

1 STATE OF ILLINOIS
2) ss:
3 COUNTY OF C O O K)
4
5 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
6 COUNTY DEPARTMENT - CHANCERY DIVISION
7
8 SHELDON LANGER, RONALD M.)
9 YERMACK, LANCE R. GOLDBERG,)
10 individually on behalf of)
11 themselves and all others)
12 similarly situated,)
13 Plaintiffs,)
14 vs.) No. 2014 CH 829
15 CME GROUP, INC., a Delaware)
16 Corporation; THE BOARD OF)
17 TRADE OF THE CITY OF CHICAGO,))
18 INC., a Delaware Corporation,))
19 Defendants.)
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23 REPORT OF PROCEEDINGS via videoconference
24 at the hearing of the above-entitled cause before
the Honorable Celia Gamrath, Judge of said Court,
at the Richard J. Daley Center, Room 2508, on the
31st day of May, 2022, at the hour of 11:29 a.m.

REPORTED BY: Margaret E. Mecklenborg, CSR
LICENSE NO.: 084-004495

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1 APPEARANCE:(Continued)
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1 APPEARANCES:
2 SUSMAN GODFREY, LLP,
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1 (whereupon, the following
2 proceedings were held in
3 open court via Zoom:)
4 THE COURT: Calling the Langer v. CME case.
5 Counsel for plaintiff, please, identify yourselves.
6 MR. MORRISSEY: Good morning, your Honor.
7 Steve Morrissey for the plaintiff.
8 MR. AGRAWAL: Good morning, your Honor. Suyash
9 Agrawal for the plaintiff.
10 MR. MILLER: Good morning, your Honor. Mark
11 Hatch-Miller for the plaintiff.
12 MR. CARULLO: Nick Carullo for the plaintiff.
13 THE COURT: Is that all we are expecting?
14 MR. MORRISSEY: Yes, your Honor.
15 THE COURT: Thank you. Mr. Hogan and Ms. Lape,
16 could you, please, identify yourselves?
17 MR. HOGAN: Certainly, Judge. Good morning.
18 Al Hogan of Skadden, Arps for the defendants.
19 MS. LAPE: Good morning. Marcie Lape for
20 defendants.
21 THE COURT: Thank you. We are here on the
22 continued motion pursuant to notice to the class.
23 The Court received your agreed proposal. I do have
24 some questions on it. First, I just want to make

4



1 sure it's agreed. Is that correct?
2 MR. MORRISSEY: Yes, your Honor.
3 MR. HOGAN: That is correct, Judge.
4 THE COURT: I have a question about page 6. So
5 page 6 at this point you are essentially asking the
6 Court to be the ultimate arbiter in terms of
7 whether I can allow others to opt out. Right?
8 This is something that we discussed last time you
9 were here but I want to ask you. Is there any like
10 standard that you envision the Court using? So in
11 other words, this is about the opt outs
12 post-August 19th deadline.
13 MR. MORRISSEY: Yes. Yes, your Honor. The
14 code does not give any guidance. It says properly
15 which I think leaves it to the Court's discretion
16 to assess whether any subsequent request for an opt
17 out is proper. Without knowing whether there are
18 any subsequent requests for opt out or what their
19 grounds might be, it's hard at this point to
20 envision whether there would be proper grounds for
21 an opt out. I can think of some that certainly
22 wouldn't be. If, for instance, there were a
23 settlement or judgment and someone tried to game
24 the settlement or judgment by -- to extract more

5

1 value by opting out for that purpose I think the
2 parties would agree that's an improper way for an
3 opt out. But if someone purchased a share,
4 diligently sought to opt out upon receiving notice
5 within, you know, a reasonable amount of time
6 commensurate to the amount of time that we had for
7 the initial opt out period, in that circumstance we
8 may all agree it's a proper opt out. But again at
9 this point we don't know whether there would be
10 anyone asking to opt out. We envision that a lot
11 of these people who are transferees will simply be
12 as a matter of family planning given the age of the
13 class and the likelihood that some members will
14 pass or will choose to put their shares into a
15 family trust for family planning purposes, a lot of
16 the transferees wound up being as between family
17 members and it's very, very unlikely that such
18 people would seek to opt out at all and this
19 protects their rights going forward.
20 THE COURT: What about the time length
21 requirements? So, for example, yes, this is saying
22 to allow opt outs post-August 19th but what if
23 there is a transferee, you know, in October and
24 they don't come to me to opt out until February?

6

1 Does the Court have discretion to say they're opt
2 out is untimely? Should we build in some
3 parameters so that there's at least an absolute bar
4 from it. Again I'm concerned about consistency too
5 in terms of what would the standards look like and
6 I don't want to be at risk of treating one
7 particular opt out different from the other.
8 MR. MORRISSEY: I would think that if the
9 request is more than sixty days after the transfer,
10 the default would be that it's not proper or timely
11 and that the person had constructive notice of the
12 presence of the class upon acquiring the share.
13 But I don't know that we need a bright line rule or
14 even guidance at this point given that we just
15 don't know where the search engine will arise or
16 how often it will and in conferring with the
17 defendants our conclusion was it was best to
18 address it case by case as it arises rather than
19 have more specific guidance. But if the Court
20 would prefer to set sixty days as a default, that
21 would be acceptable too.
22 THE COURT: Truly I don't think it would be
23 sixty because what is the time period now? It's
24 not sixty.

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1 MR. HOGAN: Your Honor, if I could, I think the
2 problem with setting any sort of definitive limit
3 is that there is no mechanism by which subsequent
4 purchasers will have formal notice of the case or
5 of their opt out period. And that --
6 THE COURT: Can we put in this class notice
7 that it would be incumbent on the transfer movant
8 to give any subsequent transferee or assignee that
9 notice themselves? In other words, you know, how
10 am I going to assess that? So somebody is sitting
11 on their hands. They've had this share. They
12 acquired and then they're like, oh, really, I never
13 knew about this until twelve months down the road.
14 I'm not going to start having mini trials about
15 credibility whether somebody was timely or not. I
16 think there needs to be a bright line rule.
17 MR. HOGAN: Your Honor, I think again coming
18 back a lot of this is -- is -- I tend to agree with
19 Mr. Morrissey. I think there's an intellectual
20 exercise thinking about what the Illinois code
21 requires by way of an opt out right. I don't
22 anticipate actually a lot of opt outs either
23 because they're a family -- a family transfer or,
24 frankly, historically over the last decade the

