UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

BOCA RATON POLICE and FIRE FIGHTERS' RETIREMENT SYSTEM, Plaintiff, v. EXXON MOBIL CORPORATION, a New Jersey Corporation, Defendant.	Case No. 3:25-cv-18060-ZNQ-TJB **Motion Day: March 2, 2026** **ORAL ARGUMENT REQUESTED**

PLAINTIFF'S MEMORANDUM OF LAW IN
OPPOSITION TO DEFENDANT'S MOTION TO STAY

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PRELIMINARY STATEMENT

Exxon's stay motion is simply a delay tactic. Plaintiff alleges that Exxon's Automatic Voting Program to secure perpetual proxies violates (1) Exchange Act Section 14(a) and the rules thereunder, and (2) New Jersey law. With the 2026 proxy season imminent—and illegal voting set to commence in a matter of weeks—Exxon now seeks to delay this Court's ruling on the Program's legality until ***after*** its unlawful elections have occurred. Exxon's motion should be denied.[1]

First, there is no practical reason to stay this action until a ruling on the motion to dismiss in *City of Hollywood Police Officers' Retirement System v. Woods*, No. 3:25-cv-16633 ("*Hollywood*"). Briefing in *Hollywood* was completed just three days ago, while the motion-to-dismiss briefing here will be complete one week from now (on February 23). The Court should simply decide both motions. Exxon's assertion that a ruling in *Hollywood* "is likely to streamline" the issues is wrong, since *Hollywood* solely asserts breach of fiduciary duty claims that present several threshold issues unrelated to the federal proxy rules, all of which are absent here.

Second, Exxon's request to stay this action until a class-certification ruling in *Hollywood*—potentially a year from now, if not longer—should also be denied. Exxon's assertion that the class claims in *Hollywood* could "entirely subsume"

[1] "¶"citations refer to the Complaint (ECF 1); capitalized terms have the meanings stated therein. Emphasis is added and citations are omitted unless otherwise noted.

Plaintiff's claims is wrong. The *Hollywood* plaintiff has not brought claims under Section 14(a) or the New Jersey statute at issue here, and, in all events, Plaintiff is entitled to pursue its unique, individual claims separately from any class.

Third, denying a stay will not waste Court or party resources. As the two actions proceed, Plaintiff's counsel will work with counsel for the *Hollywood* plaintiff and Exxon to streamline discovery. Exxon's assertion that *Hollywood* has "overwhelming" overlap with this action contradicts its generic, unsubstantiated claims of cost and burden. Moreover, there is no prospect of inconsistent rulings or duplicative efforts given that both cases are before this Court.

BACKGROUND

Plaintiff incorporates the facts set forth in its separate opposition to Exxon's motion to dismiss, filed concurrently herewith. For purposes of this brief, Plaintiff notes that this action and *Hollywood* have several key differences.

First, this is an individual action, while *Hollywood* is a putative class action.

Second, there is no overlap in claims between the two actions. Plaintiff brings claims for violations of (1) Exchange Act Section 14(a) and the federal proxy rules thereunder and (2) the New Jersey proxy voting statute. By contrast, *Hollywood* solely asserts state-law breach of fiduciary duty claims (although the alleged breaches are purportedly based in part on violations of the federal proxy rules).

Third, Plaintiff has sued only Exxon itself, while *Hollywood* also asserts

claims against twelve Exxon directors.

ARGUMENT

"The stay of a civil proceeding is an extraordinary remedy." *S. Freedman & Co. Inc. v. Raab*, 2008 WL 4534069, at *2 (D.N.J. Oct. 6, 2008) (denying stay). Exxon "must make out a clear case of hardship or inequity in being required to go forward, if there is even a fair possibility that the stay for which [it] prays will work damage to some one else." *Landis v. N. Am. Co.*, 299 U.S. 248, 255 (1936). "Only in rare circumstances will a litigant in one cause be compelled to stand aside while a litigant in another settles the rule of law that will define the rights of both." *Id.*

Exxon's motion fails these standards.

I. STAYING THIS ACTION WILL NOT SIMPLIFY THE ISSUES

A. There Is No Reason to Stay This Action Pending Resolution of the *Hollywood* Motion to Dismiss

As discussed above, there is no practical reason to stay this action pending a motion-to-dismiss decision in *Hollywood*. Because Exxon's motion to dismiss here will be fully briefed next week, the Court can readily consider both motions together.

Exxon's assertion that a decision in *Hollywood* will "resolve" or "substantially narrow and simplify" the issues misses the mark.

