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Case No. 4940-

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

NEW ORLEANS EMPLOYEES' RETIREMENT SYSTEM, on Behalf of Itself and all Other Similarly Situated Shareholders of Affiliated Computer Services, Inc.,

Plaintiff,

v.

DARWIN DEASON, LYNN R. BLODGETT, KURT R. KRAUSS, PAUL E. SULLIVAN, FRANK VARASANO, ROBERT ALLEN DRUSKIN, TED B. MILLER Jr., XEROX CORPORATION and BOULDER ACQUISITION CORP.,

Defendants.

C.A. No. _______________

VERIFIED CLASS ACTION COMPLAINT

Plaintiff, New Orleans Employees' Retirement System, on behalf of itself and all other similarly situated public shareholders (the "Class") of Affiliated Computer Services, Inc. (hereafter, "ACS" or the "Company"), by their attorneys, make the following allegations against the members of ACS's Board of Directors identified below (the "ACS Board" or "Board"), Xerox Corporation and Boulder Acquisition Corp. (together "Xerox") in support of Plaintiff's claims relating to the merger transaction and related transactions described below. The allegations of the Complaint are based on the personal knowledge of Plaintiff as to itself and on information and belief (including the investigation of counsel and review of publicly available information) as to all other matters stated herein.

SUMMARY OF THE ACTION

1. This case arises because Darwin Deason ("Deason"), the founder, Chairman and largest shareholder of ACS, an information services company, is appropriating for himself hundreds of millions of dollars of value that rightfully belongs to ACS's public shareholders. In connection with a negotiated buyout by Xerox of ACS, Deason has caused the ACS Board, which he dominates, to approve terms that pay Deason an astonishing personal premium and various additional benefits far in excess of the consideration that the Board negotiated for ACS's public shareholders.

2. Deason's ACS equity stake consists of 3% of the Company's Class A securities. He also owns all of ACS's high-vote Class B shares, which gives him about 44% of the Company's total voting power. Notwithstanding modest limitations to his voting power and the fact that he does not have an absolute majority of ACS's voting shares, Deason is a controlling shareholder because, when the voting power of his shares is coupled with his status as founder and Chairman, he is readily able to dominate and control the Company and its Board.

3. On September 27, 2009, ACS entered into a definitive agreement for Xerox to acquire ACS in a cash and stock transaction (the "Xerox Offer" or "Proposed Transaction") that valued ACS at $6.4 billion as of the closing price of Xerox stock on September 25, 2009. Deason owns less than 10% of the Company's economic equity interests, yet he is set to receive a mix of cash and Xerox securities worth $889 million as of the day the Xerox Offer was announced. Deason has no right to extract hundreds of millions of value for himself at the expense of ACS's other shareholders. This is exactly

what he did – securing for his shares an astounding ***50% premium*** to the consideration paid to ACS's public stockholders, and a myriad of personal benefits for years to come.

4. Historically, even when the holders of high-vote shares in dual-class corporate structures have an absolute majority, they do not receive an additional premium in third party mergers or acquisitions above the price paid for the balance of the controlled company's common stock. Here, Deason does not own a majority of shares, but merely controls the Company through a combination of his voting rights and influence in the executive suite. He is misusing his position of control to extract an unprecedented and undeserved premium. Deason leveraged his control over the Company and its Board to enjoy the same exchange ratio as other ACS shareholders for all of his Class A shares and for all his Class B shares, and to also secure an additional windfall payment of $300 million in Xerox convertible preferred securities (the "Preferred Shares").

5. The ACS Board's willingness to accede to Deason's demands is no surprise. Just two years ago, Deason attempted to take ACS private in a coercive deal. When the then-current ACS independent directors dared to oppose Deason's efforts, he made their jobs so difficult that they resigned in unison, attributing the decision directly to Deason's "bullying and thuggery." The frustrated directors even filed a virtually unprecedented lawsuit against Deason for his misconduct. Those six independent directors were thereafter replaced by new directors, who have obviously learned not to oppose Deason's demands that they do his bidding.

6. Under the terms of the Xerox Offer, ACS shareholders will receive a total of $18.60 per share in cash plus 4.935 Xerox shares for each ACS Class A share they own (the "Merger Consideration"). In addition, Xerox will assume ACS's debt of $2 billion. For his part, Deason will receive the same premium for his Class A shares and for his Class B shares, but will also receive ***$300 million of convertible Xerox preferred stock***. Based on the Xerox stock price on the last trading day before the deal was announced, Xerox is paying Deason $95.17 per share, while only paying ACS's public shareholders $63.11.

7. Thus, only a fraction of Deason's consideration under the Proposed Transaction is comparable to that of the Class, while much of Deason's consideration is unique and superfluous. He is enjoying a 50% premium ***above*** the amount being paid to ACS public shareholders. In addition, Deason negotiated for and received the right to appoint two directors to the Xerox board, another form of consideration unique to him.

