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**ENDORSED
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San Francisco County Superior Court

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO**

NATALIE SOJKA, on behalf of herself and all
others similarly situated and derivatively on
behalf of THE WE COMPANY,

Plaintiff,

vs.

ADAM NEUMANN, BRUCE DUNLEVIE,
RONALD FISHER, LEWIS FRANKFORT,
STEVEN LANGMAN, MARK SCHWARTZ,
JOHN ZHAO, MASAYOSHI SON,
SOFTBANK GROUP CORPORATION, and
DOES 1-25,

Defendants,

– and –

THE WE COMPANY,

Defendant and Nominal Defendant.

Case No.: **CGC-19-580474**

Class Action

**SHAREHOLDER CLASS ACTION
AND DERIVATIVE COMPLAINT
FOR BREACH OF FIDUCIARY DUTY,
AIDING AND ABETTING BREACH OF
FIDUCIARY DUTY, CORPORATE
WASTE, UNJUST ENRICHMENT,
ABUSE OF CONTROL, AND
DECLARATORY AND INJUNCTIVE
RELIEF**

DEMAND FOR JURY TRIAL

1 Plaintiff Natalie Sojka, by her attorneys, alleges the following on information and belief,
2 except as to the allegations specifically pertaining to Plaintiff, which are based on personal
3 knowledge.

4 NATURE AND SUMMARY OF THE ACTION

5 1. Plaintiff brings this class action on behalf of the minority stockholders of The We
6 Company (“WeWork”, “We” or the “Company”) against The We Company and its Board of Directors
7 (the “Board” or the “Individual Defendants”) and Softbank Group Corporation (“Softbank”) for breach
8 of fiduciary duty, aiding and abetting breach of fiduciary duty, corporate waste, and declaratory as well
9 as injunctive relief. Defendant Adam Neumann (“Neumann”), the founder, Chairman, CEO, and
10 controlling shareholder of The We Company, in concert with Softbank, are using their control of The
11 We Company to benefit themselves to the detriment of the Company’s minority shareholders. Plaintiff
12 brings claims against the Defendants for their breaches of fiduciary duty and/or for aiding and abetting
13 other Defendants’ breaches of fiduciary duty. Defendants’ actions are substantially unfair to The We
14 Company’s minority shareholders and have caused and will continue to cause significant damage to the
15 Company and its shareholders.

16 2. Neumann and Softbank are attempting to use their control of the Company to benefit
17 themselves to the detriment of the Company’s minority shareholders. Neumann has recently abused his
18 control of the Company to usurp \$1.7 billion in payments to himself, which payments were approved by
19 Softbank. Softbank stands to benefit from the proposed transactions because it is increasing its stake by
20 buying up shares at depressed values which were created by Defendants’ own wrongdoing. At the same
21 time, the value of the stock and options held by minority shareholders has been eviscerated due to
22 Neumann’s wrongdoing, with their stock options being underwater and the value of their stock being
23 driven to levels well beyond what they paid for the stock. *See* Rani Molla, “85 Percent of WeWork’s
24 White-Collar Employees Don’t Think Adam Neumann’s \$1.7 Billion Exit Package is Fair,” RECODE,
25 Oct. 28, 2019. Softbank is attempting to further benefit from its wrongdoing and that of Neumann by
26 trying to commence a tender offer to buy out minority shareholders, thereby increasing its control of the
27 Company to approximately 80% and giving it outright control of the Company. The price Softbank
28 purportedly intends to offer minority shareholders – \$19.19 – is grossly unfair and represents an abuse

1 of control by Neumann and Softbank, and unfair treatment of minority shareholders. The proposed
2 transactions are subject to entire fairness review under California law.

3 3. It is an axiomatic principle of corporate law that a wrongdoer cannot benefit from his own
4 wrongdoing. This principle has heightened application in the context of a situation such as the present
5 case where the defendants are majority and controlling shareholders who owe fiduciary duties to the
6 minority shareholders. The self-interested transactions being proposed by Softbank and Neumann are
7 not entirely fair to the minority shareholders. Neumann, who ruined WeWork, is being treated
8 disparately, and both he and Softbank would receive unique benefits not shared by the minority
9 shareholders if the transactions are not enjoined. *See* Rani Molla, “Why WeWork Founder Adam
10 Neumann is Getting \$1.7 Billion to Leave the Company He Ran into the Ground,” RECODE, Oct. 22,
11 2019. Among other things:

12 (a) Neumann stands to receive much more for his shares than the consideration being
13 offered to minority shareholders in the tender offer to be launched by Softbank, which tender offer is
14 coercive and both procedurally and substantively unfair;

15 (b) In addition to payment of more money for Neumann’s stock, *Softbank is*
16 *proposing to pay Neumann \$500 million to pay off his personal loan from JPMorgan Chase, which*
17 *was one of the underwriters for the failed IPO and which holds a lien on Neumann’s WeWork stock;*

18 (c) The transactions, if not enjoined, will further substantially dilute minority
19 shareholders who do not accept the grossly unfair tender offer;

20 (d) Despite breaching his fiduciary duties by engaging in self-dealing and
21 mismanaging WeWork so badly that its IPO had to be withdrawn, *Neumann is being offered a*
22 *staggering \$185 million “consulting fee” despite the fact that Softbank seems to concede that*
23 *Neumann ruined the Company.* It is beyond comprehension why Neumann would be paid \$185
24 million to provide strategic guidance to the Company when his “guidance” resulted in the virtual
25 destruction of the Company. Instead, *the fee simply represents self-dealing and an improper personal*
26 *payment to Neumann.* To put Neumann’s \$185 million consulting fee in perspective, the 200 highest-
27 paid CEOs at public companies last year had a median pay of \$18.6 million, according to Equilar.
28 Typically, CEOs receive exit packages that are multiples of their salary and bonus. Neumann’s

1 consulting fee alone would equal 10 years of that median salary. The terms of Neumann’s “consulting”
2 agreement have not yet been disclosed.

3 4. The We Company (which was known as WeWork until July 2019, and is frequently
4 referred to herein as such) attracted talented individuals to work at WeWork by awarding employees
5 stock options and stock awards that Defendants represented would increase substantially in value after
6 WeWork went public. However, as described herein, through Defendants’ breaches of fiduciary duty,
7 Defendants caused substantial harm to We, ultimately forcing We to withdraw its IPO and substantially
8 decreasing the value of the equity awards and options held by Plaintiff and the Class, who had worked
9 hard to create value at We.

10 5. The Defendants, however, were treated disparately. Instead of experiencing similar harm
11 to their equity interests, Defendants engaged in self-dealing and protected their own interests to the
12 detriment and expense of the Company’s minority shareholders.

13 6. As noted herein, Defendants Neumann and Softbank have abused their domination and
14 control of The We Company and breached their fiduciary duty as majority and controlling shareholders
15 of The We Company by causing harm to the Company and preferring their own interests over those of
16 the Company’s minority shareholders.

