

**CIRCUIT COURT OF FLORIDA
ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY**

THE ARBITRAGE FUND, on behalf of itself)	
and all other similarly situated shareholders of)	
EXACTECH, INC.,)	Complex Business Litigation Section
)	
Plaintiff,)	Case No. _____
)	
v.)	CLASS REPRESENTATION
)	
WILLIAM PETTY, BETTY PETTY, DAVID)	JURY TRIAL DEMANDED
PETTY, PRIMA INVESTMENTS, INC.,)	
PRIMA INVESTMENTS, L.P., JAMES G.)	
BINCH, ANDREW KRUSEN, JR.,)	
WILLIAM B. LOCANDER, RICHARD C.)	
SMITH, and FERN S. WATTS,)	
)	
Defendants.)	

CLASS ACTION COMPLAINT

Plaintiff The Arbitrage Fund (“Plaintiff”), on behalf of itself and all other similarly situated Unaffiliated Shareholders of Exactech, Inc. (“Exactech” or the “Company”), by and through its undersigned counsel, asserts this class action against defendants William Petty, David Petty, Betty Petty, Prima Investments, Inc., Prima Investments, L.P., James G. Binch, Andrew Krusen, Jr., William B. Locander, Richard C. Smith, and Fern S. Watts (collectively, “Defendants”). Plaintiff makes the following allegations upon personal knowledge as to itself and on information and belief, including the investigation of counsel and a review of publicly available information, as to all other matters.

I. INTRODUCTION

1. This is a textbook case of disloyalty. Defendants pressed forward with a merger process infected by the self-interest and influence of the Company’s founders, defendants William and Betty Petty, along with their son, David Petty (collectively, the “Individual Petty

Defendants”), resulting in damages of at least \$4.75 per share to the Plaintiff and all other non-insider shareholders (the “Unaffiliated Shareholders,” used herein to mean all shareholders who are not Defendants and were not offered the option to exchange some of their shares for a continuing equity interest in the post-transaction corporate entity).¹

2. William Petty, Betty Petty, and another individual founded Exactech, an orthopedic implant devices company in 1985. Exactech went public in 1996, but the Individual Petty Defendants continue to wield significant control over the Company through their management and directorial positions, their historic role as co-founders of the Company, and as the Company’s largest shareholder block. The Individual Petty Defendants breached their fiduciary duties by using that control to effect a merger that improperly prioritizes their personal interests in retaining executive control and ownership of their family business over the interests of the Company’s Unaffiliated Shareholders. As a result of the Individual Petty Defendants’ actions, Exactech’s Unaffiliated Shareholders have lost their opportunity to receive fair value for their Exactech stock.

3. The Individual Petty Defendants own many of their shares in Exactech through defendants Prima Investments, L.P. and its general partner Prima Investments, Inc. (collectively, “Prima” and together with the Individual Petty Defendants, the “Petty Defendants”). Prima Investments, Inc. is owned and controlled by William Petty and Betty Petty. The limited partnership interests in Prima Investments, L.P. are owned by the Individual Petty Defendants and their relatives.²

¹ These shareholders collectively hold approximately 70% of Exactech’s shares.

² The Petty Defendants own approximately 26% of Exactech’s stock. This includes the Individual Petty Defendants’ stock options in their overall holdings. Their total shares without stock options sum to 3,516,841 shares, which still amounts to 24% of the outstanding stock.

4. In the fourth quarter of 2017, two potential acquirers submitted competing proposals to acquire all of Exactech's stock and take the Company private. One of those bidders, publicly identified as "Party A," ultimately offered Exactech's shareholders \$54.00 per share. The other, Osteon Holdings, L.P. and its affiliate TPG Capital, L.P. (together "TPG"), ultimately offered Exactech's shareholders \$49.25 per share.

5. From the perspective of Exactech's Unaffiliated Shareholders, the two proposals were identical for all practical purposes except that Party A would pay them \$4.75 more per share than TPG. However, TPG's proposal was more attractive to the Individual Petty Defendants because they had separately negotiated with TPG: (a) to "roll over" their Exactech Shares into equity in the TPG-owned post-transaction, privately held entity and (b) to assure their own future employment with that post-transaction entity.

6. The Petty Defendants used their positions as officers, directors and the largest shareholders of the Company (a) to promote and usher through TPG's inferior offer, (b) to obstruct Party A's offer, and (c) to undermine Exactech's ability to accept or negotiate a better offer with Party A, TPG, or another bidder. The Petty Defendants also failed to disclose to Exactech's board of directors (the "Board") Party A's interest in purchasing Exactech, even as the Board considered TPG's opening offer. Among other things, this caused the Board to forgo a prime opportunity to auction the Company. It also led the Board to approve a proposal that did not include a "go-shop" provision, which would have enabled Exactech to solicit higher bids from Party A and any other interested bidders.

7. For example, when Party A made its first unsolicited topping bid (\$49.00 per share) after TPG's earlier proposal (\$42.00 per share) was announced, the Individual Petty Defendants sabotaged that topping bid by allowing and encouraging TPG to rush through its own

bid over a weekend, in private, without allowing Party A time to make its second topping bid. TPG's rushed bid offered \$49.25 per share of Exactech Stock and is referred to herein as the "TPG Proposed Transaction."

8. Then, when Party A made its second topping bid (\$54.00 per share, beating the TPG Proposed Transaction's \$49.25 per share), the Petty Defendants again obstructed and undermined Party A's offer and made statements to representatives of Party A to hinder the Board's ability to negotiate further with Party A. Specifically, the Petty Defendants: (a) refused to sign a voting rights agreement and (b) rebuffed Party A in a December 11, 2017 phone call, stating that they would never enter into any agreement to vote their shares for the approval of Party A's proposal.

9. By repeatedly undermining Party A's superior offers in favor of TPG's inferior offers, and by preemptively dismissing any future offers by Party A, the Individual Petty Defendants consciously disregarded the best interests of the corporation in order to derive an improper personal benefit in the TPG Proposed Transaction to the detriment of the Unaffiliated Shareholders.

10. Indeed, the Individual Petty Defendants' obstruction of Party A's attempt to bid for Exactech began at least as early as Spring 2017. At that time, Exactech's management, including Executive Chairman William Petty, and Chief Executive Officer David Petty, received separate overtures regarding a possible deal from each of Party A and TPG. These overtures continued from both companies into Summer 2017, but William Petty and David Petty expressly declined further discussions with Party A in June, and invited TPG to conduct extensive due diligence on Exactech in August.