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1 majority of purchasers have been made by entities
2 excluded from the class because they're corporate
3 members. But in terms of a hard deadline, again
4 because there's no notice if we made it -- if there
5 was some sort of requirement -- I don't know how we
6 or frankly the Court could compel current owners to
7 provide such a notice to their transferees. And if
8 they failed to do so, I don't know from a due
9 process perspective that transferee would be
10 covered under -- under sort of what the opt out
11 requirement is under Illinois law. So the way we
12 thought about it and I hear your Honor's concern
13 with the open-ended nature of it. But we thought
14 that by giving folks still an opt out right that
15 the problems if they ever come at us and we
16 actually don't anticipate that they will then the
17 Court will be in the position to assess, how did
18 they acquire their share, what did they know, did
19 they wait -- as Mr. Morrissey said, did they wait
20 until after some meaningful development in the
21 case. We do think your Honor could look at all of
22 that and I think there would be a strong assumption
23 after thirty or sixty or ninety days but we -- I'm
24 reluctant to put a hard line rule on here because

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1 by the nature of these individuals holding seats,
2 trading seats, purchasing seats that's what they
3 do. They hedge bets and they come in and they move
4 out and they move the market and I think because of
5 this fundamental lawsuit I am particularly
6 concerned about that. And I think for good cause.
7 And so that -- that is just something I'm -- I
8 don't think I'm willing to approve and this
9 just -- you know, just general, Judge, we'll leave
10 it to you and use your discretion. Because if it's
11 one, two, three people, maybe and I can make sure
12 there's consistency but if there is a whole host
13 more and people try to start gaming this, I think
14 that is going to be a very dangerous precedence and
15 quite frankly just not fair to the Court and is
16 going to require more litigation, not less. And so
17 I leave you with that thought. Then I turn to
18 page 8 and another question. I'm not inviting
19 this. I'm just asking you what the intent is here.
20 If you're in the class, this -- if you're in the
21 class now and you have a successor to your share,
22 that too is in the class unless the Court allows
23 this opt out, right? And I just want to make sure
24 what's going to happen if somebody opts out. So

11

1 again we don't know what the facts are and those
2 folks will not receive any notice that we're able
3 to control.

4 THE COURT: So I appreciate you and
5 Mr. Morrissey both thinking this is testing no
6 claims. Perhaps it's purely for who comes next but
7 I will tell you just in my experience when, you
8 know, my antenna goes up, it says I need to ward
9 off litigation later and somehow the words convince
10 me that this is going to be a non-issue I end up
11 with sixty additional mini trials in my lap because
12 we didn't take care of things on the front end.
13 And again this is a complete hunt that says, well,
14 Judge, we'll just leave it to your discretion
15 without any framework, without any documents and if
16 somebody comes in and says I'm going to opt out and
17 there's no agreement between plaintiff and
18 defendant as to whether to go out or not, I'm going
19 to be having mini trials on this particular issue
20 that would require evidence and testimony. And
21 just -- and I don't have the same faith that you do
22 and I think this is just a remote possibility we're
23 not going to have these people trying to join in or
24 trying to opt out. I don't see it that way because

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1 right now somebody holds a share. They opt out.
2 They transfer it. Could that transferee get back
3 in?

4 MR. HOGAN: Not the way it's structured right
5 now, Judge.

6 MR. MORRISSEY: Right. Not after. It's
7 conceivable that a person who was in the class
8 would buy a share that was out. That wouldn't give
9 them an additional claim but that wouldn't lead to
10 their being required to opt out by virtue of buying
11 a share that was out. But they -- if someone -- if
12 someone is a stranger to the case, buys a share
13 that's out, they don't get in by virtue of buying
14 the share that was out.

15 THE COURT: Okay. So again. As of August 19th
16 of 2022 any person that has opted out that share is
17 opted out no matter who inherits that share, who
18 it's assigned to, who it's transferred to at any
19 moment in time. They are forever opted out?

20 MR. MORRISSEY: Correct.

21 MR. HOGAN: That's correct, Judge.

22 THE COURT: Okay. And is that black and white
23 in this?

24 MR. MORRISSEY: We believe so.

12



1 THE COURT: And so that sentence says if you're
2 included in the class and determined to opt out,
3 any future successor or transferee or assignee who
4 owns the membership at the time of judgment will be
5 likewise excluded from the class. Does that do it?
6 MR. HOGAN: I believe so, Judge.
7 MR. MORRISSEY: Yeah. We think so. That was
8 certainly our joint intent with that one.
9 THE COURT: I -- and so in that same paragraph
10 and this is towards the end of number ten. Right?
11 So we're looking and it says with the option to opt
12 out again -- and -- and truly I'm not looking to
13 complicate things for you all. I know you've
14 invested a lot of time and thought in this. But
15 you hear my concern. And I'm not sure how we
16 remedy that.
17 MR. HATCH-MILLER: well, your Honor, if I could
18 briefly address this. We did some research on this
19 point. I think you're expressing the same concern
20 before about folks asking to opt out later. And
21 ordinarily the law of assignment, succession of
22 rights in the class action context a person who has
23 transferred the right to be in a class action
24 lawsuit after notice has gone out that successor

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1 under just ordinary black letter principles of
2 assignment steps into the shoes of the predecessor.
3 So that's the -- that's the explanation why someone
4 who is an assignee of someone who did opt out is
5 then bound by the decision to opt out. That person
6 can obtain -- because of their predecessor's
7 decision to opt out, they obtain the right to
8 pursue a separate claim against the defendants
9 overlapping with our case. And the reason why
10 plaintiffs initially did not have a subsequent opt
11 out provision in our draft we did agree as a
12 compromise with defendants to the language in the
13 current version which is agreed we didn't think it
14 was necessary initially to put in anything about a
15 subsequent assignment because in federal cases in
16 analogous context the courts typically say someone
17 who purchased from an individual who did not opt
18 out is also bound by that decision. So they step
19 into the shoes of someone who chose not to opt out.
20 They're in the class. And ordinarily in that
21 circumstance you wouldn't expect anyone to ask to
22 opt out again because the courts will typically say
23 if you -- if you -- if you succeed to the rights of
24 someone who chose not to opt out then if you were

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1 to ask to opt out later, it's very possible indeed,
2 I think likely, the Court will decide that person
3 once they opt out they've waived any claim against
4 the defendants. And so that may be a practical
5 reason, your Honor, why the prospect of subsequent
6 opt outs it may be not only just unlikely -- it's
7 very -- I think it's highly unlikely that anyone is
8 going to ask to opt out because the likely effect
9 of that request is the Court could say, okay, I'm
10 going to allow you to opt out of the class, you're
11 not going participate but they won't get anything
12 in return for that decision because of their
13 succeeding to the rights of someone who chose to
14 participate in the class. Thereby gave up their
15 right to pursue the defendant separately. Why
16 would you ask to opt out if it doesn't get you the
17 ability to sue the defendants separately. So, you
18 know, we've agreed I think as a compromise with
19 defendants to put in this language about that the
20 Court could consider a request to opt out later but
21 our view is it's very unlikely that's going to
22 happen because you'd be basically asking the Court
23 to let you have a lawsuit but in all likelihood you
24 wouldn't be able to pursue a separate claim. So