First, Exxon ignores the fact that both cases are pending before this Court. Unlike in Exxon's cited cases, this is not a scenario where a decision from another court may provide guidance, such that the absence of a stay risks inconsistent results.

For example, *Onyx Enterprises International Corp. v. Volkswagen Grp. of America, Inc.*, 2021 WL 1338731, at *1 (D.N.J. Apr. 9, 2021), granted a stay based on litigation pending in the District of Massachusetts. *Alvarez v. Gold Belt, LLC*, 2009 WL 1473933, at *3 (D.N.J. May 26, 2009), involved two cases before different judges in this District, raising "the potential for inconsistency in the determination of the legal issues."[2]

No such circumstances exist here. Indeed, Exxon cites ***no case*** granting a stay where two civil cases were pending before the same judge, as here. While Exxon points out that "the same court provided [sic] over both actions" in *SEC v. Coburn*, 2019 WL 6013139 (D.N.J. Nov. 14, 2019), *Coburn* merely stayed an SEC civil enforcement action where the same defendants also faced a criminal proceeding and the SEC itself did not oppose the stay. *Id.* at *1, *4.

Second, Exxon exaggerates the impact of a *Hollywood* motion-to-dismiss ruling, since *Hollywood* may be resolved on grounds unrelated to the merits of Exxon's federal securities violations. For example, as Plaintiff's pre-motion letter

[2] *See also Bechtel Corp. v. Loc. 215*, 544 F.2d 1207, 1215 (3d Cir. 1976) (stay pending arbitration); *Marinelli v. Citibank, N.A.*, 2023 WL 6558498, at *1 (D.N.J. Jul. 25, 2023) (same); *Icona Opp. Partners 1, LLC v. Certain Underwriters at Lloyds, London*, 2023 WL 2473644, at *4 (D.N.J. Mar. 13, 2023) (stay pending decision from New Jersey Supreme Court); *Mazzei v. Heartland Payment Sys., LLC*, 2023 WL 6121318, at *1 (D.N.J. Sept. 19, 2023) (class action in Middle District of Florida); *Actelion Pharms. Ltd. v. Apotex Inc.*, 2013 WL 5524078, at *1 (D.N.J. Sept. 6, 2013) (discovery stay); *Beal v. Premier Ent. AC, LLC*, 2025 WL 2414327, at *4 (D.N.J. Aug. 19, 2025) (stay pending regulatory investigation).

explained (ECF 10), Exxon has argued that *Hollywood*'s breach of fiduciary duty claims are subject to the business judgment rule, cannot be premised on alleged violations of the federal proxy rules, and fail to allege any breach of the duties of care and loyalty. Exxon has also argued that *Hollywood* should be dismissed for improper venue. (*Hollywood* ECF 42-1 at 48 of 49.) Those arguments have nothing to do with this case, and their resolution will provide no guidance here.[3]

Conversely, Exxon's motion to dismiss here raises several unique issues not raised in *Hollywood*, such as Section 14(a) causation and injury; whether violations of the federal proxy rules support a private right of action; and whether Plaintiff alleges a violation of the New Jersey proxy statute. Plaintiff's unique Section 14(a) and New Jersey statutory claims will need to be addressed in all events. Indeed, the *Hollywood* plaintiff disavowed—and expressly declined to pursue—the Section 14(a) claim Plaintiff advances here. (*See Hollywood* ECF 37.) As a result, there is no reason to defer decision in this case.

Third, the fact that *Hollywood* faces several threshold issues unrelated to the

[3] As Plaintiff has noted (ECF 10), there is also a serious question of subject-matter jurisdiction in *Hollywood*, given that it attempts to plead federal-question jurisdiction under 28 U.S.C. § 1331 (*Hollywood* ECF 1 ¶10) but solely asserts claims for "breaches of fiduciary duty under New Jersey state law" (*Hollywood* ECF 34-1 at 8 of 13). Hollywood also cites 15 U.S.C. § 78aa, but that statute does not confer subject-matter jurisdiction beyond what Section 1331 allows. *See Merrill Lynch, Pierce, Fenner & Smith Inc. v. Manning*, 578 U.S. 374 (2016). If subject-matter jurisdiction is absent, the Court may not reach any other issues in *Hollywood*.

merits may prevent a timely ruling on the Program's legality under federal law. With Exxon illegally soliciting proxies now and the first unlawful vote imminent, there is no reason to delay a motion-to-dismiss ruling here, where Exxon's violations of the federal proxy rules are squarely presented.