8. The ACS Board also allowed Xerox and Deason to "lock-up" the Proposed Transaction through the use of a voting agreement covering Deason's voting securities in ACS which, under certain circumstances, requires him to pledge half of his voting interest in ACS to Xerox for the purposes of the Xerox Offer and any competing proposal. Unlike the various ACS corporate initiatives that require as much as 80% shareholder support due to restrictions in the ACS Charter – a voting level that gives ACS shareholders some protection against Deason's ability to engage in self-interested transactions – the Xerox Offer will pass as long as more than 50% of ACS voting power

supports the deal. Xerox's payoff to Deason at the public shareholders' expense makes approval a near-certainty.

9. Despite his domination of the corporation, Deason does not hold a majority of ACS's shares and has a small economic stake relative to his extensive voting interest. Deason is improperly using his voting rights and role as Chairman to benefit personally at the direct expense of ACS's public shareholders. Whatever amount Xerox was willing to pay to acquire ACS must be shared equitably. The allocation of consideration provided by the Xerox Offer is grossly inequitable to ACS's public shareholders and improperly favors Deason. The Proposed Transaction is thus subject to entire fairness review.

10. As discussed in detail below, the Proposed Transaction is not entirely fair to ACS's public shareholders. Deason's role caused the Board to breach its fiduciary duties of due care, good faith and loyalty by agreeing to the Proposed Transaction. In the event that Defendants do not cure these fiduciary breaches in response to the claims and allegations set forth herein, Plaintiff respectfully submits that the Proposed Transaction be enjoined, the definitive merger agreement should be rescinded, and/or (only in the event the Proposed Transaction is not enjoined) damages should be awarded to the proposed Class.

THE PARTIES

11. Plaintiff New Orleans Employees' Retirement System ("NOERS") is a retirement fund for New Orleans public employees. NOERS is a stockholder of ACS,

has been a stockholder of ACS at all material times alleged in this Complaint, and will continue to be a stockholder through its pendency.

12. Defendant Xerox is the world's leading document management technology and services enterprise. Xerox is incorporated under the laws of the State of New York and is headquartered in Norwalk Connecticut.

13. Defendant Boulder Acquisition Corp. is a Delaware corporation and a wholly owned subsidiary of Xerox.

14. Defendant Darwin Deason is the founder and Chairman of ACS. Deason controls roughly 43.6% of the ACS shareholder voting power, and enjoys an annual option to serve as the Company’s chairman.

15. Defendant Lynn R. Blodgett (“Blodgett”) has served as President and Chief Executive Officer of ACS since November 2006 and has served as a director since September 2005. Blodgett, formerly COO, was personally selected by Deason to succeed the prior CEO, Mark A. King, who resigned under the cloud of a stock-options backdating investigation. Blodgett received compensation of $4,734,154 as President and CEO of ACS in 2008. Blodgett will retain his position as President and CEO of ACS when it becomes part of Xerox under the terms of the Proposed Transaction. Blodgett is entirely beholden to Deason, as Deason is not only his current boss, but also one of Blodgett’s future employers in his capacity as Xerox’s largest shareholder.

16. Defendant Robert Druskin (“Druskin”) is a director of the Company. Druskin received compensation of $62,580 for serving as an ACS board member during the fiscal year 2008. Druskin is a longtime Citigroup executive, and secured a role for Citigroup Global Markets in advising ACS on the Proposed Transaction.

17. Defendant Kurt R. Krauss ("Krauss") has served as a director of the Company since 2007. Krauss received $183,502 in compensation for his service on the ACS Board during the fiscal year 2008.

18. Defendant Paul E. Sullivan ("Sullivan") is a director of the Company. Sullivan received compensation of $119,618 for his service on the ACS Board during the fiscal year 2008.

19. Ted B. Miller ("Miller") has been a director of the Company since 2007. Miller received compensation of $176,002 for his service on the ACS Board during the fiscal year 2008.

20. Frank Varasano ("Varasano") has served as a director of the Company since 2007. Varasano received compensation of $182,002 for his service on the ACS Board during the fiscal year 2008.

21. Defendants Deason, Blodgett, Druskin, Krauss, Miller, Sullivan and Varasano collectively constitute the entirety of the Company's Board. These individuals are hereinafter referred to as the "Individual Defendants" or the "ACS Director Defendants" or the "ACS Directors."