17 7. Far from saving WeWork, Softbank is also engaging in self-dealing because it is
18 significantly increasing its stake in the Company at fire-sale prices. It also has a very selfish motive.
19 Earlier this year (in January 2019), Softbank invested more money in WeWork at a valuation of \$47
20 billion. It has been reported that a substantial motive of Softbank pulling the plug on the IPO and
21 proposing the present transactions with Neumann was to prevent Softbank from having to take a
22 substantial write-down in the value of its WeWork investment. Because the value of WeWork had
23 reportedly been reduced to less than \$10 billion immediately prior to the proposed IPO, the
24 consummation of the IPO would have required Softbank to write down the value of its investment by a
25 huge amount, thus reducing the value of its Vision fund, alienating investors in its fund, and making it
26 harder for Softbank and Defendant Masayoshi Son to raise capital from new and existing investors in
27 Softbank’s Vision II Fund which is currently being pedaled to well-heeled investors.

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1 8. By this action, Plaintiff seeks damages for the minority shareholders and the Company
2 and also seeks to enjoin the proposed self-dealing transactions with SoftBank that would reward
3 Neumann with \$1.7 billion but offer minority shareholders with nothing other than a coercive tender
4 offer to buy back some of their shares at depressed and unfair prices.

5 9. In short, Defendants' breaches of fiduciary duty caused a significant decrease in the value
6 of We. The harm proved so devastating that We was forced to withdraw its IPO, which was supposed
7 to be the second largest IPO in 2019 after Uber's IPO, thus eliminating the liquidity and substantial
8 premium that We's minority shareholders had been promised. Moreover, due to Neumann's self-
9 dealing, approximately 2,000 We Company employees stand to be laid off and lose their jobs. ***It has***
10 ***been reported that the payments Neumann stands to receive if the proposed transactions are***
11 ***consummated will net Neumann \$850,000 for each of the 2,000 employees laid off.***¹ Instead of
12 suffering similar harm to his equity interest in We, however, Defendant Neumann, along with his fellow
13 directors and in concert with SoftBank, conspired to cancel the IPO, pay off Neumann, and increase
14 Softbank's stake in We, thus further diluting and harming the Company's minority shareholders.

15 10. The Defendants' conduct represents a continuing course of conduct. The Board has
16 approved a proposed tender offer from Softbank that will seek to buy back minority shareholders' stock
17 at \$19.19 per share -- far less than fair market value -- while at the same time allowing Softbank to
18 significantly increase its stake in the Company to as much as 80% and procuring for Neumann disparate
19 and wholly unwarranted benefits of \$1.7 billion.

20 11. Neumann's conduct is plagued by substantial conflicts of interest, and the Defendants are
21 attempting to prevent the minority public shareholders from realizing fair value for their shares.

22 12. The We Company is headquartered in San Francisco, California and New York, New
23 York. The We Company offers co-working space to freelancers and small startup companies.

24 13. The We Company is a private company. It issues stock to its employees as part of their
25 compensation, and to incentivize them. However, because the stock is not publicly-traded, and The We

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27 ¹ See Rani Molla, "Why WeWork Founder Adam Neumann is Getting \$1.7 Billion to Leave the
28 Company He Ran into the Ground," RECODE, Oct. 22, 2019.

1 Company does not file its financial statements with the SEC, information about its financial results and
2 the stock's value is not publicly available, except limited information that was disclosed in connection
3 with a failed IPO attempt.

4 14. In recent years, Neumann, as the Chairman and CEO of the Company, has compounded
5 the informational disparity that exists between the Company and its minority shareholders by failing to
6 hold annual meetings of shareholders, failing to provide minority shareholders with annual reports or
7 other financial information, and failing to pay dividends on the stock.

8 15. As a majority and controlling shareholder, Neumann owes fiduciary duties to Plaintiff and
9 other minority shareholders to refrain from engaging in self-dealing and to ensure that minority
10 shareholders are treated fairly. In any transaction in which Neumann derives a personal financial
11 benefit, Neumann's conduct is subject to the exacting entire fairness standard, pursuant to which
12 Defendants have the burden of demonstrating entire fairness to the minority shareholders, including fair
13 dealing and fair price. The Individual Defendants owe fiduciary duties to the minority stockholders of
14 the Company. Because the Defendants' conduct threatens irreparable harm to The We Company's
15 minority shareholders, Plaintiff seeks declaratory and injunctive relief as well as damages.

16 16. The members of the Company's Board are not independent and have abdicated their
17 fiduciary duties. Instead of complying with their fiduciary duties and protecting the Company and its
18 minority shareholders, they have allowed Neumann to benefit himself personally at the expense of the
19 Company and minority shareholders. In addition to the minority shareholders being directly harmed, as
20 alleged herein, the Company has also been harmed.

21 **JURISDICTION AND VENUE**

22 17. This Court has jurisdiction because the Defendants conduct business in California,
23 including, but not limited to, the conduct here at issue, and because they have sufficient minimum
24 contacts with California to render the exercise of jurisdiction by the California courts permissible under
25 traditional notions of fair play and substantial justice.

26 18. Venue is proper in this Court because the conduct at issue took place and has effect in this
27 County. One of the Company's two headquarters and principal place of business are located in San
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1 Francisco in the Salesforce.com tower. Thousands of WeWork shareholders, who are also employees,
2 stand to lose their jobs in this County due to Defendants' wrongdoing.

3 **THE PARTIES**

4 19. Plaintiff is a current shareholder of The We Company and has continuously owned The
5 We Company stock at all relevant times. Plaintiff is a resident of San Francisco, California.

6 20. Defendant and Nominal Defendant THE WE COMPANY is a Delaware corporation
7 headquartered in San Francisco, California and New York, New York.

8 21. Defendant ADAM NEUMANN is the controlling shareholder of the Company. He is a
9 Director of the Company and has been at all relevant times.

10 22. Defendant BRUCE DUNLEVIE ("Dunlevie") is a founding partner at the San Francisco-
11 based venture capital firm Benchmark. He has been a director of the Company at all relevant times, and
12 since 2012. Dunlevie is a resident of California.

13 23. Defendant RONALD FISHER ("Fisher") is a director of the Company and has been a
14 director at all relevant times. Fisher is the Vice-Chairman of Softbank and one of its designees on the
15 We Company Board.

16 24. Defendant LEWIS FRANKFORT ("Frankfort") is a director of the Company and has
17 been a director at all relevant times.

18 25. Defendant STEVEN LANGMAN ("Langman") is a director of the Company and has
19 been a director at all relevant times.

20 26. Defendant MARK SCHWARTZ ("Schwartz") is a director of the Company and has been
21 a director at all relevant times. Schwartz is a director of Softbank and one of its designees on the We
22 Company Board.

23 27. Defendant JOHN ZHAO ("Zhao") is a director of the Company and has been a director at
24 all relevant times.

25 28. Defendant MASAYOSHI SON ("Son") is the founder and Chairman of Softbank, and a
26 major shareholder of WeWork. Son and Softbank have invested at least \$10 billion in The We
27 Company. Son has called himself and Neumann "partners" in WeWork and has personally negotiated
28 all the major decisions involving Softbank's investment in We with Neumann, including the

1 transactions with Neumann currently being proposed. Son aided and abetted Neumann's breaches of
2 fiduciary duty as well as the breaches committed by We directors Fisher and Schwartz, who are
3 Softbank's designees and agents on the We Company Board.

4 29. Defendant SOFTBANK GROUP CORPORATION is a Japanese corporation that is a
5 significant shareholder of the Company. Defendants Fisher and Schwartz are Softbank's designees to
6 the We Company Board. Softbank owns approximately 29% of the Company's shares.