11. The Individual Petty Defendants' preference for TPG was based on their personal interests. The Individual Petty Defendants were familiar with representatives of TPG from prior dealings through the Company, and they saw the opportunity to receive cash while retaining ownership and executive control over the business they had spent the last thirty years building. This desire to both profit from a sale of the Company and then to continue controlling it, led the Individual Petty Defendants to breach their fiduciary duties to the Company. They did so by, among other things, obstructing negotiations with Party A, who would not offer them the same personal advantages in its proposal. Thus, the Individual Petty Defendants used their executive power and managerial roles at Exactech, along with the voting power that they held individually and through Prima, to exclude Party A from negotiations so that they could pursue personal benefits in a deal with TPG. In doing so, and in their capacities as officers, directors, and controlling shareholders of Exactech, they consciously and willfully disregarded the shareholders' best interests.

12. The Unaffiliated Shareholders should have been protected from the Petty Defendants' actions by the five members of Exactech's Board who were not also employees and/or officers of Exactech (the "Outside Directors"). The Outside Directors had both the power and the duty to protect the interests of the Unaffiliated Shareholders. Exactech's January 2018 Proxy Statement Pursuant to Schedule 14A (the "Proxy Statement") states that the Outside Directors represented to Party A that they wanted "maximum value for the Company's [Unaffiliated] [S]hareholders," but this proved untrue. When faced with pressure from the Individual Petty Defendants, the Outside Directors failed to prioritize the interests of the Unaffiliated Shareholders. Instead, they assisted and encouraged the Individual Petty Defendants

to deprive the Unaffiliated Shareholders of their interests, thereby breaching their fiduciary duties.

13. In conscious disregard of the best interest of the Unaffiliated Shareholders, the Outside Directors permitted the Individual Petty Defendants to separately negotiate future employment agreements with TPG and the option to exchange a substantial portion of their shares (i.e. “roll over”) for a continuing equity interest in the post-transaction company for themselves and a select group of other influential, highly-placed Exactech insiders and their wholly-owned entities (collectively with the Individual Petty Defendants, the “Rollover Investors”).³

14. The Outside Directors failed to act in the best interest of Exactech’s Unaffiliated Shareholders and instead consciously and willfully capitulated to the Individual Petty Defendants’ plan at every turn. They failed to adopt the procedural safeguards suggested by their counsel, Greenberg Traurig, and they failed to rescind the Petty Defendants’ ability to enter into separate negotiations with TPG. They knowingly failed to manage a known conflict of interest disclosed by Exactech’s financial advisor and to consider alternative, non-conflicted firms. They allowed William Petty and David Petty to participate in Board deliberation and discussion despite their blatant conflicts of interest. They rejected Party A’s superior irrevocable offer, without inviting further negotiation, when the Individual Petty Defendants objected to further dealings with Party A. They failed to reject or counter the inferior TPG offer. They failed to

³ The Rollover Investors are William Petty; David Petty; Betty Petty; Prima Investments, L.P; Miller Holdings, LLC, a Florida limited liability company 100% owned by Gary Miller (the Pettys’ co-founder and Exactech’s current EVP of Research and Development) with his wife and children; Bruce Thompson (Exactech’s SVP of Strategic Initiatives); Joel C. Phillips (Exactech’s CFO); Donna Edwards, (Exactech’s VP of Legal); Chris Roche (Exactech’s Director of Engineering); and Steve Szabo (Exactech’s VP of Marketing). The Rollover Investors collectively control over 30% of Exactech’s common stock.

either accept Party A's superior offer or attempt to negotiate an even better deal with Party A or another bidder. Instead, the Outside Directors acquiesced to the Petty Defendants' demands and approved TPG's inferior proposal.

15. Now, along with William Petty and David Petty, the Outside Directors are wrongfully coercing the Unaffiliated Shareholders to vote for the TPG Proposed Transaction based on reasons other than the merit of the deal. For these and other reasons, the Outside Directors breached their fiduciary duties to Exactech's Unaffiliated Shareholders, effectively saving TPG at least \$4.75 per share at the shareholders' expense.

16. Plaintiff brings this action to remedy this wrongful conduct and recover the fair value of its stock, and the other Unaffiliated Shareholders' stock, which they would have received but for Defendants' breaches of fiduciary duty.

II. JURISDICTION AND VENUE

17. This Court has jurisdiction over the causes of action asserted herein. Exactech is a public corporation organized under the laws of Florida and headquartered in Florida.

18. The amount in controversy exceeds \$750,000. As of the record date, the Unaffiliated Shareholders hold 10,727,387 of the total 14,423,864 outstanding shares. Each Unaffiliated Shareholder was damaged and is now entitled to an amount per share of at least \$4.75. Therefore, the Unaffiliated Shareholders claim, in aggregate, more than \$50 million in compensatory damages.

19. This Court has jurisdiction over each defendant named herein because each individual defendant either resides in or has sufficient contacts with Florida to render the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice, specifically because each individual defendant is an officer or director of

Exactech, which is a Florida corporation. Defendant Prima Investments, Inc. is a Florida corporation and Defendant Prima Investments, L.P. is a limited partnership organized under the laws of Florida.

20. This forum is proper because Defendant Fern S. Watts resides in Miami Beach, Florida. Defendants also have significant dealings in Miami-Dade County, which make this the proper venue for this action. Additionally, this action involves significant issues of Florida corporate law relating to the internal affairs of Exactech, which is a Florida corporation. Exactech's bylaws were amended during the events in this lawsuit to include an exclusive forum selection provision requiring that actions of this type must be brought in Florida.

III. PARTIES

21. Plaintiff The Arbitrage Fund is a New York-based publicly traded mutual fund (NASDAQ: ARBDX). Plaintiff is, and at all relevant times has been, a holder of Exactech common stock.

A. The Petty Defendants

22. Defendant William Petty is a founder of Exactech. Currently he serves as Exactech's Executive Chairman and Chairman of the Board, a position which he has held since the Company's inception in 1985. He served as the Company's CEO from 1985 until 2014 and as President of the Company from 2002 until 2007. He is married to Betty Petty and is David Petty's father.

23. Defendant Betty Petty is a founder of Exactech. She has served as Exactech's Corporate Secretary since Exactech's inception and is currently also its Vice President of Administration. She has been intimately involved in Exactech's operations since its founding, having previously served in a variety of other roles including Director, Treasurer, Vice President

of Human Resources and Administration, Human Resources Coordinator, and Director of Marketing Communications. She is married to William Petty and is David Petty's mother.

24. Defendant David Petty is a Director of Exactech and has served as the Company's Chief Executive Officer since 2014 and as the Company's President since 2007. He has been intimately involved in Exactech's operations since joining the company upon graduating from college in 1988, having previously served in a variety of roles including Executive Vice President of Sales and Marketing, Vice President of Marketing, and Vice President of Operations. William Petty is his father, and Betty Petty is his mother.