22. By virtue of their positions as directors and/or officers of ACS and/or their exercise of control and ownership over the business and corporate affairs of the Company, the Individual Defendants have, and at all relevant times had, the power to control and influence and did control and influence and cause the Company to engage in the practices complained of herein. Each Individual Defendant owed and owes its shareholders fiduciary obligations of candor, due care, good faith, and loyalty and were and are required to: (1) use their ability to control and manage ACS in a fair, just, and equitable manner; (2) act in furtherance of the best interests of its shareholders; (3) act to maximize shareholder value in connection with any change in ownership and control to

the extent consistent with governing statutes; (4) govern ACS in such a manner as to heed the expressed views of its public shareholders; (5) refrain from abusing their positions of control; and (6) not favor their own interests at the expense of the Company and its public shareholders.

FACTUAL BACKGROUND

A. Deason Dominates and Controls ACS and the ACS Board

23. Deason launched ACS as a bank data processor in 1988. Soon after, ACS acquired the data processing and electronic funds transfer operations of First Texas Gibraltar, expanding ACS into more diversified banking services.

24. ACS officially expanded out of banking services when it signed a ten year data processing outsourcing contract with Southland Corp. (*i.e.*, 7-Eleven). In 1995, ACS became a public company and divested its bank data processing operations. By 1996, ACS had become the fourth largest commercial outsourcer in the U.S. ACS now operates in nearly 100 countries, generating over $6 billion annually.

25. In 2006, the ACS Board authorized a modified tender offer (the "Tender Offer") and sold 7.4 million shares of Class A common stock. In connection with the Tender Offer, Deason entered into a voting agreement with the Company dated February 9, 2006 (together with amendment, the "Voting Agreement"), in which he agreed to limit his ability to use the additional voting power he would hold as a result of the Tender Offer anytime thereafter.

26. Deason's influence, nonetheless, continued to be so great that on December 7, 2007, the ACS board of directors was forced by the criticisms of corporate governance advocates attacking Deason's influence over the Company to demand an

amendment of the Voting Agreement to attempt to limit Deason's influence. The amendment to the Voting Agreement provides that Deason's voting power with respect to his then held 1,989,864 Class A common stock and 6,599,372 shares of Class B Shares, would not exceed 45% as a result of the Company's approved program to repurchase its shares. The amendment did not, however, limit Deason's ability to gain further voting control by purchasing additional shares, and other than as expressly set forth in the Voting Agreement, Deason continued to have the power to exercise all rights attached to the shares that he owns.

27. While the Voting Agreement was an attempt to address the public criticism of Deason's heavy-handed control of ACS, its ineffectiveness was highlighted during a failed buyout attempt by Cerberus Capital Management in partnership with Deason (as discussed below, the "Cerberus Proposal"). The Voting Agreement did nothing to prevent ***Deason from ousting all six of the Company's independent directors for thwarting the Cerberus Proposal***, leaving only him and Blodgett on the ACS board of directors to select all of the new independent directors.

28. Currently, Deason owns approximately 2,740,000 shares of the ACS Class A common stock, and is the sole beneficial owner of the Company's 6,599,372 Class B shares. While Deason only owns 9.6% economic interest in the Company, his combined shares represent 44% of the voting interest in ACS.

29. Deason's roughly 44% ownership of the voting power of the Company against the backdrop of ACS's charter documents provide him with absolute control of the Company's corporate affairs and Board of Directors. Provisions of the ACS

certificate of incorporation and bylaws make the Voting Agreement restrictions on Deason's power virtually irrelevant in light of the Company's ownership structure. Among other things, the provisions:

- require an 80% vote of the stockholders to amend some provisions of the ACS certificate of incorporation;
- require an 80% vote of the stockholders to amend some provisions of the ACS bylaws;
- permit only Deason, Blodgett or a majority of the ACS Board (calculated as if there were no vacancies) to call stockholder meetings;
- authorize the ACS Board to issue up to 3.0 million shares of preferred stock in series with the terms of each series to be fixed by the board of directors;
- permit directors to be removed, with or without cause, only by a vote of at least 80% of the combined voting power; and
- specify advance notice requirements for stockholder proposals and director nominations to be considered at a meeting of stockholders.

30. Further, the Company does not allow cumulative voting for directors, so Deason's 44% voting interest is virtually tantamount to control over the outcome of every director election.

31. The corporate structure of ACS, coupled with Deason's substantial equity position, provides Deason absolute and total control over the entirety of ACS' corporate affairs and the ACS Board.

B. Deason Fails to Squeeze Out the Public Shareholders and Replaces the Board

32. In late 2005, the New York Times reported that private-equity firm TPG attempted to buy ACS for $62 a share, but ACS's board rejected its offer. Attracted by ACS's free cash flow, other private-equity offers soon followed. Shortly thereafter, TPG, Bain Capital, Silver Lake Partners, Providence Equity and the private equity arm of Goldman Sachs offered $65 per share for ACS, but the board also turned down those offers. At the time, some analysts valued ACS as high as a $75 per share, and the ACS board refused to sell the Company for what they considered a low ball bid.