7 30. The true names and identities, whether individual, associate or corporate, of the
8 Defendants sued herein as Does 1 through 25 inclusive, and the full nature and extent of the
9 participation of the said Doe Defendants in the activities and conduct on which this action is based, are
10 presently unknown to Plaintiff. Plaintiff prays for leave to allege the true names and
11 identities, and the extent of participation in the wrongful activities and conduct, when the same shall
12 become known.

13 CLASS ACTION ALLEGATIONS

14 31. Plaintiff brings this action as a class action, pursuant to California Code of Civil
15 Procedure § 382 on behalf of all minority stockholders of the Company (except the Defendants herein
16 and any person, firm, trust, corporation, or other entity related to, or affiliated with, any of the
17 Defendants and their successors in interest), who are or will be threatened with injury arising from
18 Defendants' actions as more fully described herein (the "Class").

19 32. This action is properly maintainable as a class action because:

20 (a) The Class is so numerous that joinder of all members is impracticable. There are
21 millions of shares of the Company's common stock outstanding owned by hundreds, if not thousands,
22 of The We Company stockholders;

23 (b) There are questions of law and fact which are common to the Class including,
24 *inter alia*, the following: (i) whether the Individual Defendants have breached and are breaching their
25 fiduciary and other common law duties owed by them to Plaintiff and the other members of the Class;
26 (ii) whether Plaintiff and the Class are being provided with all material information regarding their
27 investment in The We Company stock; (iii) whether the Individual Defendants are pursuing a scheme
28 and course of business designed to eliminate the minority stockholders of the Company in violation of

1 their fiduciary duties in order to enrich themselves at the expense and to the detriment of Plaintiff and
2 the other minority stockholders who are members of the Class; and (iv) whether the Class is entitled to
3 declaratory and injunctive relief, as well as damages, as a result of Defendants' wrongful conduct;

4 (c) Plaintiff is committed to prosecuting this action and has retained competent
5 counsel experienced in litigation of this nature;

6 (d) The claims of Plaintiff are typical of the claims of other members of the Class
7 and Plaintiff has the same interests as the other members of the Class. Plaintiff will fairly and
8 adequately represent the Class;

9 (e) Defendants have acted in a manner which affects Plaintiff and all members of the
10 Class alike, thereby making appropriate injunctive relief and/or corresponding declaratory relief with
11 respect to the Class as a whole; and

12 (f) The prosecution of separate actions by individual members of the Class would
13 create a risk of inconsistent or varying adjudications with respect to individual members of the Class
14 which would establish incompatible standards of conduct for Defendants, or adjudications with respect
15 to individual members of the Class which would, as a practical matter, be dispositive of the interests of
16 other members not parties to the adjudications or substantially impair or impede their ability to protect
17 their interests.

18 **DEFENDANTS' FIDUCIARY DUTIES**

19 33. In accordance with their duties of loyalty, care and good faith, the Individual Defendants,
20 as directors of The We Company, are obligated to refrain from:

21 (a) taking any action that adversely affects the value offered to the corporation's
22 shareholders;

23 (b) participating in any transactions where the directors' loyalties are divided;

24 (c) participating in any transactions where the directors receive or are entitled to
25 receive a personal financial benefit not equally shared by the minority shareholders of the corporation;
26 and/or

27 (d) unjustly enriching themselves at the expense or to the detriment of the minority
28 shareholders.

1 34. Plaintiff alleges herein that the Individual Defendants and The We Company, separately
2 and together, are violating the fiduciary duties owed to Plaintiff and the other minority shareholders of
3 The We Company, including their duties of loyalty, good faith and independence, insofar as they stand
4 on both sides of the transaction and are engaging in self-dealing and obtaining for themselves personal
5 benefits, including personal financial benefits, not shared equally by Plaintiff or the Class.

6 35. Because the Individual Defendants are breaching and have breached their duties of
7 loyalty, good faith and independence, Defendants' conduct is subject to the "entire fairness" standard of
8 review and Defendants have the burden of proving the inherent or entire fairness of the challenged
9 transactions.

10 **FRAUDULENT CONCEALMENT AND EQUITABLE TOLLING**

11 36. During the relevant period, Plaintiff did not discover and could not have discovered,
12 through the exercise of due diligence, Defendants' breaches of their fiduciary duties or their violations
13 of California law because Defendants did not disclose, and actively concealed, their conduct.

14 37. Plaintiff was unaware of and had no knowledge of Defendants' unlawful conduct.

15 38. Plaintiff could not have discovered Defendants' breaches of fiduciary duties and
16 violations of law prior to filing suit because Defendants made absolutely no disclosure of their conduct,
17 and failed to provide minority shareholders such as Plaintiff with any annual reports or other
18 information about The We Company during the relevant period.

19 39. Defendants not only failed to disclose any information whatsoever that would have
20 allowed Plaintiff, exercising due diligence, to discover the unlawful conduct, but Defendants also
21 intentionally concealed and attempted to disguise the unlawful conduct to avoid detection by the
22 Company's minority shareholders.

23 **SUBSTANTIVE ALLEGATIONS**

24 40. The We Company is a controlled private company, with Defendant Neumann owning
25 Class B and Class C shares in the Company that provide him with voting control over all aspects of the
26 Company.

27 41. The We Company provides co-working space to small companies, freelancers, and others
28 at 528 locations in 111 cities, including 29 countries.

1 42. Neumann and the other directors of the Company owe the Company and its minority
2 shareholders fiduciary duties. Softbank and Son also owe fiduciary duties to minority shareholders
3 because Softbank, in which Son has a substantial equity interest, currently owns 29% of the We
4 Company and thus exercises significant control over the Company, including having two designees on
5 the Board. If the proposed transactions with Softbank are approved, Softbank will gain the right to
6 appoint at least four members to the Board. Thus, Defendants Neumann and Softbank exercise total
7 domination and control over the Board of the We Company and they also own and control at least 90%
8 of the stock in the Company, thus controlling all matters requiring shareholder approval.

9 43. Plaintiff is a minority shareholder in the We Company. Plaintiff was a loyal employee of
10 The We Company, working for 1.5 years for the Company. Due to Plaintiff's hard work and valuable
11 contribution to the Company's success, Plaintiff was awarded stock options and stock in The We
12 Company. Plaintiff currently owns Class A shares of The We Company stock and has owned such
13 stock at all relevant times. Plaintiff was always told that owning stock and/or options in The We
14 Company was a valuable benefit of her employment and that the value of her We Company stock would
15 increase substantially if the Company conducted an IPO, which it intended to do. When Plaintiff
16 voluntarily resigned from the We Company, she was told she had to exercise her stock options or she
17 would lose them. Based on being told that We intended to go public soon and that the value of We
18 stock would increase significantly, Plaintiff exercised her options and bought more We stock. Because
19 of Defendants' wrongdoing, the value of such stock has been significantly reduced and Plaintiff has
20 been harmed and is threatened with irreparable harm from Defendants' proposed tender offer and other
21 transactions.

22 44. Because The We Company was and is a private company, not a publicly-traded company,
23 there is no regular or efficient market for the sale of the stock.

24 **SELF-DEALING AND BREACHES OF FIDUCIARY DUTY BY NEUMANN**

25 45. As the founder of the We Company, Defendant Neumann granted himself huge stock
26 awards in the Company. To ensure his absolute and total control of the We Company, Neumann
27 granted himself over 1,100,000 shares of Class B stock and over 100,000 shares of Class C stock. Each
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1 such share was vested with ten votes per share, providing Neumann with complete voting control.
2 Class A shares, in contrast, only provide one vote per share.