25. Defendant Prima Investments, L.P. is a Florida limited partnership. The Individual Petty Defendants and several of their relatives own the majority of their shares in Exactech through Prima Investments, L.P. All of Prima Investments, L.P.'s limited partnership interests are held by William Petty, Betty Petty, and their children.

26. Defendant Prima Investments, Inc., is a Florida corporation wholly-owned by William Petty and Betty Petty. Prima Investments, Inc. is the general partner of Prima Investments, L.P. As noted above, Defendants Prima Investments, L.P. and Prima Investments, Inc. are referred to collectively herein as "Prima."

B. The Outside Director Defendants

27. Defendant James G. Binch ("Binch") has been a Director of Exactech since May 2007. In January 2016, he was elected lead independent director of Exactech. He resides in New Canaan, Connecticut.

28. Defendant Andrew Krusen, Jr. has been a Director of Exactech since May 2014. He resides in Tampa, Florida.

29. Defendant William B. Locander has been a Director of Exactech since May 2003. He resides in New Orleans, Louisiana.

30. Defendant Richard C. Smith has been a Director of Exactech since May 2010. He resides in Chevy Chase, Maryland.

31. Defendant Fern S. Watts has been a Director of Exactech since May 2012. She resides in Miami Beach, Florida.

IV. SUBSTANTIVE ALLEGATIONS

A. Exactech's History

32. Exactech is a public corporation in the orthopedic devices industry, organized under the laws of Florida. It is a leading developer and producer of orthopedic implant devices and surgical instrumentation for extremities and large joints. Exactech has one class of common stock, which trades on the Nasdaq Global Select market under the ticker symbol "EXAC."

33. Exactech was founded at the Individual Petty Defendants' kitchen table in 1985 by William Petty, Betty Petty, and Gary Miller, a biomedical engineer. The Company's first product was a cemented primary hip replacement system, quickly followed by additional hip joint products, and then a knee implant system.

34. In order to raise capital to support commercialization of its first knee implant product, Exactech's founders decided to take the Company public through an initial public offering ("IPO") in 1996.

35. An IPO is a fundraising mechanism which allows private companies to derive capital by selling ownership interests to the public. Once a company launches an IPO ("goes public"), the company's management has a fiduciary duty to make all future decisions in the best interests of the shareholders.

36. The Individual Petty Defendants' decision to raise capital by selling shares in the Company they founded has yielded significant returns. Exactech's IPO market capitalization was approximately \$39 million.

37. In 1996, Exactech reported \$13.8 million in sales and \$1.5 million in net income. Since then, Exactech has been profitable every year and has grown to be a major player in the orthopedic products industry, selling joint replacement systems and related products around the world. In 2013, 2014, and 2015, Exactech reported revenues of \$237 million, \$248.3 million, and \$241.8 million, respectively. During those same three years, Exactech reported net income of \$15.4 million, \$16.5 million, and \$14.8 million respectively.

38. In 2016, Exactech's revenue reached \$257.6 million. Although the Company reported only \$162,000 in net income for 2016, that figure was due to a one-time \$15.7 million restructuring and impairment charge. Exactech's publicly-disclosed, conservative projections for 2017 through 2023 forecast a significant increase in revenue and earnings every year, and it anticipates doubling 2015's earnings by 2023.

39. The Individual Petty Defendants' decision to take Exactech public has also given rise to their fiduciary duties of care, good faith, and loyalty, requiring them to act in the best interests of Exactech's shareholders. Whereas the Individual Petty Defendants may once have been free to sell their private company to whomever they wished, on whatever terms they pleased, when they conducted an IPO, they became bound by fiduciary duties to Exactech's Unaffiliated Shareholders.

B. The Petty Defendants' Control over Exactech

40. Today, the Petty Defendants collectively exercise *de facto* control over the Company through a potent combination of unchallenged managerial authority and Board

influence coupled with their combined ownership interest and voting power of over a quarter of all the Company's outstanding shares (making them Exactech's largest shareholder).

41. Even though the Individual Petty Defendants have sold much of Exactech to public investors, they, together with Exactech's management, still consider it to be their family business. As noted above, William and Betty Petty comprised two-thirds of the Company's founding trio and have both been intimately involved in the management of the Company ever since. William Petty has served as Exactech's top executive, holding the office of Chairman of the Board from its inception. His son, David Petty was hired into an executive role at Exactech in 1988 (the same year he graduated college). Since 2014, William Petty has held the role of Executive Chairman, while David Petty serves as the Chief Executive Officer and President of the Company. Betty Petty continues to serve in management as Vice President for Administration and as Corporate Secretary, a position she has held since the Company's inception.

42. In addition to their strong grip on Exactech's executive power, the Individual Petty Defendants exert significant control over the Company's Board.

43. There are currently seven Directors on the Exactech Board. William Petty and David Petty hold two of the seven seats on Exactech's Board, and the other five seats are occupied by the Outside Directors.

44. Collectively, the Petty Defendants beneficially own and control the Company's largest block of shareholder voting power. Specifically, they own approximately 3,758,960 shares of Exactech common stock, which amounts to approximately 26% of the Company's outstanding shares (including their stock options). The Petty Defendants' total shares without stock options amount to 3,516,841 shares, or approximately 24% of the outstanding stock. Of

this block, Prima owns and controls 3,080,271, or approximately 82% of the Individual Petty Defendants' overall holdings. Prima's holdings alone account for approximately 21.4% of the Company's outstanding Stock. The next largest block does not even equal half of the Petty Defendants' combined ownership interest.

45. Because they control nearly a quarter of the stock in the Company, the Petty Defendants' stock ownership block gives them the power to dominate any Exactech shareholder vote.

46. The Individual Petty Defendants' power over Exactech is augmented by their reputation as the Company's founders, who grew a small family business into a respected public company that competes in the international market while maintaining a strong relationships with its managerial employees.

47. Due to their executive and managerial positions, William Petty and David Petty have substantial access to the Company's information and enjoy the unique ability to control how it is presented to the Outside Directors. For this and other reasons, William Petty and David Petty influence the Board's decision-making beyond their (already large) actual voting power.

C. The TPG Proposed Transaction is Unfair to the Unaffiliated Shareholders.

48. In 2017, the Petty Defendants used their power over Exactech to orchestrate a sale of the Company to TPG in a "going private" transaction valuing Exactech at approximately \$700 million.

49. The TPG Proposed Transaction will be voted on by all Exactech shareholders, including the Petty Defendants, at a special shareholder meeting to be held in Gainesville on February 13, 2018. If, as expected, the TPG Proposed Transaction is approved, Exactech's public

Unaffiliated Shareholders will receive \$49.25 in cash for each share of Exactech common stock they hold when the TPG Proposed Transaction closes.