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1 that's why we don't think there's any likelihood of
2 anyone asking for this relief. And in the federal
3 context the analogous cases which we found and
4 shared with the defendant, you know, courts looking
5 at post-notice requests to opt out directed to the
6 Court, the Courts typically say, well, you know, if
7 we let you opt out, you don't get -- you don't get
8 your own separate case anyway.
9 THE COURT: Is that true here? I'm not seeing
10 that as to that kind of effect. You're kind of
11 reviving this. And on page 9 says you have up
12 until the entry of judgment to ask to be excluded.
13 And so the new transferee gets this like unlimited
14 crazy amount of time to opt out whereas those who
15 sit in the chairs today have that limited window.
16 MR. MORRISSEY: As Mr. Hatch-Miller just noted,
17 the consequence of that decision which is well
18 established as a matter of federal law which
19 Illinois cases generally follow on class
20 certification decisions, the consequence of that
21 decision to opt out would be losing your claim
22 altogether in the federal law. There's no
23 reason --
24 THE COURT: Let me --

16



1 MR. MORRISSEY: There is no reason --
2 THE COURT: Let me just get correction on this.
3 So somebody has the right to opt out today. They
4 own a share. They opt out.
5 MR. MORRISSEY: Yes.
6 THE COURT: They don't lose their rights.
7 MR. HOGAN: That's right.
8 THE COURT: In other words, where in this
9 notice are they -- does it say you lose your
10 rights? You're forever barred from any relief of
11 any individual claim?
12 MR. HATCH-MILLER: So it doesn't say that.
13 It's just the only thing that's been added to this
14 notice from the previous draft in response to the
15 Court inquiry is something -- the defendants really
16 request was we need to have language to track the
17 statute that says you can ask the Court to opt out.
18 But I think what the plaintiffs are telling you is
19 we don't expect you will get any request to opt out
20 by transferees because under the law of assignment
21 the opt out decision is basically -- and this is
22 explained kind of repeatedly in the bold language
23 at the top of both notices. You can either choose
24 not to opt out in which case if you don't opt out

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1 you are in the class and your only prospect of
2 recovery -- you cannot pursue an individual claim.
3 Your only prospect of recovery is through the
4 class. If someone is then assigned the seat later
5 on, they can be in the class. They can ask to be
6 excluded. That will be a request made to the Court
7 in its discretion but they're very unlikely to make
8 that request because the likely consequence under
9 assignment principles is the person will
10 have -- they will not have obtained the ability to
11 pursue a separate lawsuit because they are the
12 successor in interest to someone who elected to
13 give up the right to pursue a separate lawsuit.
14 THE COURT: Okay. So this is just raising a
15 whole bunch of points because again if you opt out
16 of the lawsuit today, right, so once this notice
17 goes out if you opt out, you preserve those rights
18 to pursue individually? Correct?
19 MR. HATCH-MILLER: Correct.
20 THE COURT: Okay. So now this successor in
21 interest who has this new right of opt out what
22 plaintiffs and defendants have envisioned is to say
23 you could still opt out but if you do, you're
24 barred from that opt out of the lawsuit provision.

18

1 MR. HATCH-MILLER: We're not asking --
2 MR. MORRISSEY: We're not saying that.
3 THE COURT: You can opt out but you don't get
4 any rights to sue defendants at your own expense.
5 Is that correct?
6 MR. MORRISSEY: We're saying they can request
7 to opt out. We're not saying they can opt out.
8 THE COURT: I understand that. But if they
9 request to opt out and I let them out --
10 MR. MORRISSEY: Yes.
11 THE COURT: -- do they get their own rights to
12 sue defendants because I am now granting this right
13 to opt out and the general rules of opt out say you
14 opt out, you opt out timely and then you do
15 preserve those rights to sue defendants. So that's
16 what I wanted to make really clear. I agree with
17 you. If somebody says, well, then what's the
18 benefit of opting out if you're going to get
19 something or not. I'm not just going to opt out if
20 I don't have the right to sue individually. I
21 understand that. But if somebody is given leave to
22 opt out of court, I think with that then it has
23 certain rights unless I am hearing plaintiffs now
24 say everything is a direct share claim and then

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1 this gets to the whole class certification concern
2 that defendants had in the first place about how do
3 we exclude all these various class if this follows
4 the share versus personal claims that do not
5 transfer with the share. So if somebody was -- you
6 know, like a colocation fee. Right? That's a
7 personal claim. If somebody purchases or is a
8 transferee of a share that had that personal claim,
9 that new person didn't really suffer any personal
10 damages. I don't see how they would get to recover
11 just based on that share or that character.
12 MR. MORRISSEY: I don't think that's -- that's
13 certainly not our position, your Honor. That's not
14 a position the Court has taken or even has been
15 litigated. What's -- whether the claim for
16 colocation fees in retrospect would be a personal
17 claim or a direct claim that travels with the
18 share. The general law in Delaware is that claims
19 by shareholders for breaches of corporate charters
20 even if they include claims for monetary relief as
21 they do here travel with the shares and go to the
22 subsequent owner of the shares. So we don't need
23 to address that issue today. That's the general
24 principal in Delaware. That's our damages model

20



1 that the monetary relief that would come in the
2 form of whatever would have been paid as a result
3 of the hypothetical negotiation or whatever moneys
4 would have flowed to these shares in the form of
5 dividends as a result of that hypothetical
6 negotiation those amounts we contend and defendants
7 have contended that are direct claims that travel
8 with the share such that they belong to the class
9 members. But back to the issue of opting out,
10 there's an initial opt out period. Anyone who opts
11 out during that period can bring their separate
12 claim. The question here is if someone doesn't opt
13 out after that period and obtains a share somehow.
14 There's been publication notice. There's been
15 notice to CME members through the process that the
16 CME is using. Someone obtains a share. Should
17 they have an additional right to opt out. The code
18 says you can opt out if it's a proper request. We
19 would contend that if it's some request that comes
20 after the class period that as a general rule
21 there's -- there's no reason that someone should
22 have a subsequent right to opt out. But again it's
23 hypothetical at this point. We don't know that
24 it's going to happen but we would also contend and