B. There Is No Reason to Stay This Action Pending a Class Certification Decision in *Hollywood*

Exxon's request to stay this action until a class-certification ruling in *Hollywood*—likely a year or more from now—should also be denied. The best path forward is for Plaintiff's counsel to work with counsel for the *Hollywood* plaintiff and Exxon to streamline discovery as the actions proceed, with any future dispositive motions and trial to be addressed at a later date.

First, Exxon does not contend that a *Hollywood* class-certification ruling would have any impact on this non-class action, and it would not. Plaintiff is entitled—and will continue—to pursue its individual claims regardless of whether a class is certified in *Hollywood*. Thus, Exxon cannot show that resolution of class certification "would substantially impact or otherwise render moot the present action." *Akishev v. Kapustin*, 23 F. Supp. 3d 440, 446 (D.N.J. 2014) (denying stay).

Second, in an effort to manufacture overlap with *Hollywood*, Exxon offers a chain of hypotheticals, speculating that (1) the Court will agree with its position that *Hollywood* is subject to the PSLRA lead plaintiff process, (2) a lead plaintiff will be appointed, (3) "whoever is ultimately selected as lead plaintiff may choose to file an

amended complaint that asserts" a Section 14(a) and/or New Jersey statutory claim, and (4) a different lead plaintiff's hypothetical future pleading in *Hollywood* could "subsume[]" Plaintiff's individual claims.

Exxon's chain of speculation falls far short of justifying a stay. To start, none of this has happened yet. Even Exxon's threshold assumption that the PSLRA's lead plaintiff provisions apply to *Hollywood* appears to be in dispute. Exxon's "speculative" contingencies do not warrant a stay. *S. Freedman & Co.*, 2008 WL 4534069, at *2 (rejecting potential Rule 54(b) certification and appeal as "contingencies . . . too speculative on which to base the extraordinary remedy of granting a stay"). That is especially true given that the existence and content of any amended complaint are entirely outside Exxon's control. *See id.* (the "request for a stay is based upon Rule 54(b) certification which may not even occur," and "Plaintiff has not moved for certification and presumably has no interest in so moving").

Moreover, Exxon's further assumption that a hypothetical future class complaint could "subsume[]" Plaintiff's individual claims is wrong. Because due process and Rule 23(c)(2)(B) protect Plaintiff's right to bring individual claims—and to opt out of any class—whether the Court certifies a class in *Hollywood* has no impact on Plaintiff's case. Contrary to Exxon's assertion, no class-certification ruling or class complaint can "obviate the need to litigate" Plaintiff's individual claims.

Indeed, Exxon's goal is simply prejudicial delay. If the PSLRA's lead plaintiff process applies, the statute's timing requirement, *see* 15 U.S.C. § 78u-4(a)(3)(A) (lead plaintiff motions due "60 days after" notice is published), means that any such process would necessarily delay *Hollywood* by several months before a lead plaintiff is even appointed. A potential amended complaint—followed by additional briefing and class certification—would likely extend *Hollywood* by over a year. There is no reason to saddle Plaintiff's individual action with the same delay.

Third, Exxon fails to "make out a clear case of hardship or inequity in being required to go forward" with this action before a class-certification ruling in *Hollywood*. *Landis*, 299 U.S. at 255. As shown above, that ruling cannot "obviate" Plaintiff's unique claims, which will need to be addressed in all events. Exxon's generic and unsubstantiated claims of "expense" and "exhaustion of time and resources" are insufficient to justify a stay, particularly of over a year in duration.

To be sure, Plaintiff will litigate this action efficiently and work with counsel for the *Hollywood* plaintiff and Exxon to streamline discovery. But the blunt instrument of a stay—when any PSLRA lead plaintiff process and class certification ruling in *Hollywood* will have no impact on this individual action—is not warranted.

Indeed, Exxon cites no authority staying an ***individual***, non-class case simply because a class action is pending. Its assertion that "courts routinely stay" individual actions "until there is a ruling on class certification" is misleading, since both of

Exxon's cited cases involved ***class*** actions that overlapped with other class actions.

In *Mazzei*, the court stayed the second-filed class action because it appeared to be "an effort to have two chances at class certification." 2023 WL 6121318, at *7. And *Alvarez* involved overlapping class actions that were "mirror images of one another." 2009 WL 1473933, at *3 n.7. Even then, the court did not stay the second-filed action—contrary to Exxon's mischaracterization—but simply denied "motions to file an amended complaint and for class certification" without prejudice. *Id.* at *1, *4. The court pointed out that "deferring judgment on plaintiff's motions . . . will preserve his claim and allow him to participate in discovery." *Id.* at *4. Neither case supports Exxon's request to stay this non-class action for over a year.