50. If the TPG Proposed Transaction is approved, the Petty Defendants and the other Rollover Investors will receive disparate consideration that was neither offered nor afforded to the Unaffiliated Shareholders. Specifically, the Rollover Investors will receive the exclusive opportunity to exchange some of their shares in Exactech for equity in the post-transaction private company that results from the TPG Proposed Transaction.

51. The Rollover Investors, however, will be converting approximately 2,711,584 shares of Exactech common stock into the new entity formed through the TPG Proposed Transaction. 2,527,800 of those shares—more than 93%—belong to the Petty Defendants. The Petty Defendants' rollover shares constitute more than two thirds of their shares of Exactech common stock.

52. Thus, while Exactech's Unaffiliated Shareholders will receive only cash for their shares, the Petty Defendants will receive a mix of cash and a continuing equity interest in the post-transaction company, weighted towards the continuing equity interest.

53. The Petty Defendants also stand to receive another benefit from the transaction not shared with Unaffiliated Shareholders. In addition to their substantial continuing equity interest, the Individual Petty Defendants have been promised a continuing role in Exactech management. As the Proxy reports, they have been assured that TPG "intends to retain [Exactech's] executive officers and management personnel after the consummation of the merger." Several years prior to the events described herein, the Individual Petty Defendants had worked closely with certain TPG senior personnel on unrelated matters. Thus, the Individual Petty Defendants welcomed the opportunity to work alongside TPG in managing Exactech.

54. The interests of the Petty Defendants and Exactech's Unaffiliated Shareholders are, therefore, substantially different in connection with the TPG Proposed Transaction. Exactech's Unaffiliated Shareholders stand to receive only cash for all of their shares, after which they will have no continuing relationship with the Company. Thus, for the Unaffiliated Shareholders, the amount of cash being offered per share is everything—it is the sole relevant factor in judging the transaction. The Petty Defendants, by contrast, will only be exchanging a small portion of their shares for cash and will be maintaining managerial authority and a large equity stake in the Company. Thus, for the Petty Defendants, the amount of cash being offered per share is of relatively modest importance—they are more concerned with setting up Exactech, and themselves, for post-transaction success. This divergence in interests created a severe conflict of interest for the Petty Defendants.

55. As described in detail below, the Petty Defendants consistently acted to advance their personal interests with little or no regard for the interests of Exactech's Unaffiliated Shareholders. The Individual Petty Defendants specifically desired a transaction with TPG. They believed it was in their best interests to secure a transaction that would result in their partnering with TPG in owning and managing Exactech as a private company. But TPG's proposal was not in the best interests of the Unaffiliated Shareholders. As a result, the Petty Defendants steered Exactech's sale process toward a deal with TPG by actively working to obstruct the ability of other companies to bid for Exactech. They blocked the Company's negotiations with Party A, even when Party A intervened to offer Unaffiliated Shareholders a nearly 10% premium over what they will receive in the TPG Proposed Transaction.

D. The Petty Defendants Steer the Process Leading to the TPG Proposed Transaction to Ensure Its Approval and Secure Personal Benefits for Themselves.

56. From the beginning of the 2017 negotiations between Exactech and outside bidders, the Individual Petty Defendants have been able to guide negotiations with TPG and exclude other possible bidders, while encountering little or no interference from the Outside Directors, who were happy to capitulate to their wishes.

1. Party A Seeks a Deal with Exactech, but the Petty Defendants Undermine Party A's Effort.

57. The Proxy Statement indicates that, in March 2017, William Petty, David Petty, and other unidentified executives of Exactech met at the Company's Gainesville headquarters with representatives of Party A. At the March 2017 meeting, the participants discussed a potential combination of Exactech and Party A.

58. Discussions concerning a potential combination continued later, in March 2017, when David Petty and Exactech CFO Joel Phillips met with representatives of Party A during an industry conference in San Diego, California.

59. Party A contacted both William Petty and David Petty repeatedly to continue negotiations after the San Diego meeting, but neither answered their correspondence until June.

60. Neither the Individual Petty Defendants nor any other member of Exactech's management ever informed the Outside Directors of Party A's interest. The Petty Defendants withheld information about Party A's interest from the Board because they anticipated that the Board might instruct Exactech to engage with Party A and ultimately reach an agreement that was better for the Unaffiliated Shareholders, but not as good for them personally, as the offer they hoped to solicit from TPG.

61. In June 2017, the Individual Petty Defendants communicated to Party A that Exactech was focused on executing its own long-term strategy and had no interest in further

discussions concerning a potential sale. The Outside Directors were not made aware of this communication. The Petty Defendants chose to rebuff Party A because they feared that Party A might make a proposal to Exactech that was better for the Unaffiliated Shareholders but not as good for themselves.

62. The Individual Petty Defendants failed to act in the shareholders' best interests by obstructing Party A's ability to pursue a transaction with Exactech and knowingly withholding information about Party A's interest from the Board.

2. The Petty Defendants Support an Acquisition Proposal by TPG That Preserves Their Personal Interests in Employment and Ownership.

63. While the Petty Defendants were rebuffing attempts by Party A to negotiate, they were actively engaged in discussions with their preferred company, TPG, about a possible buyout by TPG.

64. In early April 2017, an advisor to TPG named Daniel Hann (who had previously worked closely with the Individual Petty Defendants) called David Petty to request a meeting on May 1, 2017. Exactech management, including the Individual Petty Defendants, had significant previous experience collaborating with Hann from 2004 through 2011 on technologies related to total hip applications. Even from this first call, Hann made it clear that TPG wanted to discuss "potential strategies that could capitalize on certain issues affecting Exactech [...] due to the consolidation of, and cost reduction initiatives" of Exactech's competitors.

65. The May 1, 2017 meeting was held at Exactech's headquarters in Gainesville. Among the attendees were William Petty, David Petty, Rollover Investor Bruce Thompson, Hann, and TPG advisor Jeffrey Binder. At the meeting, Hann and Binder stated that TPG was interested in pursuing a potential transaction with Exactech.

66. The Petty Defendants were thus on notice as of May 1, 2017 that TPG intended to pursue an acquisition or other significant transaction. However, they did not timely disclose this information to the Board. Instead, the Individual Petty Defendants continued in private discussions with TPG until at least July 29, 2017. The Petty Defendants withheld information about TPG's interest from the Board during this period so that they could privately negotiate with TPG and ensure that a deal with TPG would benefit them personally before they involved the Board.

67. On June 21, 2017, William Petty, David Petty, and Exactech CFO Phillips (who is also a Rollover Investor) met with TPG representatives in Gainesville. At the meeting, TPG presented Exactech with an outline of potential transaction opportunities. The Individual Petty Defendants did not timely disclose this meeting between themselves and TPG to the Board.