33. Deason knew that the ideal opportunity to maximize the value of his director and ownership positions would come if he was a party to any acquisition proposal. Therefore, in 2007, Deason teamed up with Cerberus Capital Management ("Cerberus") to buy all outstanding shares of ACS.

34. On March 20, 2007, Deason and Cerberus submitted the Cerberus Proposal to ACS's Board of Directors to acquire all of the outstanding shares of ACS (other than certain shares and options held by Deason and members of the Company's management team that would be rolled into equity securities of the acquiring entity) for $59.25 per share in cash. This proposal was subsequently revised to a range of $59.25 to $62.00 per share in cash.

35. Prior to submitting the Cerberus Proposal, however, Deason entered into an agreement with Cerberus pursuant to which Deason agreed to work exclusively with Cerberus to negotiate an acquisition of the Company (the "Exclusivity Agreement").

36. After the ACS board of directors received the Cerberus Proposal, it promptly formed a Special Committee of the Board, which included independent directors Holland, Kosberg and Rossi, and charged the Special Committee with evaluating all strategic alternatives available to the Company. In that regard, the Special Committee promptly retained independent legal and financial advisors.

37. The Special Committee immediately concluded that the Exclusivity Agreement was designed to (and in fact did) chill the interest of possible competing bidders and made it likely that Deason and Cerberus would be able to purchase the Company for a price less than that which could be attained after a full and fair auction process unburdened by the Exclusivity Agreement. Therefore, the Special Committee instantly and continually requested that the Exclusivity Agreement be voided so that the Special Committee would not be inhibited from negotiating with third parties concomitantly with Deason and Cerberus.

38. The Special Committee's direct effort to create a robust auction process free from the limitations of the Exclusivity Agreement was met with resistance on the part of Deason, and he refused the Special Committee's constant requests to void or modify the Exclusivity Agreement. It was not until June 10, 2007, that Mr. Deason and Cerberus finally agreed to suspend the Exclusivity Agreement for approximately two months so that the Company could conduct an open and unburdened sale process designed to elicit the best and highest price.

39. Nevertheless from the start of the process Deason and Blodgett attempted to frustrate the efforts of the Special Committee to sell the Company to the highest bidder

by making it difficult for any potential buyer to have a full and fair opportunity to obtain the information necessary to make a proposal that would be superior to the Cerberus Proposal.

40. Upset by the Special Committee's insistence on carrying out its fiduciary duties to all of the Company's shareholders, on October 30, 2007, during a special meeting of the board of directors, Deason demanded that all of the independent directors of ACS, including the members of the Special Committee, resign within one hour. Deason's demand was accompanied by a letter from ACS's counsel, which was sent simultaneously to each of ACS's independent directors, reiterating the demand for their immediate resignation and accusing the independent directors of failing to discharge their fiduciary duties in connection with their response to the Cerberus Proposal. Deason also put forward four potential board candidates to take the seats of the ousted independent directors. On November 1, 2007, at another special meeting of the board of directors, the independent directors informed Deason and the management directors that, because of Deason's and management's conduct, they felt compelled to resign from the board and not to stand for re-election.

41. ACS was no stranger to controversy under Deason, and his attempt to take the Company private represented Deason's effort to escape the SEC scrutiny that had dogged him, particularly relating to options back-dating allegations made against him. After the ACS Board turned down the Cerberus Proposal, and Deason cleaned house, all six of the former independent directors brought a lawsuit seeking an order declaring that the members of the properly formed special committee of ACS, along with their fellow

independent directors, did not breach their fiduciary duties to the Company and its shareholders by attempting to structure a fair process for the sale of the Company. The former directors stated that while they sought to maximize value for all of the Company's shareholders, Deason demanded mere acceptance of the Cerberus Proposal submitted to the board by the Deason and his "hand-picked" private equity sponsor. As the ousted directors wrote in their joint resignation letter, Deason's demand that they "resign in one hour or I will go to the press and smear your reputations - was a remarkable piece of bullying and thuggery [sic]."

42. The bullying, however, worked, and Deason got to create a clean slate from which to construct a board of directors. Only he and his trusted executive Blodgett survived the aftermath of the Cerberus Proposal. ACS's current independent directors certainly know the fate of their predecessors, and are aware that they need to put Deason's interests before the other ACS shareholders in any deal that they accepted, including the Xerox Offer.

C. <u>The Xerox Transaction Pays Deason a Windfall At the Expense of the Class</u>

43. On September 28, 2009, Xerox and ACS issued a joint press release announcing the execution of the Agreement and Plan of Merger, dated as of September 27, 2009 ("Merger Agreement"), among Xerox, Boulder Acquisition Corp., a wholly owned subsidiary of Xerox, and ACS.