21

1 puts -- you know, makes it easy because to your
2 point then who's going to opt out. Probably no
3 one.
4 MR. HOGAN: But, your Honor, Mr. Morrison may
5 be shocked but I actually don't agree with that
6 proposition in terms of what the subsequent
7 purchaser's rights would be. The rule depends on
8 where this case goes and what kind of claims
9 actually go forward and what the damages model are.
10 But our view is that the case law that
11 Mr. Hatch-Miller discussed that are sort of a
12 federal precedent are all related to federal cases
13 or cases where the nature of the claims aren't like
14 the nature of the claims that appear to be being
15 put forth here. These claims appear to be the kind
16 of claim that travel with the share. I think your
17 Honor hit it exactly on the head. Depending on how
18 the claim is framed or what the theory of loss is,
19 this could either be a personal claim that attach
20 to a member because they got in a point in time
21 they shouldn't have or it's a claim that attaches
22 to the share. The monetary damages case I think
23 Mr. Morrissey referenced are when all the shares
24 are harm equally and they have the same entitlement

23

1 I'm 100 percent sure that CME would make this
2 argument that if someone did try to bring a
3 separate subsequent case after opting out that they
4 would be barred from doing so as a result of having
5 chosen not to participate in the class action
6 because the case law says that if you're a
7 transferee and you opt -- and you try to bring some
8 separate claim later that it's barred by your
9 choice of not participating in the class action.
10 So I think it would be --
11 THE COURT: So if everybody agrees that that's
12 the law, I want that in the notice because then
13 that's really easy. All I need to tell somebody
14 who wants to opt out is to say, sir, ma'am, I will
15 allow you to opt out if you understand that by
16 doing so you will not be allowed to request a
17 payment and you lose any potential right to sue
18 defendants at your own expense with your own
19 attorney and so forth.
20 MR. MORRISSEY: We would be happy to put that
21 in the notice and our last proposed compromised
22 draft have that language.
23 MR. HOGAN: Your Honor -- Judge --
24 THE COURT: Mr. Hogan, again that really

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1 to a monetary payment. That would not be the case
2 with respect to colocation fees or transaction
3 fees. Those are personal claims. As to the direct
4 claims that transfer with the share that's where
5 Delaware law says and we think that's what these
6 claims are being pursued. We have a unique
7 circumstance in this case that we are in Illinois
8 and it makes it clear that class members have a
9 right to opt out. And that's what we're trying to
10 solve for. I believe that if someone properly opts
11 out whether that's through this notice period or a
12 subsequent acquirer that they properly opt out. I
13 know that's the route because we don't know how to
14 define that. Those people under Illinois law what
15 that statute is trying to do says that their rights
16 are preserved. So I don't think --
17 THE COURT: That's exactly how I envision it
18 which is why I think that people might be more
19 active in this post opt out period that would lead
20 to all these mini trials that I was concerned about
21 in the first place because if I allow somebody to
22 opt out, that's me approving it, giving my seal of
23 approval of this proper opt out. And with a proper
24 opt out as I understand the law in Illinois, you do

24



1 keep your rights to sue. what's different
2 certainly is if somebody misses the boat to opt out
3 and they're a shareholder today and they miss that
4 August deadline, if they come to me in October and
5 say we should have opted out, they lose their
6 rights. That's clearly resolute. They're done.
7 They cannot come back after defendants. But if
8 there is somebody new to the party and I approve
9 their opt out then with that I think kind of
10 revives certain rights within that -- you know,
11 that share. And that is a concern for me. And
12 that's why I'm saying if somebody agrees, hey,
13 you're barred forever, let's put it in here. Let's
14 say that that's what it is. But defendants don't
15 agree with what plaintiff's rendition of the law is
16 at least for Illinois purposes.
17 MR. HOGAN: Your Honor, may we -- maybe I can
18 try this. I think we're now trying to sort of work
19 out the practical problem here. I think
20 what -- and what we have been pushing and certainly
21 we tried to work with the plaintiff to solve for
22 what we believe is that opt out right in Illinois.
23 I'm honestly not doing that out of the goodness of
24 my heart. I want to make sure that at the back end

25

1 of this we have -- we actually minimize challenges.
2 we minimize people saying, oh, I'm not bound by
3 this case because I didn't have an opt out right.
4 That's why it's important for subsequent acquirers
5 to have the opt out right. Maybe what we should
6 think about and Mr. Morrissey mentioned the
7 publication notice. That's helpful. That can go a
8 long way for due process rights and maybe the
9 plaintiffs on their web site can have some verbiage
10 in terms of what subsequent transferees what they
11 need to do by way of proper requesting an opt out.
12 Maybe current shareholders should be encouraged
13 through this notice or through the plaintiff's web
14 site to pass along the opt out opportunity to their
15 transferees. Do everything that we can to put it
16 frankly the presumption is if a new purchaser
17 doesn't come in within thirty days the presumption
18 is they will lose their opt out right. But I am
19 concerned -- I am concerned and I know your Honor
20 doesn't want to have the mini trial but I'm
21 concerned if you cut it off today and you make an
22 absolute bar that someone is going to come in on
23 the back end and they're going to say, hey, I'm
24 staring at the Illinois statute and I never had

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1 this right. I think your Honor has a lot of
2 discretion and I think if we make it to where there
3 are -- there's information around this issue that a
4 subsequent acquirer is going to have to grapple
5 with then if someone comes in and we could subject
6 to the plaintiff's agreement we could even say
7 there's a presumption that after thirty days or
8 sixty days you lose that opt out right. But if
9 they don't have some mechanism to come in to say I
10 have a good reason, I'm worried that there's a due
11 process problem on the back end. That's what I
12 want to avoid. I think it's very strongly worded.
13 They've had --
14 THE COURT: Let me ask you. When these shares
15 are transferred, does CME have to approve it or do
16 they have to get notice of it?
17 MR. HOGAN: I'm sure the CME gets notice of it
18 and I think the CME actually it goes through the
19 membership classes.
20 THE COURT: So somebody who -- whose family
21 member passes down the share how does that work?
22 You know, it's not like a family member's wedding
23 ring that just ends up on the finger. Right? So
24 what happens with these shares because again maybe

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1 there can be a tracking of that system where this
2 is given to every new person some notice that says,
3 hey, there's this action pending. And I'm not
4 saying whether you are a class member or you're not
5 a class member but there's this action pending and
6 if this share is in the class then you should know
7 you have this thirty-day window to opt out.
8 MR. HOGAN: Judge, the difficulty -- we did
9 think about that. Was there some way that we could
10 have a systematic tracking and notice. And
11 honestly the idea that some shares are in the
12 class, some shares are out of the class, we don't
13 have perfect visibility at the time of transfer as
14 to whether someone opted in or opted out.
15 THE COURT: And I would not put the notice on
16 CME. I'm not saying that. I'm just asking how
17 soon do you get notice of the transfer of these
18 shares? Are the shares just transferred
19 automatically and then we tell you later or does
20 CME have to approve the transfer, put it in
21 somebody else's name before it takes effect because
22 if there's some agreed upon sort of form that goes
23 with everything, every share that's transferred
24 whether they're clearly out of the class or in the