68. Negotiations between the Individual Petty Defendants and TPG continued on July 24, 2017, when William Petty, Betty Petty, David Petty and Phillips met with Binder, Hann, and other TPG representatives at Hartsfield-Jackson Airport in Atlanta, Georgia. Following this meeting, TPG informed Exactech that it desired to engage in substantive discussions and, if warranted, deal term negotiations promptly.

69. Nearly three months after TPG's initial May overtures, on or about July 29, 2017, the Individual Petty Defendants for the first time informed the Outside Directors about TPG's proposal and recommended that a potential transaction with TPG be pursued. In this recommendation, the Individual Petty Defendants made sure to include the names of future advisors with whom they wanted to work, since they hoped to stay involved in any post-transaction entity, including Binder.

70. The Board was not informed of Party A's interest until Party A made its first unsolicited bid on or about November 6, 2017. Rather, the Individual Petty Defendants withheld this material information from the rest of the Board because a deal with Party A did not suit the Individual Petty Defendant's personal interests. Instead, as a result of their private conversations with TPG, the Individual Petty Defendants had a vision in which they could retain involvement in, and control of, the post-transaction entity. Under TPG's proposed approach, unlike any other, they could keep their family business for the long-term and also profit by selling it.

71. Having learned of TPG's interest from the Individual Petty Defendants, but without knowledge of Party A's interest, Exactech's Lead Outside Director, Binch, promptly contacted representatives of TPG to discuss entering into a confidentiality and standstill agreement to facilitate the exchange of nonpublic information. Such an agreement was executed by and between TPG and Exactech on August 8, 2017. Throughout the remainder of August 2017, representatives of TPG and Exactech management engaged in extensive due diligence.

72. Party A was not permitted to conduct extensive due diligence—or any due diligence at this time.

73. Ordinarily, extensive due diligence into a legitimate company allows a potential buyer to make its highest bid.

74. On August 25, 2017, William Petty, David Petty, and Phillips met in Atlanta, Georgia with Binder, Hann, and additional advisors and representatives of TPG to further discuss merger possibilities. Four days later, this group reconvened at the Company's headquarters for further discussions.

3. TPG Raises Its Bid to a \$42.00 per Share Deal and the Individual Petty Defendants Seek Rollover Equity Not Shared with Unaffiliated Shareholders.

75. On September 8, 2017, TPG called William Petty and informed him of TPG's intent to proceed with a non-binding proposal. William Petty then called a September 13, 2017 Exactech Board meeting, at which TPG presented a written non-binding indication of interest to acquire 100% of Exactech's outstanding common stock for \$39.00 per share in cash. TPG was still interested in proceeding expeditiously. The fast pace was motivated in part by TPG's and William Petty's mutual desire to work with Binder, both during and after the acquisition process, and TPG's representations that Binder might soon become unavailable for this project. With this motivation, TPG suggested that the parties complete confirmatory due diligence and execute a definitive merger agreement within 10 to 14 days. TPG also indicated that it could agree to a "go-shop" provision allowing Exactech to pursue alternative proposals for a period of time after the signing and announcement of TPG's offer.

76. At the September 13 meeting, after consulting with the Board's counsel from Greenberg Traurig, the Outside Directors determined not to establish a special committee excluding William Petty and David Petty from the Company's sale process. They did, however, resolve that all direct negotiations with TPG should be conducted by Outside Directors. However, this measure was ultimately ineffectual at stopping the Individual Petty Defendants from negotiating and sharing inside information with TPG throughout the process for their own private benefits.

77. The Board also decided at the September 13 meeting to hire J.P. Morgan as its financial advisor regarding the offer from TPG. In making this decision, they did not check whether any conflicts of interest existed between J.P. Morgan and TPG.

78. The same day, TPG transmitted a draft merger agreement to the Board. The Board told TPG the following day that consideration of the draft merger agreement was premature as the Board needed more time to consider the proposal.

79. On September 27, 2017, the Board held a meeting attended by the full Board, members of management, representatives of Greenberg Traurig, and representatives of J.P. Morgan.

80. During the September 27th meeting, J.P. Morgan disclosed its substantial prior relationship with TPG. This relationship between J.P. Morgan and TPG included potential conflict-of-interest concerns for Exactech, specifically that J.P. Morgan had received compensation from TPG and its affiliates that was fifteen-to-twenty times the amount that J.P. Morgan would receive from Exactech. Nevertheless, Exactech's Board determined to engage J.P. Morgan anyway. The Board did not inquire any further into J.P. Morgan's conflict of interest. The Board did not conduct any further research or attempt to identify other financial firms that lacked conflicts of interest.

81. The Board determined, in consultation with Greenberg Traurig, that the Outside Directors would exclusively negotiate with TPG regarding a potential sale, because the Individual Petty Defendants had a conflict of interest.

82. The Board believed that TPG might make a higher bid based on the positive performance of the Company stock (which was trading at a 52-week high) and their stated motivation to complete the deal in a short period. The Board instructed Binch to convey the Board's message to TPG soliciting a higher bid. The Board did not seek out other potential bidders, despite the fact that the Company was now plainly for sale and, as the Proxy Statement

declares, “[d]uring the past several years, the Company [had] received several unsolicited communications from third parties regarding potential Company sale transactions.”

83. In response to the Board’s message, TPG delivered a revised indication of interest on October 11, 2017, contemplating an acquisition of all outstanding Exactech common stock at a valuation of \$41.00 per share. The Exactech Board held another meeting on October 14 to consider TPG’s \$41.00 offer, after which it determined to continue negotiating. Again, these negotiations did not include seeking out other potential bidders who might offer a better deal for the shareholders.

84. After the October 14 meeting, Binch discussed the Board’s position with TPG. TPG returned with its purported “final proposal,” consisting of a dual-price offer: (i) \$41.25 per share if a “go-shop” period was included in the definitive merger agreement, and (ii) \$42.00 per share if no “go-shop” period was included, and instead, only a customary post-signing “fiduciary-out” provision was included in the definitive merger agreement. TPG also added a 4% termination fee to their proposal, applicable if Exactech terminated the merger agreement in favor of a superior proposal.

85. Four days later, on October 18, 2017, the Exactech Board met with the same attendees from Exactech, J.P. Morgan, and Greenberg Traurig who had attended the September 27, 2017 and October 14, 2017 meetings. At this meeting, the Board determined that \$42.00 per share (with no “go-shop” provision, subject to customary fiduciary termination rights and corresponding “window shop” provisions) represented an acceptable price and the Board authorized Binch to inform TPG that Exactech was willing to commence negotiation of a mutually acceptable agreement at \$42.00 per share.

86. The Board noted that TPG's latest offer did not contain a request for pre-signing exclusivity, meaning that Exactech was unrestricted in its ability to respond to any third-party proposal or offer received by the Company during the period of negotiations with TPG. The Board did not consider a third-party proposal likely at the time because the Individual Petty Defendants had concealed Party A's interest, and the Board failed to make inquiries to this end. If the Individual Petty Defendants had not breached their duties to the Company, the Board would have been able to solicit a better offer for the Unaffiliated Shareholders. If the Board had known about Party A and other potential buyers, it would not have taken an offer without a go-shop provision, an appraisal or evaluation of other strategic alternatives.