II. A STAY WILL SIGNIFICANTLY PREJUDICE PLAINTIFF AND GRANT EXXON AN UNFAIR TACTICAL ADVANTAGE

A stay is also unwarranted because it would significantly prejudice Plaintiff, while granting Exxon an unfair tactical advantage.

Exxon's own cited case recognizes that a "substantial or time-sensitive interest that warrants immediate resolution" counsels against a stay. *Icona Opportunity Partners 1, LLC*, 2023 WL 2473644, at *6. Here, Plaintiff challenges Exxon's ongoing violations of federal and New Jersey law, and a stay will prolong the injury to Plaintiff's federally-protected rights. *See Akishev*, 23 F. Supp. 3d at 447 ("prejudice arising out of Plaintiffs' payment of outstanding car loans" favors "denial of a stay").

Further, the first tainted votes under the Program are imminent—they will begin only a few weeks from now. Exxon would gain an unfair advantage from conducting those initial elections before the Court can determine the Program's legality. Indeed, once those elections occur, Exxon will surely spin them to its own advantage—for example, by arguing that they render Plaintiff's claims moot or invalid on other grounds. There is no reason to allow that result.

Moreover, while Exxon tries to downplay the length of its requested stay, class certification in *Hollywood* may not be decided for over a year, as explained above, and will certainly extend after the 2026 proxy season (which will be over this May). And if Exxon truly seeks "the Court's ruling on whether the Program complies with federal proxy rules," that ruling can be timely rendered in this case. Such a ruling may never occur in *Hollywood*, which (1) presents multiple non-merits grounds for dismissal that are wholly unrelated to Exxon's violations of the federal proxy rules, and (2) may be sidetracked for months by the PSLRA lead plaintiff process.

III. DENYING A STAY WILL NOT CREATE HARDSHIP FOR THE COURT OR EXXON

Exxon "must state a clear counter-vailing interest to abridge a party's right to litigate." *CTF Hotel Holdings, Inc. v. Marriott Int'l, Inc.*, 381 F.3d 131, 139 (3d Cir. 2004). Exxon's generic assertions of burden wholly fail to do so.

First, "the mere existence of concurrent litigation is not, without more, sufficiently onerous to establish "clear" hardship or "inequity."" *Akishev*, 23 F. Supp.

3d at 447. Exxon's claim that it would be forced to litigate while "awaiting a controlling decision from ***another*** court" is simply wrong; both this action and *Hollywood* are pending before ***this*** Court, so there is no risk of inconsistent results. Exxon's suggestion that the result in *Hollywood* could somehow render this case "unnecessary" also fails, as explained above.

Second, contrary to Exxon's assertion, denying a stay will not "needlessly burden the Court." The same "discovery and litigation will still be necessary in this action regardless of" the motion to dismiss and class certification in *Hollywood*. *Zemel v. CSC Holdings LLC*, 2018 WL 6242484, at *7 (D.N.J. Nov. 29, 2018) (denying stay). Regardless of *Hollywood*, ruling on Exxon's motion to dismiss here is necessary, and if the Court denies the motion, discovery will proceed. And "engaging in balanced and appropriate discovery" does not "constitute any prejudice." *Wilson v. Quest Diagnostics, Inc.*, 2019 WL 7560932, at *3 (D.N.J. Aug. 22, 2019) (denying stay).

Moreover, Exxon's assertion that denying a stay would result in "doubling" the Court's work is highly exaggerated (and undermined by Exxon's own statements that this case has "overwhelming" overlap with *Hollywood*). Of course, Plaintiff will proceed as efficiently as possible, and if this action and *Hollywood* both enter discovery, all counsel should be capable of collaborating to streamline matters.

IV. THE STAGE OF THIS CASE DOES NOT SUPPORT A STAY

Finally, while this action is at the motion-to-dismiss stage, being at "the early stages of litigation . . . alone cannot mandate" a stay. *Tibotec Inc. v. Lupin Ltd.,* 2011 WL 13151982, at *3 (D.N.J. May 10, 2011) (denying stay). That is especially true here, since *Hollywood* is at the same stage: the motion-to-dismiss briefing was completed just three days ago. There is no reason to stay this action based on another case that is no more advanced and will not resolve this action.

CONCLUSION

For the reasons above, the Court should deny Exxon's motion to stay this action.

Dated: February 16, 2026

Respectfully submitted,

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