44. Under the terms of the Merger Agreement, ACS shareholders will receive a total of $18.60 per share in cash plus 4.935 Xerox shares for each ACS share they own. In addition, Xerox will assume ACS's debt of $2 billion, and issue the $300 million of

Preferred Shares solely to Deason. In connection with the Preferred Shares, Deason will also obtain the right to appoint two directors to the Xerox board.

45. In the Proposed Transaction, for each of his Class B shares, Deason will receive the same compensation as the A shares (4.935 Xerox shares + $18.60 in cash), ***plus*** a fraction of the 300,000 Preferred Shares (0.045459) in Xerox. Based on the deal price of September 25th, this equals $108.57 per Class B share - an additional $45.46 of value for each Class B share compared to what is being paid for each Class A share. This additional consideration comes at the direct expense of the Merger Consideration paid to ACS's public shareholders. The distribution of Xerox's payment price among ACS's shareholders is a zero-sum game, so every dollar that goes to Deason comes at the expense of all other shareholders. Deason's interest is therefore not aligned with the Class, and the transaction cannot survive entire fairness scrutiny.

46. In addition, Xerox and Deason entered into a Separation Agreement (the "Separation Agreement") in connection with the Xerox Offer that provides him a windfall of personal and financial benefits. The Separation Agreement provides that upon consummation of the Merger, Deason will resign as Chairman of ACS, and that until May 18, 2014, Deason will receive base salary and annual bonus continuation payments, at his current annual rate of base salary ($1,017,437) and at his current target annual bonus ($2,543,591.20). He will also receive health and welfare benefits, home office support and most of his current perquisites and fringe benefits.

47. Further, the Separation Agreement states that Deason will be entitled to: (i) continued Directors and Officers liability insurance through May 18, 2014, (ii)

additional credits for eligibility under the Company's retirement benefits, (iii) to be reimbursed for any incremental taxation he incurs on such entitlements by virtue of no longer being an employee, and (iv) to tax gross up payments for any golden parachute excise taxes incurred by him pursuant to Section 4999 of the Internal Revenue Code.

48. Also, pursuant to Deason's employment agreement, Deason became entitled to a change of control payment upon the approval of the Merger by the Board of Directors of ACS. The lucrative Separation Agreement is just another way Deason appropriated value from ACS's public shareholders for himself, and is additional illustration of how his interests are not aligned with those of the Class.

49. The transaction, which has been approved by the Xerox and ACS boards of directors and ACS's special committee, is expected to close in the first quarter of 2010.

50. Pursuant to the Merger Agreement, ACS will operate as an independent organization, and initially, it will be branded ACS, a Xerox Company. ACS's current President and CEO, Lynn Blodgett will retain his positions after the consummation of the Proposed Transaction.

51. Deason will become one of the largest shareholders of Xerox, thus he is personally interested in assuring that the consideration paid to ACS's public shareholders is minimized. He gets no benefit from the payments to the members of the Class, but gets an outsize benefit in the deal (because of the premium he gets) and will enjoy a disproportionate amount of the benefits of the deal as a Xerox shareholder in the future. In contrast to other ACS shareholders, who will individually receive nominal ownership

of Xerox and whose only fixed consideration is the $18.60 cash portion of the Merger Consideration, Deason will receive roughly $700 million in Xerox securities plus roughly $189 million in cash. He has a clear incentive to minimize the total amount that Xerox spends on ACS, save what it spends on him.

52. While the Merger Consideration has been devalued by a decline in Xerox stock price since the deal was announced, Deason's interest is somewhat insulated from this value erosion due to the structure of the Preferred Shares. The unique composition of Deason's consideration demonstrates not only how Deason secured benefits for himself that ACS's other shareholders did not obtain, but also how his interests are not aligned with the Class. While this erosion does affect some of Deason's consideration, his $300 million of Preferred Shares provides a buffer from a drop in the price of Xerox's common stock, as do the benefits and payments Deason stands to receive under the terms of the Separation Agreement.

53. Far from being "entirely fair" to ACS's other shareholders, the Proposed Transaction provides a windfall for Deason and a misappropriation of consideration that should be paid to the Class. Indeed, Deason is not only the principal beneficiary of this transaction, but he is also the principal architect of the Proposed Transaction through his domination and control of the Board. Deason forced the Board to approve a deal that allows him to cash out of ACS while securing a significant economic interest in the future of the combined company to the detriment of all other ACS shareholders.