87. However, before Binch could inform TPG of the Board's agreement, the Petty Defendants, for the first time, informed the Outside Directors that they intended to pursue consideration different from that which would be received by Exactech's Unaffiliated Shareholders. Specifically, William Petty informed the Board that the Petty Defendants would not support the \$42.00 offer from TPG unless they were given the ability to exchange their shares for new equity interests in post-transaction entity. William Petty then informed the Board that he and the other founding and management shareholders had engaged their own counsel to negotiate any and all such arrangements, including the terms of any rollover equity agreement.

88. Exactech's Outside Directors were caught off-guard by William Petty's belated announcement. They convened an executive session, purportedly to determine whether the transaction—which they had already approved in principle minutes earlier—would still be fair to Exactech's Unaffiliated Shareholders given the disparate consideration that the Petty Defendants intended to seek and the conflict of interest that could arise if the Rollover Investors were to

exchange a portion of their shares of common stock for equity interests in the post-transaction company.

89. In light of the Individual Petty Defendants' eleventh-hour disclosures, the Board's legal counsel recommended that the Board adopt several "procedural safeguards" to avoid conflicts of interest that would negatively affect Unaffiliated Shareholders. These included: (1) establishing a formal special committee; and (2) requiring that the transaction with TPG be conditioned upon the affirmative approval of the holders of a majority of the outstanding non-affiliate shares of Common Stock.

90. The Outside Directors failed to implement either of the safeguards recommended by their lawyers to protect the Unaffiliated Shareholders. The Outside Directors did not implement other safeguards either. The Outside Directors thereby knowingly failed to take measures to protect the Unaffiliated Shareholders from the divergent interests of the Petty Defendants.

91. Instead, the Board lifted the one procedural safeguard that it had previously invoked to protect the Company from the Petty Defendants' control on September 13, 2017. The Outside Directors informed the Petty Defendants that they could negotiate their post-closing arrangements with TPG, after which the Outside Directors would be prepared to authorize and recommend approval of an all-cash merger transaction with TPG at \$42.00 per share. After adjourning the meeting, Binch called TPG and reported that the Board had authorized management and Greenberg Traurig to commence the negotiation of a merger agreement at \$42.00 per share and that TPG could now negotiate with the Individual Petty Defendants about rollover stock and promises of future employment.

92. Between October 14 and 22, 2017, Exactech and TPG management finalized the terms of a definitive merger agreement and the related documents. The Petty Defendants and other members of management, meanwhile, separately worked out acceptable terms of a rollover and voting agreement with TPG.

93. The Board obtained a fairness opinion from J.P. Morgan, but it did not seek or obtain one from an advisor who did not have a conflict of interest.

94. At a Board meeting on October 22, 2017, the Board authorized Exactech's entry into a merger agreement with TPG pursuant to which TPG would acquire all outstanding shares of Exactech for \$42.00 per share, except for those shares that would be rolled over into the post-transaction entity. The merger was to be subject to a vote of all of the Exactech shareholders, but not to a vote of Exactech's Unaffiliated Shareholders. William Petty and David Petty participated in the Board's deliberations.

95. Pursuant to their separate rollover and voting agreement, the Petty Defendants received the right to exchange between \$50,000,000 and \$140,000,000 worth of their Exactech stock for rollover equity in the post-transaction company resulting from TPG's acquisition of Exactech. As part of the same agreement, the Petty Defendants agreed to vote all of their shares of common stock—amounting to approximately 23% of the Company's issued and outstanding shares—in favor of the merger with TPG.

4. After TPG's \$42.00-per-Share Offer is Announced, Party A Makes a Topping Bid of \$49.00 per Share.

96. On October 23, 2017, prior to the opening of trading on the Nasdaq market, Exactech and TPG announced their planned merger via a press release and Current Report on a Form 8-K filed by Exactech with the Securities and Exchange Commission.

97. Two weeks later, however, Party A made an unsolicited topping bid for Exactech. By letter dated November 6, 2017, Party A submitted a proposal to acquire all of the outstanding common stock of Exactech for \$49.00 per share (cash)—approximately 16.6% more than the consideration being offered to Exactech’s Unaffiliated Shareholders in the TPG Proposed Transaction.

98. The Exactech Board met on November 8, 2017 and determined, in consultation with Greenberg Traurig, that it needed to obtain more information concerning Party A. The Board directed J.P. Morgan and Greenberg Traurig to engage with Party A and its advisors concerning the proposal. On November 14, 2017, after discussions with Exactech’s advisors, Party A submitted correspondence containing a reaffirmation of its proposal. That correspondence included a proposed merger agreement mirroring the terms that TPG had offered, a due diligence request list, and a suggested fourteen-working-day timetable for the completion of diligence.

99. On November 14, 2017, the Exactech Board met again and determined to engage in further due diligence with Party A. Immediately after the meeting, Binch informed TPG of the Board’s intention to continue negotiations and diligence with Party A.

100. On the afternoon of Friday, December 1, 2017, Party A sent Exactech a letter stating that it remained highly committed to a deal and that it was continuing to make progress towards submitting a binding offer to the Company on or prior to December 13, 2017. Based on this correspondence, the Board knew that Party A was a serious bidder who would likely offer shareholders higher value than the current offer from TPG.

5. TPG Raises Its Bid to \$49.25 per Share, but Party A Tops that Bid by Proposing to Pay \$54.00 per Share.

101. On the same evening of Friday, December 1, 2017, the Individual Petty Defendants undermined the deal negotiations by privately strategizing with TPG about how to make a winning offer to Exactech. The Board had previously allowed the Individual Petty Defendants to negotiate on their own behalf for the limited purpose of discussing their rollover equity and employment agreements, but, in consultation with counsel, had prohibited the Individual Petty Defendants from negotiating deal terms with TPG. When the Individual Petty Defendants contacted TPG and gave them inside information about the Board's deliberations in the midst of TPG and Company A's bidding war, the Individual Petty Defendants violated this rule in such a way that was not in the Unaffiliated Shareholders' best interests.

102. Subject to the Individual Petty Defendants' recommendations, TPG revised its prior \$42.00 "final offer," and proposed instead that it would pay \$49.25 per share of Exactech common stock to the Unaffiliated Shareholders. TPG's proposal required that its offer of \$49.25 per share be accepted, definitively documented, and announced prior to the opening of trading on the next business day: Monday, December 4, 2017.