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1 class that says this is your moment in time, you're
2 now a member or proper -- yeah. You're now a
3 member and with that comes some responsibilities.
4 And in the form packet how is this formed. CME is
5 not taking responsibility to ensure who is a member
6 of the class or not. CME is just giving the form
7 that says there's this class action going on. This
8 share may or may not be a part of it. If it is,
9 you have thirty days to opt out.
10 MR. MORRISSEY: Your Honor, just you said it a
11 few times. And I'm not quite sure why. You said
12 that the transferee would have thirty days to opt
13 out upon the transfer. I don't understand why
14 someone who receives a share with actual or
15 constructive notice of the fact that it's in the
16 class would have any additional opt out period or
17 that any opt out request made subsequently would be
18 proper. And our position is that it wouldn't be.
19 And there's nothing in the Illinois law or any
20 other case law that would suggest you get a second
21 opt out right if you obtain a share with actual or
22 constructive notice that it's CME class.
23 THE COURT: I'm sorry. But I thought that the
24 whole discussion and the whole point of this today

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1 is to make sure that successors get a right to opt
2 out post-August 2022.
3 MR. HOGAN: Not at all.
4 MR. MORRISSEY: It's they have a
5 request -- they have a right to make a request.
6 That's it.
7 THE COURT: Yes. Okay.
8 MR. MORRISSEY: They don't have a right to opt
9 out. There is nothing --
10 THE COURT: This notice would say this action
11 is going on. Their share may or may not be a part
12 of it. If it is, you have thirty days or sixty
13 days or whatever it is to request an opt out if you
14 want to opt out and then you use that language that
15 says the Court may or may not grant it. But what
16 you're doing is giving people notice of this
17 potential right and it may be overkill. Somebody
18 may -- you may be giving these notices to lots of
19 people who aren't a part of the class. But if you
20 give it to one person whose share is a part of the
21 class then with that you are giving that notice
22 provision that says -- you know, that falls on
23 page 6 that same language you're just giving
24 notice. That if this share -- if you are a

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1 transferee of this share that is a part of the
2 class, you may ask the Court to exclude you from
3 the class within however many days. This up until
4 the point of entry of judgment scares me. I'm not
5 really comfortable with that. I think that there
6 should be a window. And I think definitely no more
7 than sixty days but I think more like thirty days
8 or up until the entry of judgment whichever is
9 shorter.
10 MR. MORRISSEY: So thirty or sixty days after
11 the transfer or through the entry of judgment,
12 whichever is shorter? Is that what you're
13 suggesting?
14 THE COURT: Yeah. Again just trying to talk
15 this through so that -- to address Mr. Hogan's
16 concern that defendants are concerned, you know,
17 that people are going to say, oh, wait, I didn't
18 have a way to opt out or I didn't know about it and
19 the Court's concern is that I'm going to get all
20 these belated requests to opt out on the eve of
21 judgment when people start getting notice of
22 preliminary approval or final approval.
23 MR. HATCH-MILLER: Judge, to be clear, we did
24 not mean for this to create -- to encourage anyone

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1 to opt out. Our view in reaching this compromise
2 with CME's counsel was we looked at analogous cases
3 from the federal context where the notice doesn't
4 say anything about, you know, a subsequent opt out
5 right but the reality is that sometimes transferees
6 will still ask the Court to opt out and they'll say
7 I didn't get notice. You know, it's not fair for
8 me to be excluded. And then the Court makes a
9 decision. Right? Typically the Court will say
10 there was an opt out period --
11 THE COURT: In all the good cases -- let me
12 just stop you because we're going to the same
13 thing. In all of those cases those -- those people
14 are barred. They then have given up their right.
15 Correct?
16 MR. HATCH-MILLER: Correct. And in our view in
17 all likelihood that we were not trying to prejudice
18 that question through this notice. We did not
19 agree that Illinois law is any different from any
20 other jurisdiction in that typically under the law
21 of assignment if you are an assignee or transferee
22 of someone who is only -- who was -- who chose to
23 participate in the class action, decided not to opt
24 out that you're bound by that decision. But there

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1 are still some exceptions sometimes where folks
2 will ask a court to -- to let them pursue a
3 separate claim and the Court considers those
4 requests case by case. Typically they're very rare
5 requests and they're usually rejected. All we're
6 trying to do with this language as a compromise
7 with defendants is recognize that someone can make
8 a request to the Court and that we're not trying to
9 prejudice at all the outcome of it. Although I
10 think as Mr. Morrissey and I both explained, we
11 expect that unless there are very, very unusual
12 circumstances presented to you that these late opt
13 out requests would typically be rejected.

14 THE COURT: And, you know, you've all done the
15 research. I don't have the benefit of that. And
16 that's why I asked you my first question. Is there
17 a standard for me to use? And you kind of said,
18 well, it's within your discretion. Well, what
19 factors would I be looking at. Has anybody
20 articulated this in all the research you've done?

21 MR. MORRISSEY: well, one factor would be does
22 this person -- did this person obtain their share
23 with actual or constructive notice that it was in
24 the class?

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1 THE COURT: Okay. So again evidence, hearing
2 on credibility and, you know, we're not talking
3 about -- you know, we're talking about a very large
4 class and the way you have this written it says up
5 until entry of judgment. I don't have to remind
6 you how many years old this case is and how many
7 years it has to go.

8 MR. MORRISSEY: Your Honor, the up to entry of
9 judgment is just because shares can change hands up
10 to the entry of judgment. I don't know that we can
11 do anything about that fact. The size of the class
12 it's really not that large. It's several thousand
13 people. These are edge cases of transfers. The
14 core of the class is going to stay the same. They
15 are people who are seeking damages who have been
16 members throughout. They're going to be members
17 until the end. They want to get their trial and
18 they want to get damages. But there will be some
19 transfers. And for most of those people they'll
20 choose to stay in the class because they too would
21 want to be in the class. And a lot of them people
22 who buy up other memberships as Mr. Hogan said the
23 most common circumstance for someone who buys a
24 membership they're a corporate member. They

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1 automatically fall out of the class when they buy a
2 membership. Another circumstance would be someone
3 who is already a trader who decides to buy another
4 membership. Well, they already got notice as a
5 result of their first membership. So then you have
6 someone who chooses -- who's a stranger to CME
7 decides to buy a membership for whatever reason,
8 maybe they want go into the industry and then they
9 want to opt out of the case for who knows why.

10 It's difficult to imagine that happening very often
11 but if it does, we'll -- they'll have constructive
12 notice through the web site, through the
13 publication. Maybe CME could do something further
14 through membership services where upon the request
15 for the transfer of the membership there will be
16 some notification that, hey, this share is part of
17 a class and take that into account when you're
18 deciding to go through with this transaction. We
19 can confer with counsel about whether that would be
20 a possibility. That would be another way of
21 minimizing this already very small risk that there
22 will be a lot of additional opt out requests. But
23 other than that, I'm not sure what further we can
24 do because it's -- it's a problem that we think

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1 will be very, very small and without knowing
2 whatever particular facts and circumstances there
3 are surrounding the particular request it's hard to
4 assess it in the abstract.