3 46. In addition to giving himself huge stock grants, Neumann ran the We Company in such a
4 manner as to provide himself with personal benefits.

5 47. As just six examples among many, Neumann forced the We Company to lease space at
6 buildings that he owned, on terms favorable to him but not entirely fair to the We Company. This
7 conduct also created conflicts of interest for Neumann. Between 2016-17 alone, WeWork paid at least
8 \$12 million in rent to Neumann for the buildings he owned and was leasing to the Company.

9 48. Second, in perhaps the most egregious case of self-dealing, as part of the July 2019 “re-
10 branding” of the Company from WeWork to “The We Company”, Neumann procured a trademark for
11 the phrase “We” and “The We Company” and forced the Company to pay him \$6 million for the “We”
12 family of trademarks.

13 49. Third, Neumann also employed direct family members to work at WeWork, including his
14 wife Rebekah Paltrow Neumann (the cousin of actress Gwyneth Paltrow). Neumann’s wife serves as
15 the CEO of the Company’s education business, WeGrow. WeWork also employs another member of
16 Neumann’s immediate family in a senior role, and it paid another family member to host events related
17 to its “Creator Awards” in 2018.

18 50. Fourth, Neumann caused The We Company to loan him huge sums of money at interest
19 rates below 1%.

20 51. Fifth, Neumann also caused WeWork to engage in conduct that lacked a business purpose
21 and resulted in large losses to the Company.

22 52. Sixth, Neumann was allowed to cash out \$700 million in WeWork stock before the
23 Company filed to go public. The Company’s minority shareholders were not given a similar
24 opportunity.

25 53. Neumann also used \$60 million of Company money to buy a Gulfstream jet.

26 54. Neumann also entered into additional transactions that posed a serious conflict of interest.
27 For example, Neumann has a personal line of credit of up to \$500 million from UBS, JPMorgan, and
28 Credit Suisse, all of whom are coincidentally underwriters in WeWork’s IPO. Neumann’s line of credit

1 with the underwriters is secured by his holdings of WeWork stock. It also contains a margin call
2 provision, which means that if the stock price declines to a certain point, the banks can claim and sell
3 some of Neumann’s stock. This means if the IPO had gone poorly, the underwriters themselves might
4 become sellers and contribute to the stock price decline, thereby damaging other stockholders.

5 55. Other executives loyal to Neumann also received personal benefits. Interim Co-CEO
6 Artie Minson’s loan of \$600,000 from the Company was forgiven. Other top executives also received
7 below-market interest rates.

8 56. In 2016, after a staff meeting in which he announced the layoff of 7% of the Company’s
9 workforce, Neumann passed out tequila shots to everyone and then had a rapper perform a song.
10 Neumann’s wife was also reported to have fired employees after meeting with them for mere minutes
11 because she did not like their “energy.”

12 57. Neumann also frequently voiced aspirations unbounded by reality, including becoming
13 the President of the World, taking WeWork to Mars, and becoming the world’s first trillionaire. These
14 delusions should have caused the Board to reign in Neumann’s misconduct, but the Board failed to take
15 any action to protect the Company and its minority shareholders from Neumann’s breaches of fiduciary
16 duty and reckless conduct. This is perhaps because the Board is a supine group of individuals with
17 blind loyalty to Neumann, or because Neumann “could fire the company’s entire board if he wanted”
18 due to his super-majority stock voting power. *See* Taylor Telford, “Adam Neumann’s Chaotic Energy
19 Built WeWork. Now It Might Cost Him His Job As CEO,” *THE WASHINGTON POST*, Sept. 23, 2019.
20 *See also* Dana Schuster, “Ousted WeWork CEO Adam Neumann is a ‘Phony’ Who ‘Thinks He is a
21 Jesus Figure,’” *THE NEW YORK POST*, Sept. 28, 2019.

22 58. In April 2019, the Defendants approved a \$362.1 million loan to Neumann from The We
23 Company to exercise his stock options. This again constituted disparate treatment and self-dealing.
24 The Company’s minority shareholders, like Plaintiff, had to contribute their own personal funds to
25 exercise stock options they had been granted as part of their employment at We. This represented a
26 significant financial burden to the minority shareholders. For Neumann, in contrast, the Company
27 provided the funds for Neumann to exercise his stock options.

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1 **SELF-DEALING AND BREACHES OF FIDUCIARY DUTY BY SOFTBANK,**
2 **MASAYOSHI SON, RONALD FISHER, AND MARK SCHWARTZ**

3 59. Defendants Softbank and Son also facilitated Neumann’s misconduct by encouraging him
4 and providing him with unlimited money. As one former executive of the Company stated: “I’m angry
5 at Softbank. You give a guy that amount of money for him to go crazier and harder and faster.”

6 60. Despite being fully aware of Neumann’s self-dealing and breaches of fiduciary duty,
7 Softbank, Son, and Softbank’s two designees on We’s Board – Fisher and Schwartz – took no action to
8 curtail Neumann’s self-dealing and breaches of fiduciary duty, and in fact facilitated such breaches by
9 encouraging Neumann and funding his activities.

10 61. Leading up to the IPO, the public knew little about WeWork’s inner dealings since it was
11 a private company and did not file its financial statements with the SEC. Neumann’s self-dealing was
12 not public knowledge. However, due to its \$10 billion investment in We, Softbank and its executives,
13 including Son, received real-time detailed information about every aspect of the Company. Softbank’s
14 investment agreement with We gave it rights to all financial information about the Company, and Son
15 regularly met in person with Neumann to discuss the Company’s business, finances, and strategic
16 direction. Son and Neumann referred to each other as “partners.”

17 62. Softbank also had the right to appoint two individuals to We’s Board – Fisher and
18 Schwartz. Due to their status as directors of We, Fisher and Schwartz had actual knowledge of
19 Neumann’s self-dealing and in fact approved most of the improper personal payments to Neumann.

20 63. Fisher and Schwartz breached their duty of loyalty to WeWork by failing to act in the best
21 interests of the Company. As just one of many examples, Fisher and Schwartz approved the self-
22 dealing by Neumann that has caused substantial harm to We. They were also aware of the conflict of
23 interest in having JPMorgan act as one of the main underwriters for the IPO, yet still hired JPMorgan.

24 64. Much of Neumann’s wrongdoing and improper personal payments only became public
25 when WeWork filed an S-1 Registration Statement with the SEC on August 14, 2019.

26 65. As the extent of Neumann’s self-dealing and wrongdoing became evident, Wall Street
27 panned the IPO and WeWork was forced to cancel the IPO.

28

1 **NEUMANN CONTINUES HIS SELF-DEALING, WHICH RESULTS IN THE SHELIVING**
2 **OF THE IPO, WHICH SOFTBANK BOTH SUPPORTED AND REQUESTED**

3 66. Neumann has used the money he siphoned from WeWork to buy up million-dollar homes.
4 Among his residences are a \$10.5 million Greenwich Village town house and a \$35 million property in
5 Gramercy Park. There's a place in Water Mill, in the Hamptons, as well as a 60-acre Westchester farm,
6 complete with a waterfall, horse-riding ring and tennis court, that came with a \$22 million asking price.
7 He and his family also own a \$21 million home in the San Francisco area which reportedly includes a
8 guitar shaped room.