103. A Board meeting was called for December 2, 2017 to discuss TPG's new proposal. At that meeting, William Petty disclosed that, concurrent with the Board's negotiations with Party A, the Individual Petty Defendants had been engaged in their own private talks with TPG concerning ways in which TPG could formulate an offer to top Party A's bid. The Individual Petty Defendants had thereby violated the one, minimal procedural protection that the Outside Directors had adopted. William Petty thus made clear that the Individual Petty Defendants favored a deal with TPG.

104. Ultimately, as a result of the discussion at the December 2, 2017 meeting, the Board determined to finalize an agreement pursuant to TPG's revised proposal of \$49.25 per

share. William Petty and David Petty participated in the deliberations. On information and belief, the Board did not evaluate the likelihood that TPG would really withdraw its topping bid if the deal were not accepted before the market opened on December 4, 2017. The Board had no reason to believe that TPG would be unwilling to pay at least the same consideration after that Monday morning that it had been willing to pay on the previous Friday evening.

105. Party A responded three days later with yet another topping bid. On December 7, 2017, Party A submitted a revised proposal offering to pay \$54.00 for each outstanding share of Exactech common stock—nearly a 10% uplift over the \$49.25 that was being offered to shareholders in the recently presented TPG Proposed Transaction. The proposal also included other modifications designed to make the other terms of its proposed agreement either match, or be more favorable than, those offered by TPG. For example, Party A again offered the opportunity for some shareholders to have rollover equity in the post-transaction company—this time mirroring the language of the TPG agreements. Additionally, Party A’s proposal indicated that Party A would pay the \$25,797,000 termination fee required by TPG.

106. Party A’s proposal was irrevocable until 12:01 a.m. on December 15, 2017.

107. On December 8, 2017, the Board held a meeting to discuss Party A’s new \$54.00 proposal and determined to proceed with further discussions with Party A.

108. On December 9, 2017, Party A circulated a proposed voting agreement, like the one that TPG had distributed to Exactech. It also requested a meeting among Party A, the Individual Petty Defendants, and certain members of the Exactech management team to discuss Party A’s plans for the Company and certain post-closing integration and operational matters.

6. The Petty Defendants Breach Their Fiduciary Duties to Exactech’s Unaffiliated Shareholders by Obstructing Party A’s Superior Proposal and Prematurely Ending the Bidding for Exactech.

109. On December 10, 2017, the Petty Defendants instructed their outside counsel to communicate to Exactech that they would not support any merger with Party A.

110. The Petty Defendants wanted the Company sold to TPG on terms that allowed them to maintain ownership and control of Exactech and make themselves more money in the long term.

111. Despite Party A's irrevocable offer that presented an increase in stock value of nearly 10%, along with other provisions that at least matched those in the TPG Proposed Transaction, the Individual Petty Defendants prioritized their personal interests of continued control and employment in what they saw as their family business.

112. A meeting between representatives of Party A and the Petty Defendants, and members of Exactech management was held the following day, December 11, 2017, to discuss Party A's offer and plans for the combined company. Rather than negotiate with Party A, however, William Petty cut off Party A's planned conversation by making it clear that the Petty Defendants had no interest in allowing a deal between Exactech and Party A to go forward. The Proxy Statement issued in connection with the TPG Proposed Transaction states that William Petty informed Party A that the Petty Defendants would not agree to enter any agreement to support a transaction with Party A. Nor would they agree to rollover any of their shares of Exactech common stock into equity in any Party A affiliate. The Petty Defendants were set on working with TPG.

113. Two days later, on December 13, 2017, Party A informed the Exactech Board that it remained committed to its \$54.00 proposal. Party A further stated, however, that any final agreement would now need to be conditioned on the Petty Defendants' agreement to vote in support of the deal. This condition had never been made in any prior iteration of the deal.

114. Such a condition following the presentation of an irrevocable offer and preceding the offer's expiration had no effect, and the Board remained free to accept the offer without the Petty Defendants' approval, based on the offer's original terms. However, the Outside Directors did not ask Party A to withdraw the condition.

115. The Outside Directors did not seek to engage the Petty Defendants in any substantive arm's-length negotiations concerning the Petty Defendants' obstruction. Instead, they rejected Party A's offer, without countering, on December 14, 2017, before it expired. The Board stated that because the Petty Defendants did not yet support Party A's proposal, and Party A had purported to make this a condition of the offer (by letter on December 13, 2017), the Board would consider Party A's proposal withdrawn and void. This forced the Unaffiliated Shareholders to forgo additional value of at least \$4.75 per share and left them with only the inferior TPG Proposed Transaction.

116. Both the Petty Defendants and the Board, therefore, chose to consciously disregard the best interest of the Company and to deny Exactech's shareholders the \$4.75 in additional consideration being offered by Party A.

117. From the perspective of Exactech's Unaffiliated Shareholders, there is no question that Party A's proposal offered superior value over the TPG Proposed Transaction. As the Exactech Board recognized, there was no meaningful difference in the likelihood that TPG or Party A would be able to pay the offered value for Exactech. In the case of either proposal, Exactech's Unaffiliated Shareholders would receive only cash. Party A offered significantly more cash, and therefore, the significantly better deal for Exactech's Unaffiliated Shareholders.

118. The Petty Defendants' obstruction of a deal with Party A in favor of the TPG Proposed Transaction, therefore, can only be explained by the personal benefit that they will

receive. Unlike Exactech's Unaffiliated Shareholders, the Petty Defendants will not receive only cash. Instead, the Petty Defendants will be able to participate in the continued growth of the business through an ownership interest in the post-transaction entity.

119. Moreover, TPG has informed Exactech that it intends to retain Exactech's executive officers and management, specifically including the Individual Petty Defendants. Whereas the Individual Petty Defendants had no interest in working with Party A, they have personal relationships with senior personnel at TPG, including Hann and Binder. The Individual Petty Defendants therefore are keen to work with TPG.

120. The Individual Petty Defendants were able to arrange for their continued ownership and managerial roles at Exactech through a series of private negotiations with TPG that were never disclosed to the Board. Either way, the Petty Defendants consciously disregarded their duty to act in the best interest of the Company and its shareholders.

121. Prima knew through its partners, including the Individual Petty Defendants, that the Individual Petty Defendants were voting for their own improper personal benefits rather than the best interests of the Company. Prima substantially assisted the Individual Petty Defendants in breaching their fiduciary duties by coordinating their shares into a much larger voting block than they could have affected individually, allowing the Individual Petty Defendants to vote through it in a way that was not in the best interests of Exactech, and encouraged and assisted the Individual Petty Defendants by not supporting Party A's voting agreement.

122. The Individual Petty Defendants were reluctant to sell the Company that they have spent the last thirty years building without assurances of their continued involvement.