54. Financial analysts and media outlets have also raised questions concerning the fairness of the Proposed Transaction to ACS's shareholders. For example, in a September 28, 2009 article in the Financial Times evaluating the deal noted:

> "the value of the bid premium to ACS's undisturbed share price is worth just $940m, far less than the capitalised [sic] value of potential cost savings, which are targeted at between $330m and $400m annually. Taking the lower end of that range, equivalent to about 1.5 per cent of the combined cost base, the savings, taxed and capitalised [sic], would be worth $2.1bn. ***Xerox has therefore held on to the bulk of the deal's potential benefits. So, although ACS shareholders will be paid mostly in Xerox stock, they should not cheer the deal*****….**" (emphasis added)

55. Another September 28, 2009 article highlighting Xerox's bargain states:

> "[Xerox is] purchasing a company with double the profit margin, and for a pretty decent price. At the $64 offer price and considering ACS' cash balance, it looked to me that Xerox was paying a FCFY (Free Cash Flow Yield) of 11%. At this lower price based on where shares are now trading, it looks more like 13%. And this is before major cost-cutting…adds a point or more to that."

56. As a result of the actions described herein, the Director Defendants failed to secure a transaction that is entirely fair to the Class in accordance with Delaware law.

D. <u>The Proposed Transaction Is a *Fait Accompli*</u>

57. The Board further breached its fiduciary duties to the Class by approving the Merger Agreement, which contains significant deal protections, including a ***termination fee of roughly 3.5%*** of the Proposed Transaction's equity value. Those deal protections, combined with Deason's almost 44% voting interest – undermine the ACS Board's exploration of strategic alternatives, and the legitimacy of any forthcoming

shareholder vote. Specifically, the Proposed Transaction requires that in the event the ACS Board recommends a competing proposal, ACS must pay Xerox a termination fee of $194 million. A competing proposal is highly unlikely however, due to the terms of a voting agreement between Deason and Xerox, which dictates how Deason's 43.6% voting interest in ACS is cast in any vote on the Proposed Transaction or any potential alternative transaction (the "Xerox Voting Agreement").

58. The Xerox Voting Agreement requires Deason to vote all of his ACS shares in favor of the Proposed Transaction. The Proposed Transaction contains no requirement that a majority of ACS's public shareholders approve the Xerox Offer, and therefore, only about 9% of ACS's public shareholders (or about 6% of the remaining outstanding shares) need vote in favor of the Proposed Transaction in order for it to succeed. The outcome of any shareholder vote on the Proposed Transaction is an exercise in futility because the results are already known.

59. ACS's public shareholders' only hope for getting fair value for their shares is from a third party offer, but this prospect is precluded by the Xerox Voting Agreement, which causes Deason to forfeit half of his 43.6% voting interest in ACS to Xerox in the event the ACS Board recommends even a superior proposal. Section 2.1(b) of the Xerox Voting Agreement states:

> (b) Notwithstanding Section 2.1(a), in the event of a Company Adverse Recommendation Change (as defined in the Merger Agreement) made in compliance with the Merger Agreement in connection with a Superior Proposal (as defined in the Merger Agreement), the obligation of the Stockholder to vote Covered Shares as to which the Stockholder controls the right to vote in the manner set forth in Section 2.1(a) shall be modified such that:

> (i) the Stockholder shall vote (or cause to be voted), in person or by proxy, or deliver (or cause to be delivered) a written consent covering, ***an amount of Covered Shares equal to twenty-one and eight-tenths of a percent (21.8%) of the total voting power*** of the outstanding shares of Common Stock (the "Locked-Up Covered Shares"), voting together as a single class, entitled to vote in respect of such matter, as provided in Section 2.1(a)(ii); (emphasis added)

60. With Xerox in control of one fifth of ACS's voting power, and with a $194 million termination fee looming, potential acquirers or suitors are entirely dissuaded from entertaining the prospect of a strategic combination with ACS. Moreover, because Xerox was willing to pay Deason such a handsome "side payment" to garner his support for the deal, even if a competing bidder were to offer substantially more per share to all ACS shareholders – a deal an independent ACS Board would be required to explore and likely accept – Deason has already committed half his votes to Xerox against such proposal, and surely would voluntarily vote his full 44% interest to preclude the emergence of any deal that treats Deason on an equal footing with the other ACS shareholders.

61. Further, ACS's public shareholders have been denied critical information relating to the Proposed Transaction which they need to make an informed decision about the disposition of their investment. The Director Defendants have failed to make material disclosures about the process and valuations surrounding the Xerox Offer.

62. These factors, combined with the flawed process implemented by the ACS Board, demonstrate that the Proposed Transaction is not entirely fair to ACS shareholders, nor was it the product of fair dealing.

E. **<u>Deason Prevented the Director Defendants From Properly Exercising Their Fiduciary Duties</u>**

63. The Proposed Transaction is not entirely fair to ACS shareholders because the process leading up to the Proposed Transaction was contaminated by lock up options, break up fees, and other provisions that prevent the Director Defendants from fulfilling their fiduciary obligations.