9 67. Meanwhile, Neumann laid off thousands of employees to try to make up for multi-billion
10 dollar losses the Company incurred at his helm. To add insult to injury, the stock of those employees
11 and former employees, like Plaintiff, has been devalued below the prices they paid to acquire it.

12 68. As the Company prepared for its IPO, Neumann continued to live his lavish lifestyle,
13 spending little time in the office.

14 69. In January 2019, WeWork was projecting a valuation of \$47 billion, and Neumann was
15 boasting that the Company could reach a valuation of as much as \$100 billion.

16 70. By September 2019, however, as investment banks working on the IPO neared the
17 completion of their due diligence and discovered severe problems with the Company's business model,
18 losses, corporate governance structure, and other problems caused by Defendants' breaches of fiduciary
19 duty, WeWork was forced to drastically slash its valuation to \$20 billion. Because WeWork was only
20 selling a portion of its stock in the IPO, the reduced valuation meant that WeWork was at risk to raise
21 less than \$3 billion in its IPO.

22 71. The severe reduction in WeWork's valuation was a major problem. WeWork had
23 procured necessary bank financing of \$6 billion in August 2019, but that financing was contingent on
24 the Company raising at least \$3 billion in its IPO. *See* "WeWork Delays \$20 Billion IPO As Valuation
25 Plunges," FORBES, Sept. 19, 2019.

26 72. Given these critical issues involving essential financing and the very viability of the
27 Company, one would have thought that Neumann would have been at the office working 16-hour days.
28 Instead, as the IPO documents were being drafted, Neumann could be found lounging at his home in the

1 Hamptons. At one point, as the critical IPO documents that needed to be reviewed and edited were
2 being prepared for his review, Neumann was busy surfing in the Seychelles. Rather than come back to
3 the U.S. to provide essential input into the documents, Neumann had the Company pay an employee
4 thousands of dollars to fly to the Seychelles to explain the documents to Neumann, so that Neumann
5 would not have to cut his surfing trip short and miss out on the swell.

6 73. Neumann’s wrongdoing, self-dealing, and breaches of fiduciary duty eventually forced
7 the Company to withdraw its IPO, thus eliminating a big payday for the Company’s employees and
8 eliminating a source of liquidity for stockholders.

9 74. Neumann’s wrongdoing did not affect all shareholders equally, however. For Plaintiff
10 and the Company’s minority shareholders, the collapse of the IPO and resulting dramatic decrease in
11 the valuation of the Company eliminated a way for such employees to sell their stock at significant
12 gains. For Neumann, in stark contrast, the failure of the IPO was remedied in a glaring way not made
13 available to other shareholders: Neumann negotiated a one-person bailout for himself, with Softbank
14 agreeing to buy out Neumann’s shares and pay him a multi-million dollar “consulting” package that, on
15 a combined basis, *assured Neumann a payday of over \$1.7 billion.*

16 75. As part of his proposed lavish payout, Neumann has agreed to resign as CEO, but still
17 remains on the Board. *See* Aaron Mak, “WeWork’s Cash-Burning, TequilaDispensing, Allegedly Self-
18 Dealing CEO Just Stepped Down Under Pressure,” THE INDUSTRY, Sept. 24, 2019.

19 76. Due to the \$1.4 billion in losses during the first half of 2019 and the aborted IPO,
20 WeWork is also reportedly considering resorting to laying off 5,000 employees – a third of its
21 workforce.

22 77. Neumann and the other members of the Board (Defendants Dunlevie, Schwartz, Fisher,
23 Frankfort, Zhao, and Langman) have breached their fiduciary duties by providing massive loans on
24 commercially unreasonable terms to Neumann, thus, benefitting Neumann personally, and not
25 providing any similar liquidity opportunities for the minority shareholders. The loans constitute
26 corporate waste because they serve absolutely no corporate purpose. The We Company obtained no
27 benefit by giving Neumann hundreds of millions of dollars in cash on commercially unreasonable
28 terms. Instead, the loans represent blatant self-dealing. Defendants Dunlevie, Schwartz, Fisher,

1 Frankfort, Zhao, and Langman are not independent and objective directors, and did nothing to check
2 Neumann’s self-dealing. The sheer magnitude of Neumann’s self-dealing demonstrates the extent to
3 which he completely dominates and controls The We Company and its Board.

4 78. Under corporate law, the needs of all stockholders must be considered and addressed
5 when corporate decisions are made to provide some form of liquidity. The We Company Board has
6 breached this duty by allowing Neumann to take out all the liquidity he desires by giving him hundreds
7 of millions of dollars in loans to exercise his options in 2019, but allowing him to sell \$700 million in
8 stock prior to the filing of the IPO papers, and by conspiring with Softbank to buy back a significant
9 block of Neumann’s stock recently, and also giving him a \$185 million “consulting” agreement. On top
10 of those huge payments, they also included a provision paying off Neumann’s \$500 million in personal
11 loans from JPMorgan. In stark contrast, Defendants have provided no similar liquidity event for the
12 minority shareholders. Even with respect to the announced intent for Softbank to launch a \$19.19 per
13 share tender offer for minority shareholders, the price is inadequate, unfair, and depressed. The
14 minority stockholders have no bargaining power and must accept whatever terms are dictated by
15 Defendants or retain their stock. In short, The We Company Board, which is dominated and controlled
16 by Neumann and Softbank, has treated the minority shareholders disparately and unfairly.

17 **I. The Board’s Failure to Provide Annual Reports or Other Financial Information**
18 **to the Minority Shareholders**

19 79. The Board has further breached its fiduciary duties of candor and good faith by failing to
20 provide annual reports and financial information to the minority shareholders. Plaintiff has not received
21 any annual report or financial information from The We Company in recent years. The Board has
22 compounded this informational disparity by authorizing the Company to engage in limited buybacks of
23 Company stock from minority shareholders at unfair prices and without providing any information to
24 minority shareholders that would allow them to assess the value of their shares.

25 **II. The We Company’s Supine Board Approved Loans and Personal Benefits to**
26 **Neumann Instead of Dividends or Share Repurchases or Paying Down**
27 **Corporate Debt**

28 80. As noted *supra*, The We Company has made hundreds of millions of dollars in loans to
Neumann, and such loans serve no corporate purpose. In contrast, The We Company has made very

1 limited stock repurchase offers to minority shareholders. Moreover, as noted *supra*, Softbank has
2 announced an intent to launch a coercive and unfair tender offer to repurchase minority shareholders'
3 stock at just \$19.19.

4 81. The payments outlined herein to Neumann represent corporate waste and self-dealing.
5 The money should have been used for corporate purposes, which would have increased the value of the
6 Company rather than causing losses of \$1.4 billion in the first half of 2019 alone.

7 82. Neumann has also used his control of the Board to cause The We Company to pay other
8 improper personal expenses to himself and family members, as noted *supra*, including the use of \$60
9 million in corporate funds for a private jet for Neumann.

10 83. Neumann has also failed to hold any annual meeting of shareholders in recent years. If he
11 held any such meeting, the minority shareholders were not invited and have never been sent any annual
12 report detailing the actions taken. Upon information and belief, Neumann just decides what he wants to
13 do and then has his lawyer type up "Uniform Written Consent" minutes reflecting his fiat.