5 MR. HOGAN: Your Honor, for what it's worth
6 obviously you can hear there's points of
7 theoretical disagreement about the nature of the
8 claims and what the rights are but I do agree with
9 Mr. Morrissey and I know some of this is a group of
10 lawyers saying trust us. I do believe this problem
11 is largely theoretical. I'll come back to a
12 suggestion I made before is that if we build into
13 this notice some presumptions. I -- I don't know
14 about what -- you know, what CME can do. Certainly
15 in terms of ongoing monitoring I'm very concerned
16 about that of these sort of status notices. We may
17 be able to do that. The plaintiff may be able to
18 do that on their web site where it will put -- it
19 will put the strong burden on a new purchaser
20 coming in after a certain short period of time.
21 The burden will be on them to explain why they
22 didn't come forward sooner. I think we can get
23 there and with that sort of burden in place and
24 maybe described in the notice. We're now talking

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1 about a theoretical problem that should go to zero.
2 MR. HATCH-MILLER: Let me follow up, Mr. Hogan,
3 to add something that maybe will close the loop on
4 this which is we've got -- I think you referenced
5 before our web site -- the CME lawsuit web site.
6 We can put a page on it or a tab about transferees
7 come to obtain shares after this date with just
8 some short language in it. We know CME sent out
9 periodic member communications at various times to
10 the membership holders by e-mail or maybe
11 physically as well. It's possible they could issue
12 periodically, you know, every three to six months
13 or whatever for some period of time an e-mail
14 notice if you obtained a share within the last
15 thirty days, you know, you may need to consider
16 whether you exercise -- whether you request to opt
17 out. If we did those two things and also put, you
18 know, a sentence or two in the same part of page 6
19 of the notice that you just referenced, your Honor,
20 that says, you know, transferees may ask the Court
21 for permission to opt out. There's a statute that
22 says a proper opt out request would be honored.
23 But the Court is -- has indicated, you know, during
24 a hearing --

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1 THE COURT: No. No. No. That's just
2 too, too complicated. It just needs to be here's
3 what it is. There's this lawsuit. The rights are
4 defined within it. You got this window. And if
5 you want to put in some factors that make it -- you
6 know, build in this presumption of notice so that
7 there is a stronger burden placed on the
8 transferee, that's fine with the Court but we're
9 not going to start opining that the Court has
10 already indicated you're not going to be able to
11 opt out or you will be able to opt out. But I --
12 you know, I just -- my sense tells me if I give a
13 new person -- so again not somebody who's a
14 shareholder today and didn't timely exercise their
15 right to opt out. If they come to me later, I will
16 say yes, you can get out but you understand that
17 you don't have any claims against defendant. My
18 concern is with the new people. If I give my stamp
19 of approval to opt out, I think that that is with
20 some rights that they might have to go against
21 defendants separately.
22 MR. MORRISSEY: But that information would be
23 made -- if the person brought whatever case they
24 brought, that information would inevitably be

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1 brought by whatever judge has that case and
2 whatever jurisdiction.
3 THE COURT: Well, that's absolutely true,
4 Mr. Morrissey, but it would all stem because
5 Judge Gamrath approved a notice provision and
6 didn't consider what happens with these transfers
7 later down the road. And, you know, that's not --
8 MR. MORRISSEY: Right.
9 THE COURT: -- the way I want it to work.
10 MR. MORRISSEY: I understand. It's minimally a
11 risk that someone is choosing to seek to opt out
12 would have to take on and it's advising people of
13 that risk could be a further way -- you know, one
14 of the factors that people should consider in
15 making a request.
16 THE COURT: And then I do want to get back to
17 one of the issues that I thought long and hard
18 about and struggled with in all candor in this
19 class certification motion and that was the
20 distinction between those claims that ride with the
21 share and those personal claims. And so I don't
22 want any transferee to fall into this false sense
23 that they automatically are going to get the same
24 dollars that the original shareholder would have

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1 gotten when they didn't suffer the same personal
2 claim. I'm not deciding that certain ones are
3 personal or not but they sound in it. They sound
4 in it. So that's going to affect damages. So I
5 don't -- so I want to address that too and not lead
6 people to think that it's been predetermined or
7 decided that every single shareholder is going to
8 get the same amount of damages.
9 MR. MORRISSEY: I don't know how to -- how we
10 could address that in this notice. It's not an
11 issue that's been keyed up in the case. It's
12 not -- certainly not a point that plaintiffs agree
13 with. And it's not an issue that will be addressed
14 by your Honor most likely in the case. So given
15 all of those factors, I'm not sure it's something
16 that we should delve into in the notice form. But
17 as we stated, the general principle in Delaware is
18 that claims including claims for monetary relief
19 travel with the share when the claim is based on a
20 breach of a corporate charter such that a
21 transferee would be entitled to the same monetary
22 relief as every other class member and the damages
23 would not vary from one class member to another.
24 Now defendants may well make an argument that

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1 that's not the case and that for whatever reason
2 the damages may vary from class member to class
3 member. They have not made that argument yet. And
4 if and when they do, we'll respond to it.
5 MR. HOGAN: Your Honor, I'm silent because the
6 reason why we haven't made the argument is because
7 we haven't seen the damages. I'm sure there is
8 going to be lots of discussion about the damages
9 model that are picked. I will say depending on how
10 you frame a case like this the claims are either
11 direct and accrue to all shareholders equally or
12 they are personal -- personal and they accrue to
13 individual shareholders based on facts and
14 circumstances around the alleged breaches. We just
15 don't know yet. There's a tension between
16 Mr. Morrissey and I but I think we're in agreement
17 that I don't know how we address that at this
18 point.
19 THE COURT: So getting back to number three on
20 page 6. This language that says transferee
21 assignees after July 17th will not be sent separate
22 notices with additional opportunities to opt out
23 but they may ask the Court to exclude them at any
24 time prior to the entry of judgment provided that

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1 the request is properly made. And that just seems
2 like --
3 MR. HOGAN: Judge -- Judge, we looked. We
4 tried to understand what Illinois law -- how
5 Illinois law would interpret that and the question
6 you asked a little bit ago what are the standards.
7 We couldn't find any case law that actually deals
8 with it. We think that the best reading of the
9 word properly would be that it gives your Honor
10 discretion. I would think about it as a for good
11 cause shown standard after a certain point in time.
12 The reason why we said that there will not be
13 additional notice given is frankly just the
14 administrative difficulty with that.
15 THE COURT: Yes. Yes. I agree with you but
16 that's why I'm saying is there any way that we can
17 make it so that, you know, it would be -- somebody
18 would be hard pressed to say they have no knowledge
19 of this. Right? And that they knew or should have
20 known it seems to me and that constructive notice.
21 So yes. Plaintiff could put it on their web site.
22 Defendants, is there anything that you could do
23 where there's just like, you know, a form that goes
24 up in a packet to every new transferee that, you