64. The terms of the Merger Agreement deter competing bids and prevent the ACS Directors from exercising their fiduciary duties to obtain the best reasonably available price for ACS's shareholders. The defensive provisions erect barriers to competing offers and function to substantially increase the likelihood that the Proposed Transaction will be consummated, leaving ACS's public shareholders with an unfair deal. When viewed collectively, these provisions, which are detailed below, further the personal interests of Deason, Blodgett and Xerox, and cannot be justified as an appropriate and proportionate response to the costs and expenses associated with the Proposed Transaction.

65. <u>No-Solicitation Provision</u>: The Merger Agreement prevents ACS from soliciting alternative bids for the Company, thus preventing the ACS Directors from seeking an adequate bid in the best interests of ACS shareholders.

66. The Merger Agreement provides a limited exception under which the ACS Directors may consider only an *unsolicited* bid that the ACS Board has formally determined "constitutes or could reasonably be expected to lead to a Superior Proposal." Specifically, the Merger Agreement provides that a:

> "The term "Superior Proposal" means any bona fide proposal or offer from any third party that if consummated would result in such person (or its stockholders) owning, directly or indirectly, more than 50% of the shares of Company Common Stock then outstanding (or of the shares of the surviving entity in a merger or the direct or indirect parent of the surviving entity in a merger) or more than 50% of the assets of the Company and its Subsidiaries (including equity securities of any Subsidiary of the Company), in each case, which the Board of Directors of the Company (acting through the Special Committee, if then in existence) reasonably determines (after consultation with its outside legal advisors and a financial advisor of nationally recognized reputation), taking into account all financial, legal, regulatory and other aspects of such proposal or offer (including any break-up fee, expense reimbursement provisions, conditions to consummation and financing terms) and the person making the proposal or offer to be (i) more favorable to the stockholders of the Company from a financial point of view than the transactions contemplated by this Agreement (after giving effect to any changes to the financial terms of this Agreement proposed by Parent in response to such offer or otherwise) and (ii) ***reasonably capable of being completed on the terms set forth in the proposal***." (emphasis added)

67. Thus, even when the ACS Directors are facing an unsolicited intervening bid that is clearly "superior" to the Proposed Transaction, the individual ACS Directors cannot consider the offer a "Superior Proposal" because no other transaction is "reasonably capable of being completed" in light of Deason's interest and the Xerox Voting Agreement. Because the ACS Board cannot in good faith deem an alternative offer a Superior Proposal due to the confines of the Merger Agreement, neither can the ACS Board even provide information to bona-fide suitors. This inability to perform even the slightest exploration of strategic alternatives has and will limit the ACS Board's ability to secure a transaction that is entirely fair to the Class.

68. Consequently, this provision prevents the ACS Directors from exercising their fiduciary duties individually and precludes even an investigation into essentially any other competing proposals, regardless of terms.

69. Termination Fee: The Merger Agreement requires ACS to pay to Xerox the sum of $194 million within two days if ACS terminates the Merger Agreement, even if the agreement is terminated as a result of the ACS Directors' recommendation in favor of a superior offer for ACS shares (the "Termination Fee"). Because there is no collar on the total value of the Xerox Offer (the Merger Consideration changes with movement in the price of Xerox common stock), the Termination Fee as a percent of total deal value fluctuates, and has already been as high as 3.5%.

70. The ACS Board breached their duties of due care, good faith, and undivided loyalty by locking-up the Proposed Transaction with these improper deal protection provisions while at the same time allowing Deason to leverage his influence for personal gain at the expense of the Class.

CLASS ACTION ALLEGATIONS

71. Plaintiff brings this action pursuant to Rule 23 of the Rules of the Court of Chancery, individually and on behalf of all other stockholders of the Company (except the defendants herein and any persons, firm, trust, corporation, or other entity related to or affiliated with them and their successors in interest), who are or will be threatened with injury arising from defendants' actions, as more fully described herein (the "Class").

72. This action is properly maintainable as a class action for the following reasons:

a) The Class is so numerous that joinder of all members is impracticable. As of June 30, 2009, there were 869,081,472 shares outstanding of ACS common stock. Upon information and belief, ACS common stock is owned by thousands of shareholders of record nationwide.

b) Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in litigation of this nature. Plaintiff's claims are typical of the claims of the other members of the Class and Plaintiff has the same interests as the other members of the Class. Accordingly, Plaintiff is an adequate representative of the Class and will fairly and adequately protect the interests of the Class.

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

d) To the extent defendants take further steps to effectuate the Proposed Transaction, preliminary and final injunctive relief on behalf of the Class as a whole will be entirely appropriate because defendants have acted, or refused to act, on grounds generally applicable and causing injury to the Class.

73. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual class member. The common questions include, *inter alia*, the following:

a) Whether defendants breached their fiduciary duties of due care, good faith and loyalty with respect to Plaintiffs and the other members of the Class as a result of the conduct alleged herein;

b) Whether the Proposed Transaction is entirely fair to the members of the Class;

c) Whether the process implemented and set forth by the defendants for the Proposed Transaction, including but not limited to, the Merger Agreement, the Xerox Voting Agreement, the negotiations concerning the Merger Agreement, and the shareholder approval process provided for the Proposed Transaction, is entirely fair to the members of the Class;

d) Whether the Director Defendants breached their fiduciary duties by agreeing to improper deal protection provisions set forth in the Merger Agreement, including the no solicitation provision and termination fee, effectively precluding the Director Defendants from maximizing value for ACS's shareholders or obtaining a fair price that was the product of fair dealing;

e) Whether the Director Defendants have breached their fiduciary duty of candor by failing to disclose all material facts related to the Proposed transaction;

f) Whether Xerox and/or ACS aided and abetted the Director Defendants' breaches of fiduciary duties of candor, due care, good faith, and loyalty with respect to Plaintiff and the other members of the Class as a result of the conduct alleged herein;

g) Whether Plaintiff and the other members of the Class would be irreparably harmed if ACS, the Director Defendants, and Xerox are not enjoined from effectuating the conduct described herein.

CLAIMS FOR RELIEF
COUNT I

(Class Action Claim For Breaches of Fiduciary Duties Against Deason as Controlling or Dominating Shareholder)

74. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

75. As a controlling shareholder of ACS, Deason owes the Class the utmost fiduciary duties of due care, good faith, and loyalty. Deason also owes the Class the duty to disclose all material facts regarding the merger with Xerox, including how the merger came to be structured as it currently is.

76. Deason's financial interests are adverse to the financial interests of ACS's public shareholders in connection with the Proposed Transaction. Deason has appropriated for himself a disproportionate amount of the merger consideration at the expense of the Class.

77. Deason must, but has not, acted in accordance with Delaware's stringent "entire fairness" standard in connection with the Proposed Transaction. Under this standard, Deason must (but cannot) establish that the Proposed Transaction is the result of a fair process that returns a fair price for all ACS shareholders. Xerox's proposed merger consideration is inadequate and unfair, and Deason has dominated and controlled the Board's process, thus breaching his fiduciary duties.

78. Deason has failed to fulfill his fiduciary duties in the Proposed Transaction.

79. Plaintiff and the Class have been harmed by these breaches of fiduciary duty because they have not received a fair price in the Proposed Transaction nor was the Merger Agreement the product of fair dealing.

80. Plaintiff and the Class have no adequate remedy at law.

COUNT II

(Class Claim For Breaches of Fiduciary Duty Against The ACS Board)

81. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

82. The ACS Directors owe the Class the utmost fiduciary duties of due care, good faith, and loyalty.

83. The ACS Directors have breached those fiduciary duties by entering into an improper Merger Agreement whereby the ACS Board has ceded control over any merger process or negotiation with Xerox to Deason.

84. The ACS Directors are obligated by their fiduciary duties and the entire fairness standard to ensure that any merger transaction is accomplished by fair dealing and in a fair process that returns a fair price for all ACS shareholders. The ACS Directors have breached these duties.

85. Plaintiff has no adequate remedy at law.

COUNT III

(Class Claims for Aiding and Abetting a Breach of Fiduciary Duty Against Xerox and Boulder Acquisition Corp.

86. Xerox and Boulder knew that Deason owes fiduciary duties to the Class, and knowingly offered Deason merger consideration that he alone would enjoy in order to induce him to agree to the merger on terms detrimental to the Class.

87. Xerox and Boulder Acquisition Corp., by inducing Deason and Blodgett into favoring the Proposed Transaction at the expense of the ACS's public shareholders, have aided and abetted their breach of fiduciary duties.

88. Xerox and Boulder Acquisition Corp. are liable for aiding and abetting the ACS Board's breaches of fiduciary duty.

89. Plaintiff has no adequate remedy at law.

RELIEF REQUESTED

WHEREFORE, Plaintiff demand judgment as follows:

(a) Declaring that this action is properly maintainable as a class action;

(b) Declaring that Deason has breached his fiduciary duties to the Class;

(c) Declaring that the Individual Defendants have breached their fiduciary duties to the Class;

(d) Enjoining consummation of the Proposed Transaction, including the termination fee and the no-solicitation provisions;

(e) Declaring that Xerox and Boulder Acquisition Corp. have aided and abetted Deason's breaches of fiduciary duty.

(e) Awarding the Class compensatory damages, together with pre- and post-judgment interest;

(f) Awarding Plaintiff the costs and disbursements of this action, including attorneys', accountants', and experts' fees; and

(g) Awarding such other and further relief as is just and equitable.

Dated: October 1, 2009

/s/ Jay W. Eisenhofer

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