14 84. Plaintiff and the Class have been harmed by Neumann's self-dealing. Had Neumann
15 caused the Company to pay dividends, and/or had The We Company invested the hundreds of millions
16 of dollars siphoned off by Neumann into legitimate corporate purposes, Plaintiff and the Class would
17 have received dividends or realized an increase in the value of their stock as the proper corporate
18 investments would have earned a positive return on investment.

19 **SUBSTANTIVE UNFAIRNESS**

20 85. Defendants' conduct has been, and continues to be, substantively unfair to The We
21 Company's minority shareholders. The loans to Neumann and the other improper payments to
22 Neumann have disproportionately benefitted Neumann, serve absolutely no corporate purpose, and
23 provide no value to the Company or minority shareholders. The transactions currently being proposed
24 also unfairly benefit Softbank, which is a controlling shareholder, because they will allow, unless
25 enjoined, Softbank to increase its stake in WeWork to 80% by allowing Softbank to acquire stock at
26 artificially depressed prices. Moreover, Softbank stands on both sides of the transaction and is
27 completely conflicted.

1 whom Neumann exerts control, is engaging in self-dealing and not acting in good faith toward Plaintiff
2 and the other members of the Class.

3 **THE ENTIRE FAIRNESS STANDARD APPLIES TO DEFENDANTS' CONDUCT**

4 92. In transactions between controlling shareholders and the Company and/or the Company's
5 minority shareholders, the entire fairness standard applies. That standard applies here because
6 Neumann and Softbank are controlling shareholders and engaged in self-interested transactions from
7 which they have derived and continue to derive substantial personal benefits that are not shared by the
8 Company's minority shareholders.

9 93. The entire fairness standard places the burden of proof on the controlling shareholder to
10 affirmatively demonstrate the entire fairness — both substantive fairness and procedural fairness — of
11 the challenged transactions. It is not Plaintiff's burden to demonstrate the unfairness of such
12 transactions, although such unfairness is evident from the detailed allegations set forth herein.

13 94. Because Neumann cannot demonstrate either substantive or procedural fairness to his
14 self-interested transactions, such transactions must be set aside and/or he must be ordered to pay
15 damages to Plaintiff and the Class.

16 **THE UNFAIR AND COERCIVE PROPOSED TENDER OFFER**

17 95. On October 23, 2019, Softbank announced that it had proposed a buyout of some of
18 Neumann's stock and that it intends to launch a tender offer to buy back stock from minority
19 shareholders at \$19.19. Defendant Son directly participated in negotiations with Neumann that led to
20 this announced deal. In a press release announcing the proposed transactions, Softbank stated:

21 **WeWork Announces Significant Funding from SoftBank Group**

22 Finance Package Includes Combination of Debt and Equity to
23 Fully Fund Business Plan with Objective of Profitability and Free Cash Flow

24 Board of Directors Elects Marcelo Claure as Executive Chairman of WeWork

25 The We Company and SoftBank Group Corp. today announced an agreement under
26 which SoftBank commits to provide significant funding to the Company. This includes
27 \$5 billion in new financing and *the launching of a tender offer by SoftBank of up to \$3*
28 *billion for existing shareholders*. Additionally, SoftBank will be accelerating an
existing commitment to fund \$1.5 billion. The funding provides WeWork with
significant liquidity to execute its business plan to accelerate the Company's path to
profitability and positive free cash flow.

1 ***After closing, and following the tender offer, SoftBank’s fully diluted economic***
2 ***ownership of WeWork will be approximately 80 percent.*** Since SoftBank will not hold
3 a majority of voting rights at any general stockholder meeting or board of directors
4 (“Board”) meeting and does not control the Company, WeWork will not be a subsidiary
5 of SoftBank. WeWork will be an associate of SoftBank.

6 “SoftBank is a firm believer that the world is undergoing a massive transformation in
7 the way people work. WeWork is at the forefront of this revolution. It is not unusual for
8 the world’s leading technology disruptors to experience growth challenges as the one
9 WeWork just faced. Since the vision remains unchanged, SoftBank has decided to
10 double down on the company by providing a significant capital infusion and operational
11 support. We remain committed to WeWork, its employees, its member customers and
12 landlords,” said Masayoshi Son, Chairman & CEO of SoftBank Group Corp.

13 In connection with the agreement, WeWork’s Board will appoint Marcelo Claire, Chief
14 Operating Officer of SoftBank Group Corp., to the position of Executive Chairman of
15 the Board of Directors of WeWork, effective upon closing of the accelerated \$1.5 billion
16 payment commitment. Adam Neumann, the founder of the Company, will become a
17 Board observer. ***The size of the Board will be expanded and it will receive voting***
18 ***control over Mr. Neumann’s shares.***

19 “WeWork is redefining the nature of work by creating meaningful experiences through
20 integrating design, technology and community. The new capital SoftBank is providing
21 will restore momentum to the company and I am committed to delivering profitability
22 and positive free cash flow. As important as the financial implications, this investment
23 demonstrates our confidence in WeWork and its ability to continue to lead in disrupting
24 the commercial real estate market by delivering flexible, collaborative and productive
25 work environments to our customers. I look forward to helping WeWork realize its
26 vision for the benefit of WeWork employees, members, landlords and communities
27 worldwide,” said Marcelo Claire.

28 The finance package includes:

Existing Payment Obligation: Acceleration of SoftBank’s April 2020 \$1.5 billion
payment obligation at \$11.60 per share, expected to be completed 7 days post-signing,
subject to WeWork shareholder approval;

Tender Offer: The launch of a tender offer worth up to \$3 billion to all non-SoftBank
shareholders at a price of \$19.19 per share, expected to commence in the fourth
quarter of 2019, with closing subject to regulatory approvals and other customary
closing conditions.

96. As the press release from Softbank makes clear, if the transactions are consummated,
Neumann will give Softbank voting control over his shares but will remain a Director. Softbank also
will receive the right to appoint multiple additional individuals to We’s Board.

DAMAGES TO THE WE COMPANY

1
2 97. In addition to directly harming Plaintiff and the Class, Defendants' misconduct has also
3 harmed The We Company. Because of Neumann's self-dealing, the Company has been forced to issue
4 payments to Neumann that serve no corporate purpose and which cost the Company lost opportunities
5 from investing the significant capital in higher and better uses which would have earned a return on
6 investment. The Company has been forced to cancel its IPO and has lost the employment of many
7 employees due to Neumann's wrongdoing.

8 98. WeWork also spent millions of dollars in fees and expenses on the IPO, which was
9 wasted when the IPO was canceled. The market capitalization of We has also been decimated, falling
10 from \$47 billion at the beginning of 2019 to \$10 billion or less by September 2019.

11 99. The Defendants' wrongful conduct also caused the Company to lose its financing. By
12 September 2019, as investment banks working on the IPO neared the completion of their due diligence
13 and discovered severe problems with the Company's business model, losses, corporate governance
14 structure, and other problems caused by Defendants' breaches of fiduciary duty, WeWork was forced to
15 drastically slash its valuation to \$20 billion (from a valuation of \$47 billion in January 2019). Because
16 WeWork was only selling a portion of its stock in the IPO, the reduced valuation meant that WeWork
17 was at risk to raise less than \$3 billion in its IPO.

18 100. The severe reduction in WeWork's valuation was a major problem. WeWork had
19 procured necessary bank financing of \$6 billion in August 2019, but that financing was contingent on
20 the Company raising at least \$3 billion in its IPO. *See* "WeWork Delays \$20 Billion IPO As Valuation
21 Plunges," FORBES, Sept. 19, 2019.