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1 know, tells them about this. You know, nothing in
2 here says it needs to be prompt or it needs to be
3 timely. It just says you have until the day before
4 judgment, the morning of judgment. You can run
5 into court. And if I'm a layperson, I may, you
6 know, plead at the court's mercy and say, Judge, it
7 said it has to be properly made, here's why it's
8 proper. They'll give me their explanation and you
9 said I had until prior to entry of judgment. So I
10 had no reason to think I had this thirty days,
11 sixty days. I know I didn't come in for two and a
12 half years but that's what you said I could do.
13 MR. MORRISSEY: Your Honor, would it help if we
14 added immediately prior to the last sentence of
15 three a sentence that says in considering whether
16 any subsequent opt out request is proper, the Court
17 may consider the following factors and then have
18 several bullet points like whether the request was
19 made timely, whether the transferee had actual or
20 constructive notice of the pendency of the class?
21 Maybe Mr. Hogan can think of any additional
22 factors. Those are the two main ones that lead to
23 mind.
24 MR. HOGAN: Yeah. I will even suggest will

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1 consider.
2 MR. MORRISSEY: Will.
3 MR. HOGAN: And we can come up with language
4 that steps on that time language of the feature for
5 the Court's consideration.
6 THE COURT: I think it should say something
7 like provided a timely request for exclusion as
8 properly made so that it needs to be timely. But
9 again this is probably more for the benefit of my
10 colleagues who at some point this case will be
11 transferred out and they might be the ones who have
12 to deal with this. And again I think I show care
13 with my good reputation and I want to keep it and
14 not have my colleague say what did she leave me
15 with. And I say that of course with a little humor
16 but that's the reality. It's important that we
17 give some guidance to those who might exercise this
18 right and for the future judge who is going to need
19 to make a head or tails of what was intended here.
20 Judges change. Lawyers change. I think putting
21 some structure in place would be very important.
22 MR. HOGAN: Again, Judge, I think along the
23 lines of Mr. Morrissey I was looking at the same
24 place. I think that we could talk to Mr. Morrissey

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1 and his team and come up with some language that
2 really does in essence place -- and I'd even be
3 happy, you know, suggesting time limits.
4 Suggesting thirty days and suggesting that, you
5 know, timeliness and notice and constructive
6 notice, actual notice to where really anybody
7 coming in after a short period of time has got a
8 real burden to establish why. And again I come
9 back to with that burden in place plus the
10 theoretical nature of the opt outs I think -- I
11 think your reputation would be in fairly safe
12 hands.
13 THE COURT: I think that you should also cross
14 reference it with number ten which is on page 9
15 just to make sure that they're consistent.
16 MR. HOGAN: I follow you, Judge. I see it.
17 MR. MORRISSEY: Yes.
18 THE COURT: So ground rules. If you are in the
19 class today and you opt out, you never could come
20 back in. And your future successor transferee or
21 assignee can never get back in. Correct?
22 MR. MORRISSEY: Correct.
23 THE COURT: If you are a member today and you
24 don't opt out, then you're in for good post-August

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1 of '22. If you come to court and ask to get out,
2 you can but that would be read to cut it at that
3 point. But you'd be giving up your right to sue
4 defendant for these same claims. Correct?
5 MR. MORRISSEY: Yes.
6 THE COURT: Okay. But if you are an assignee
7 then you could ask to opt out after August up until
8 the time of entry of judgment and you need to do so
9 timely and you need to do so properly and we're
10 going to work some factors around for the Court to
11 consider in its discretion. And then, you know,
12 again maybe somebody else will decide this issue
13 but my sense is if you are a new assignee
14 transferee and the Court allows you out, you might
15 have the ability to go after defendant still. I
16 could be wrong on that. But that's just my concern
17 and that's why I'm spending so much time on it.
18 Because it's treating opt-out people differently.
19 And again we've talked about this too. The Court
20 is concerned about gamesmanship. And Mr. Morrissey
21 has acknowledged. Like, Judge, you know a lot of
22 these people are going to be transfers and they're
23 going to stay in. They're not going to want to opt
24 out. But we don't know that. And if somebody

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1 wants to game the system and for whatever reason
2 say you know what, I do want to opt out and I want
3 to go on this on my own so I'm going to transfer
4 this to my eldest daughter and let her timely and
5 properly exercise her right to opt out and then
6 we're going to go on our merry way and sue from a
7 different angle. It can be a hypothetical and may
8 be totally speculative but like you I've been doing
9 litigation for a very long time and I'm trained to
10 sort of think ahead in worst-case scenarios and
11 sort of work them up.
12 MR. HATCH-MILLER: Yeah. I think that we
13 wanted to highlight for you today and we've raised
14 this with defendant several times is the default
15 rule in a class action is transferees are bound by
16 whatever the predecessor did and so it should be a
17 pretty heavy burden for someone coming to the Court
18 asking to opt out later. And so the word proper to
19 us the word proper request in that -- you know, it
20 has real teeth that you're going to have to really
21 make a significant showing that there's some reason
22 you should be treated differently than the ordinary
23 rules of assignment which is the class is set on
24 this date, you either opt out or you didn't and

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1 your transferees and successors step into your
2 shoes.
3 THE COURT: And so I hear you. And we're
4 dealing with this because Mr. Hogan is concerned
5 about it with Illinois law. And if he
6 thought -- it doesn't really matter. Yes. Give
7 them the right to opt out but if they opt out then
8 they're forever barred against defendant if he
9 agreed with you that that's undisputedly the law, I
10 don't think we'd be spending so much time on this.
11 Mr. Hogan, correct me if I'm wrong but I think
12 that's why we're spending so much time on this.
13 MR. HOGAN: You're exactly right. I think
14 Illinois statute is different. I think the typical
15 law of assignment may or may not apply to the
16 claims that are put forward here. We don't know
17 that. That's my concern.
18 MR. HATCH-MILLER: And I think we
19 definitely -- we don't agree with their reading of
20 the statute that it creates a perpetual opt out
21 right that's different from any state but we agree
22 to include this provision as a compromise to get
23 this over the line. We think that, you know, if
24 there are questions that arise later on about

