified shareholders of the Ormond Companies and as directors of OOG,⁸ may petition for the reasonable fees and costs incurred with respect to their various inspection requests.

⁷ Because no derivative claim yet exists, as Plaintiffs conceded at the hearing, Plaintiffs' alternative Motion for Appointment of Independent Person to Lead Special Committee(s) and Make Certain Determinations on Derivative Claims is premature and therefore DENIED, without prejudice. *See* N.C.G.S. § 55-7-44(f).

⁸ The Court defers a ruling as to whether Sherry and Ginger are entitled to petition for the fees and costs incurred with respect to their directors' demand to inspect the records of OSS because a determination of their vis-a-vis OSS requires a fuller record.

IV. CONCLUSION

46. For the foregoing reasons, and pursuant to sections 55-16-04 and 55-16-05 of the North Carolina Business Corporation Act, the Court **GRANTS** Plaintiffs' request for summary relief mandating production of the requested records for inspection and **ORDERS** as follows:

- a. The Ormond Companies shall complete the production of records requested for inspection, to the extent they exist and are in their possession, on or before 15 December 2023;
- b. The records produced shall be subject to the terms of the Consent Protective Order entered in this matter, (ECF No. 23);
- c. Each of the Ormond Companies shall file an affidavit with the Court no later than 22 December 2023, identifying the records produced and otherwise attesting to its compliance with this Order;
- d. Pursuant to Section 55-16-04(c), Plaintiffs may petition for fees and costs. Any such petition shall be filed by 22 January 2024 and shall be supported by affidavits and other materials sufficient for the Court to evaluate the request. Defendants shall have until 21 February 2024 to file any opposition to the petition, and Plaintiffs shall have until 2 March 2024 to file any reply.

IT IS SO ORDERED, this the 30th day of November, 2023.

/s/ Julianna Theall Earp

Julianna Theall Earp
Special Superior Court Judge
for Complex Business Cases