22 101. Softbank wanted to pull the IPO, but Neumann resisted. Both had conflicting personal
23 interests. Neumann wanted an IPO to create a huge payday for himself. Softbank did not want an IPO
24 at the reduced valuation because it would require Softbank to write down the value of its investment in
25 We.

26 102. When WeWork's valuation continued to decline and when stock market analysts balked
27 at the IPO due to the complete lack of corporate governance at WeWork, the Company was forced to
28

1 pull the IPO. As a result, the Company could not fulfill the conditions for its \$6 billion in financing and
2 therefore lost the financing, threatening the very survival of the Company.

3 **A DEMAND ON THE WE COMPANY’S BOARD WOULD BE FUTILE,**
4 **AND THUS IS EXCUSED**

5 103. Plaintiff has not made a demand on the Board to institute this action against Defendants
6 because, for the reasons detailed above and as further set forth below, any such demand would be a
7 futile and useless act.

8 104. At the time this action was filed, The We Company’s Board consisted of seven members,
9 defendants ADAM NEUMANN, BRUCE DUNLEVIE, RONALD FISHER, LEWIS FRANKFORT,
10 STEVEN LANGMAN, MARK SCHWARTZ, and JOHN ZHAO.

11 105. The facts detailed in this Complaint demonstrate that The We Company Board is
12 dominated and controlled by Neumann and Softbank. Neumann controls the voting of the Company’s
13 stock through ownership of over 112 million Class B shares and almost one million Class C shares,
14 each of which afford him 10 votes per share, compared to the Company’s Class A shares, which only
15 carry one vote per share. Neumann thus controls all corporate actions. The Registration Statement We
16 filed with the SEC in anticipation of the Company’s IPO admitted that Neumann has the “ability to
17 control the outcome of matters submitted to our stockholders for approval, including the election of our
18 directors.” Corporate case law is clear that demand is futile where a controlling shareholder controls the
19 voting of stock in a company.

20 106. Softbank is also a controlling shareholder and has two designees (Fisher and Schwartz) on
21 the Company’s Board. Fisher is the Vice-Chairman of Defendant Softbank Group. Softbank currently
22 owns 29% of the Company’s shares and thus exercises significant control over the Company’s
23 operations. Indeed, Neumann treats Softbank as his “partner” in the We Company and consults with
24 Softbank and/or Defendant Son on all major decisions. Together, Neumann and Softbank control all
25 aspects at the We Company and dominate and control the Board.

26 107. Moreover, Neumann’s control is amply demonstrated by the facts alleged herein,
27 including his action in forcing the Company to give him massive payments of \$1.7 billion even though
28 his misconduct caused the cancellation of the Company’s IPO.

1 113. The Individual Defendants and Does 1-25 have violated their fiduciary duties of care,
2 loyalty, candor, good faith, and independence owed to the minority shareholders of The We Company
3 and have acted to put their personal interests ahead of the interests of The We Company's minority
4 shareholders.

5 114. By the acts, transactions, and courses of conduct alleged herein, the Individual
6 Defendants, individually and acting as a part of a common plan, have violated their fiduciary duties to
7 the minority shareholders of the Company.

8 115. As demonstrated by the allegations above, the Individual Defendants failed to exercise the
9 care required, and breached their duties of loyalty, good faith, candor, and independence owed to the
10 minority shareholders of The We Company because, among other reasons:

11 (a) Neumann is attempting to coerce and intimidate the Board he controls into doing what
12 Neumann wants without adequate investigation and analysis;

13 (b) the Individual Defendants are attempting to divest the minority shareholders of fair value
14 for their Company stock through a coercive stock tender offer which is being made without providing
15 adequate information to the minority shareholders about the fair market value of their stock;

16 (c) the Individual Defendants have failed to cause The We Company to pay dividends to the
17 minority shareholders, but have provided Neumann with all the liquidity he wants through loans and
18 other improper personal payments to Neumann, such as the \$185 million consulting fee;

19 (d) the Defendants have ignored or are failing to protect against the numerous conflicts of
20 interest resulting from Neumann's transactions with the Company;

21 (e) the Individual Defendants are abdicating their fiduciary duties; and

22 (f) the Individual Defendants are failing to ensure disclosure of all material facts to The We
23 Company's minority shareholders regarding the Company's financial results, prospects, and all material
24 facts regarding the Company and the value of their stock in the Company.

25 116. The Individual Defendants are violating their fiduciary duties by refusing to recuse
26 themselves from consideration of self-interested transactions between the Company and Neumann,
27 someone with whom they have disabling conflicts, and by failing to ensure a fair and adequate
28 procedural and substantive process for transactions between Neumann, Softbank, and the Company.

1 117. Because the Individual Defendants dominate and control the business and corporate
2 affairs of The We Company, and are in possession of private corporate information concerning The We
3 Company’s assets, business, and future prospects, there exists an imbalance and disparity of knowledge
4 and economic power between them and the minority shareholders of The We Company.

5 118. By reason of the foregoing acts, practices, and course of conduct, the Individual
6 Defendants have failed to exercise ordinary care and diligence in the exercise of their fiduciary
7 obligations toward Plaintiff and the other members of the Class.

8 119. As a result of the Individual Defendants’ actions, Plaintiff and the Class have been and
9 will be damaged in that they have not received similar liquidity opportunities for their stock as has
10 Neumann, and will not receive fair value for their Company stock in the Company’s stock tender offers,
11 and will be prevented from obtaining appropriate consideration for their shares of The We Company
12 common stock.

13 120. Unless enjoined by this Court, the Individual Defendants will continue to breach their
14 fiduciary duties owed to Plaintiff and the other members of the Class, and will continue to withhold
15 annual reports and financial information from minority shareholders and continue to engage in coercive
16 and uninformed repurchase offers, which will exclude the Class from its fair proportionate share of The
17 We Company’s valuable assets and businesses, and/or benefit them in the unfair manner complained of
18 herein, all to the irreparable harm of the Class.

19 121. The Individual Defendants are engaging in self-dealing, are not acting in good faith
20 toward Plaintiff and the other members of the Class, and have breached and are breaching their
21 fiduciary duties to the members of the Class.

22 122. Plaintiff and the Class have no adequate remedy at law. Only through the exercise of this
23 Court’s equitable powers can Plaintiff and the Class be fully protected from the immediate and
24 irreparable injury caused by Defendants’ actions.

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1 **SECOND CAUSE OF ACTION**

2 **Direct Class Claim for Aiding and Abetting Breaches of Fiduciary Duties Against the**
3 **Individual Defendants, Softbank Group Corp., Masayoshi Son, and Does 1-25**

4 123. Plaintiff incorporates by reference and realleges each and every allegation contained
5 above, as though fully set forth herein.

6 124. In committing the wrongful acts alleged herein, Defendants have pursued, or joined in the
7 pursuit of, a common course of conduct, and have acted in concert with and conspired with one another
8 in furtherance of their common plan or design. In addition to the wrongful conduct herein alleged as
9 giving rise to primary liability, Defendants further aided and abetted and/or assisted each other in
10 breach of their respective duties as alleged herein.

11 125. The purpose and effect of Defendants' conspiracy, common enterprise, and/or common
12 course of conduct is, among other things, to permit violations of law and breaches of fiduciary duties.