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1 whether someone can opt out, whether
2 that -- whether the person who opts out those are
3 going to have to be dealt with later and I don't
4 think it's possible for the Court to avoid the
5 possibility however remote that there may be some
6 of those but our expectation given the practicality
7 of the situation and as Mr. Morrissey said, you
8 know, this is a class of a few thousand people.
9 It's not like a consumer class with hundreds of
10 thousands that it should be relatively manageable.
11 Especially if we put some guidance as you've
12 suggested into this notice about the circumstances
13 under which someone might again treat it and kind
14 of again allowed to have another chance.
15 THE COURT: So, Mr. Hogan and Mr. Morrissey,
16 are you in agreement that you work together to
17 address some concerns here today that in modifying
18 page 6 and -- is it page 8 or page 9?
19 MR. HOGAN: Page 9.
20 THE COURT: Page 9 with respect to number ten
21 and number three.
22 MR. MORRISSEY: Yes, your Honor. I think we
23 can work together to do that over the next couple
24 of days. I think we're all in alignment on what we

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1 want to do.
2 THE COURT: Okay. And then if you do that, how
3 is that going to affect all these dates that I'm
4 sure that you've gone over with a fine-tooth comb.
5 Is there any potential way that we can keep these
6 same dates if you do a quick turnaround and I look
7 at this and approve it on Friday?
8 MR. MORRISSEY: I think we can still hit the
9 June 17th date if we do it fairly quickly.
10 MR. HATCH-MILLER: The word from our vendor was
11 these deadlines were doable if we got approval of
12 the plan middle of this week. I'll ask them right
13 after the hearing whether a Friday decision will
14 allow us to keep those dates. Otherwise we might
15 have to push everything by like a week.
16 THE COURT: You know, it just depends on your
17 schedule. If you can give it to me, I could have a
18 hearing that same day. If you think you could do
19 it tonight, we can talk about doing this tomorrow.
20 You know, I just -- or if you need to change the
21 date, you do. But I just want to raise that. So
22 you tell me what your schedule is and I will get to
23 it in -- so I'll say a few hours to think about it
24 and read it carefully and see what your approval

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1 is.
2 MR. MORRISSEY: Yes. We'd also be amendable to
3 submitting on the papers and having the Court ask
4 follow-up questions if necessary if that would help
5 given how close we are.
6 THE COURT: Well, I apparently don't have
7 questions.
8 MR. MORRISSEY: Understood. Hope springs
9 eternal, your Honor.
10 THE COURT: See when you live with a case for
11 so long you get out a little humor at least towards
12 yourself. I take the case very seriously. So --
13 so just tell me, Mr. Hogan and Mr. Morrissey, when
14 can you guys meet and get this turned around?
15 MR. HOGAN: Your Honor, in terms of just
16 language and the kind of ideas, I'm sure we can get
17 that turned around in twenty-four hours with
18 Mr. Morrissey. What I don't know is if CME is
19 going to be participating in any sort of
20 information flow. I'm not sure we can include that
21 in the notice. Right? So I think we can get the
22 notice part done very quickly.
23 THE COURT: And -- and just for clarification,
24 please, understand I am not looking to put the

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1 onerous on CME. I specifically do not want them to
2 be responsible for giving information about whether
3 they're in the class, not in the class. I just
4 thought that was why I was asking the question do
5 they have to do something formal to effectuate a
6 transfer before transfer actually occurs. Is there
7 a firm date when transfer occurs even if somebody
8 just passes it down to, you know, their -- their
9 child. Is that a kind of transaction or does it
10 need to be approved by CME? Because with that if
11 there is a pack of papers that goes to the new
12 person then there should, you know, just be a
13 notice attached to it.
14 MR. HOGAN: And the unfortunate answer I have
15 to give is I don't know all the nuances.
16 THE COURT: Okay. And I don't either. And it
17 was just an idea so that no transferee could come
18 back with that and say, you know, I had my head in
19 the sand and I had no idea this was going on. You
20 know, the transferees are expected to read through
21 their documents if they just don't understand them.
22 And I'm sure there's lots of documents to go
23 through but that's something that they need to do.
24 So, well, do you want to think about this and then

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1 e-mail my law clerks and figure out a date that you
2 could come back?
3 MR. MORRISSEY: Yes.
4 MR. HOGAN: No problem.
5 THE COURT: If you send to me the document say
6 on a -- you know, Monday night, I can look at them.
7 We can plan for the next afternoon. And then
8 if -- if indeed Mr. Morrissey's hope springs to
9 life maybe I will see that I have no questions and
10 sign off on it and strike the afternoon date. I'm
11 not looking for you all to redo schedules.
12 MR. MORRISSEY: would it be helpful for us to
13 include a red line against the current version with
14 these changes?
15 THE COURT: You can do it that way or quite
16 frankly when you submit it to the Court send me an
17 e-mail or snapshot and just say directing your
18 attention. Here's where the only changes are on
19 paragraphs X and Y. I have my own version so I'll
20 be able to take a look at the changes.
21 MR. MORRISSEY: Very well. Okay. we should be
22 able to turn that around by sometime tomorrow and
23 then if we need to do a hearing perhaps later in
24 the week would work.

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1 THE COURT: Sure. And then I would ask your
2 colleague to call your vendor and see if he can
3 still keep these deadlines in place. If so, that
4 would be great. And that's what I'm trying to make
5 possible for you.
6 MR. MORRISSEY: Yes. We appreciate that.
7 THE COURT: Okay. All right. So in terms of
8 scheduling do you want to shoot for Thursday, even
9 Thursday morning?
10 MR. MORRISSEY: Yes.
11 THE COURT: Or Wednesday afternoon? Just --
12 just do this. Why don't you guys figure out what
13 you think an available and appropriate date and
14 time is. E-mail Sean and he'll tell you whether
15 that's doable or not.
16 MR. MORRISSEY: I will do that.
17 MR. HOGAN: Thank you, Judge.
18 THE COURT: All right. Thank you very much for
19 your patience. We are very close to the finish
20 line on this.
21 MR. MORRISSEY: Thank you, your Honor.
22 MR. HOGAN: Thank you, Judge.
23 THE COURT: You're welcome.
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1 (which were all proceedings had
2 in the above-entitled cause at
3 this time.)
4 (Proceedings concluded
5 at 12:43 p.m.)
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1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF COOK)
4
5 MARGARET E. MECKLENBORG, as an Officer of
6 the Court, says that she is a Certified Shorthand
7 Reporter doing business in the State of Illinois;
8 that she reported in shorthand the proceedings of
9 said hearing, and that the foregoing is a true and
10 correct transcript of her shorthand notes so taken
11 as aforesaid, and contains the proceedings given at
12 said hearing via videoconference.
13 IN TESTIMONY WHEREOF: I have hereunto set
14 my verified digital signature this 31st day of
15 May, 2022.
16
17 *Margaret E. Mecklenborg*
18
19 Illinois Certified Shorthand Reporter
20
21
22
23
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