13 126. Defendants have accomplished their conspiracy, common enterprise and/or common
14 course of conduct by authorizing and/or ratifying personal loans and other improper payments to
15 Neumann which serve no corporate purpose and bear commercially unreasonable terms, by refusing to
16 hold annual meetings of the shareholders (and/or by refusing to make such meetings open to the
17 minority shareholders), by withholding any information about the Company from minority
18 shareholders, and by refusing to check Neumann's self-interested conduct.

19 127. Defendants each aided and abetted and rendered substantial assistance in the wrongs
20 complained of herein. In taking such actions to substantially assist the commission of the wrongdoing
21 described of herein, they acted with knowledge of the primary wrongdoing, substantially assisted the
22 accomplishment of that wrongdoing, and were aware of their overall contribution to and furtherance of
23 the wrongdoing. This wrongdoing facilitated Neumann's self-interested conduct and has harmed The
24 We Company's minority shareholders. The Individual Defendants have failed to ensure an adequate
25 procedural and substantive process is in place to evaluate and approve transactions between the
26 Company, Softbank, and minority shareholders such as the stock purchase solicitations.

27 128. Plaintiff and the members of the Class will be irreparably injured as a direct and
28 proximate result of the aforementioned acts, and have no adequate remedy at law.

1 **THIRD CAUSE OF ACTION**

2 **Direct Class Claim For an Accounting, and for Declaratory and Injunctive Relief**
3 **(Against All Defendants)**

4 129. Plaintiff incorporates by reference and realleges each and every allegation contained
5 above, as though fully set forth herein.

6 130. Defendants have breached their fiduciary duties of good faith, candor, and loyalty by
7 failing to hold annual meetings of shareholders, failing to provide Plaintiff and the Company's other
8 minority shareholders with annual reports and other financial information about the Company necessary
9 for Plaintiff and the Class to determine the financial condition of the Company and fair value of their
10 shares, and other wrongful conduct, as alleged herein.

11 131. Defendants have also agreed to the proposed transactions with Softbank, pursuant to
12 which Neumann stands to be paid \$1.7 billion while the minority shareholders will be subject to a
13 coercive and unfair tender offer.

14 132. Plaintiff seeks injunctive relief in the form of an order enjoining The We Company, the
15 Individual Defendants, and Softbank from taking any further action with respect to the transactions with
16 Neumann and the tender offer until The We Company and the Board provide Plaintiff and the Class
17 with all information to which they are entitled as shareholders of the Company, including an accounting
18 of all transactions between Neumann, the Company, and Softbank, as well as other appropriate relief.

19 133. Plaintiff also seeks a declaratory judgment that Defendants have breached their fiduciary
20 duties to the Company and its minority shareholders, and/or aided and abetted such breaches.

21 **FOURTH CAUSE OF ACTION**

22 **Derivative Claim For Corporate Waste Against Defendants Neumann, Fisher,**
23 **Schwartz, Dunlevie, Zhao, Langman, and Frankfurt**

24 134. Plaintiff incorporates by reference and realleges each and every allegation contained
25 above, except for the causes of action, as though fully set forth herein.

26 135. The Individual Defendants caused The We Company to provide Defendant Neumann
27 with \$1.7 billion in payments after Neumann's wrongdoing substantially harmed the Company and
28 resulted in the cancellation of the Company's IPO. The Board also allowed Neumann to receive other

1 personal benefits that were not shared with the Company's minority shareholders and for which the
2 Company received no benefit.

3 136. There was no business purpose or advantage to The We Company in providing the
4 payments to Neumann.

5 137. Because the improper payments to Neumann serve absolutely no corporate purpose and
6 are saddled with terms that demonstrate they were not negotiated at arms-length, and instead that
7 Neumann dictated the terms through his domination and control of the Company, the payments
8 constitute self-dealing and corporate waste.

9 138. Defendants Dunlevie, Fisher, Schwartz, Frankfort, Langman and Zhao approved the
10 personal payments to Neumann despite the fact that the payments serve no corporate purpose and
11 represent abuse of control by a majority and controlling shareholder. In doing so, they breached their
12 fiduciary duties.

13 139. The We Company has been harmed and damaged.

14 **FIFTH CAUSE OF ACTION**

15 **Derivative Claim for Breach of Fiduciary Duty**
16 **(On Behalf of Plaintiff Against the Individual Defendants and Does 1-25)**

17 140. Plaintiff repeats and realleges each and every preceding allegation, except those contained
18 in the causes of action.

19 141. The Individual Defendants and Does 1-25 owe fiduciary duties of care, loyalty, candor,
20 good faith, and independence to the Company. Defendants Neumann, Schwartz, Fisher, Dunlevie,
21 Zhao, Langman and Frankfort owe the Company fiduciary duties due to their status as Directors of the
22 Company. Neumann owes additional fiduciary duties to the Company since he is the Company's
23 majority and controlling shareholder.

24 142. As alleged in detail in this Complaint, the substantive allegations of which are
25 incorporated into this count, the Individual Defendants have violated their fiduciary duties of care,
26 loyalty, candor, good faith, and independence owed to the Company and have acted to put their
27 personal interests ahead of the interests of the Company.

1 143. As a result of the Individual Defendants' breaches of fiduciary duty, the Company has
2 suffered substantial harm and damage.

3 **SIXTH CAUSE OF ACTION**

4 **Derivative Claim for Unjust Enrichment**
5 **(Against the Individual Defendants and Does 1-25)**

6 144. Plaintiff incorporates by reference and realleges each and every allegation contained
7 above, as though fully set forth herein, except for the causes of action.

8 145. By their wrongful acts and omissions, the Individual Defendants and Does 1-25 were
9 unjustly enriched at the expense of and to the detriment of the Company. These defendants were
10 unjustly enriched as a result of the compensation and benefits they received while breaching fiduciary
11 duties owed to Company. Each of these defendants received improper salaries, cash bonuses, and
12 equity and stock option grants through their employment at the Company, as alleged herein.

13 146. Plaintiff, as shareholder and representative of the Company, seeks restitution from these
14 defendants, and each of them, and seeks an order of this Court disgorging all profits, benefits, and other
15 compensation obtained by these defendants, and each of them, from their wrongful conduct and
16 fiduciary breaches.

17 147. Plaintiff, on behalf of the Company, has no adequate remedy at law.

18 **SEVENTH CAUSE OF ACTION**

19 **Derivative Claim for Abuse of Control**
20 **(Against Defendant Neumann)**

21 148. Plaintiff incorporates by reference and realleges each and every allegation contained
22 above, as though fully set forth herein, except for the causes of action.

23 149. By virtue of his positions and financial holdings at the Company, defendant Neumann
24 exercised control over the Company and its operations, and owed duties as a controlling shareholder to
25 the Company not to use his positions of control for his own personal interests and contrary to the
26 Company's interests.

27 150. Defendant Neumann's conduct alleged herein constitutes an abuse of his ability to control
28 and influence the Company, for which he is legally responsible.

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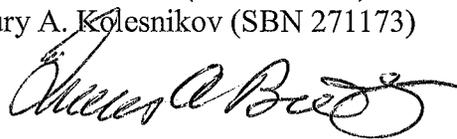
JURY TRIAL DEMAND

Plaintiff demands a trial by jury on all claims and issues so triable.

Dated: November 1, 2019

Respectfully submitted,

BOTTINI & BOTTINI, INC.
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