123. The Individual Petty Defendants have been repeatedly advised by counsel that they have a fiduciary duty to put the stockholders' interests above their own in running the

Company. In putting their own interests ahead of the Unaffiliated Shareholders for their own improper personal benefit, the Petty Defendants consciously disregarded the best interests of the Unaffiliated Shareholders.

124. Despite being advised by the Board that they could only negotiate rollover equity, employment, and other agreements with TPG, the Individual Petty Defendants violated even this minimal procedural safeguard by negotiating privately and exchanging inside information with TPG to craft and promote the deal that they personally wanted. In doing so, they prioritized their own interests above those of the Unaffiliated Shareholders.

125. The Petty Defendants used their position of control over Exactech to advance and secure their own personal interests at the expense of Exactech's Unaffiliated Shareholders. In doing so, the Petty Defendants consciously disregarded the interests of, and breached their fiduciary duties to, Exactech's Unaffiliated Shareholders. As a result, Exactech's Unaffiliated Shareholders will be forced to accept unfair consideration for their shares. Indeed, they will be forced to accept consideration that is nearly 10% less than another offer that was pending.

126. Exactech could have obtained even more than the 10% premium that Party A offered to its Unaffiliated Shareholders over and above the TPG Proposed Transaction. TPG and Party A were engaged in a heated bidding war at the time, and the Petty Defendants essentially took the auctioneer's gavel out of the Board's hand and pushed the Company into the TPG Proposed Transaction. It is reasonably inferred that, if the bidding had been allowed to continue, either TPG, Party A, or another bidder, would have paid even more than \$54.00 per share to Exactech's public shareholders.

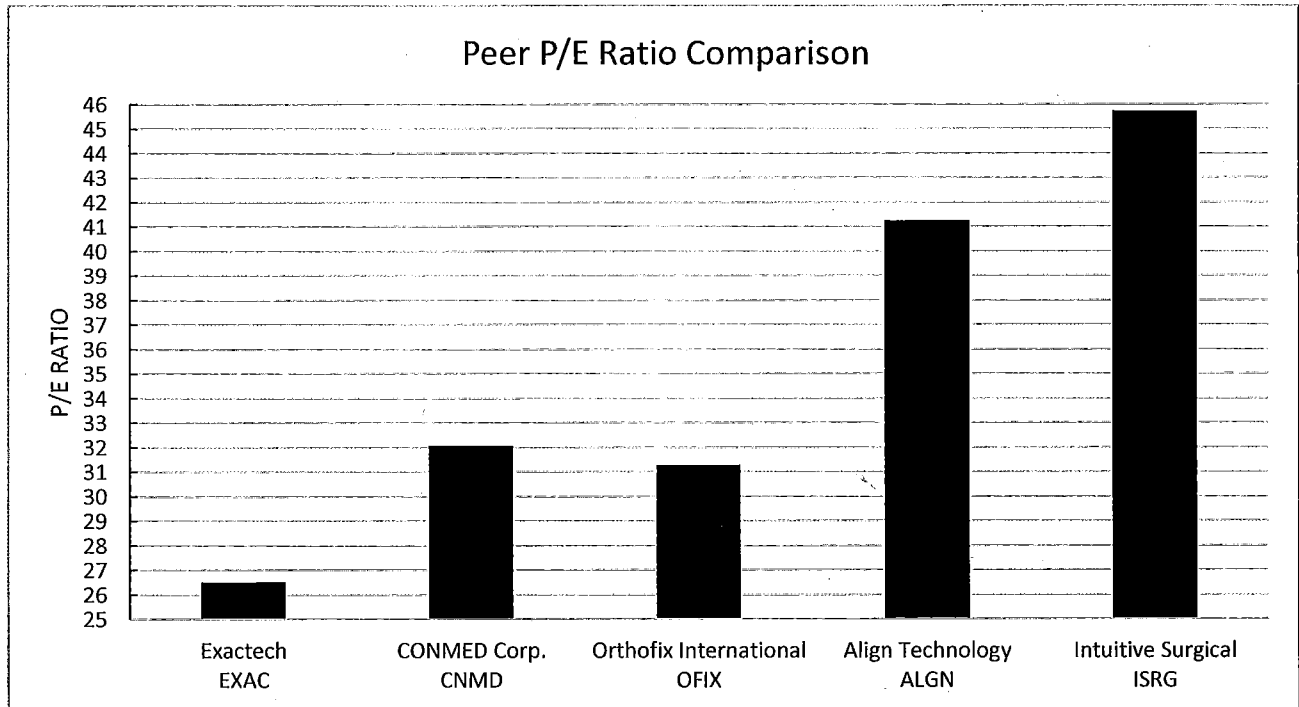
E. The Outside Directors Failed to Protect Exactech's Unaffiliated Shareholders in Breach of Their Fiduciary Duties.

127. Throughout the process leading to the TPG Proposed Transaction, the Outside Directors repeatedly failed to take steps to manage the Individual Petty Defendants' involvement in the deal-making process, by consciously disregarding the divergent interests of the Petty Defendants and the Exactech shareholders, even after their lawyers suggested such steps.

128. In late July 2017, the Petty Defendants brought their discussions with TPG to the attention of the Outside Directors when negotiations were already well underway. Rather than attempting to manage the Petty Defendants' maneuvers toward a transaction with TPG by conducting independent inquiries into the proper stock value and the existence of alternative options, the Outside Directors allowed Exactech to be ushered into and through a process that favored such a transaction over other, more beneficial potential transactions, including a more beneficial transaction that was actually offered by Party A.

129. On September 13, 2017, when TPG made its initial \$39 per share offer, Exactech's Board noted its need to engage a financial advisor. The Outside Directors decided to engage J.P. Morgan without contacting any other peer firms. The Outside Directors did not sever this relationship even after they became aware of J.P. Morgan's pre-existing relationship with TPG, which has earned J.P. Morgan fees in the last two years alone that are many multiples of the fee J.P. Morgan could earn from the TPG Proposed Transaction. Indeed, the Outside Directors formalized their engagement with J.P. Morgan after they learned of J.P. Morgan's conflict of interest.

130. The average price to earnings ratio for Exactech and several of its peer firms for 2016 are reflected in the following chart.⁴



131. Over the past several years, Exactech’s peers experienced stock price growth at greater multiples than Exactech. The Proxy Statement also states that “the Company ha[d] received several unsolicited communications from third parties regarding potential Company sale transactions” over the past several years. Despite both this undervaluation of the Company and the noted interest of outside companies, the Board never did anything to solicit satisfactory offers. The Outside Directors consciously disregarded their duty to act in the best interest of the Company and chose not to solicit bids but instead based their decision on a recommendation from a firm with a known conflict of interest.

⁴ Source: Bloomberg Law, <https://www.bloomberglaw.com/company/financials/EXAC%20US%20Equity/KeyRatios>; ret’d January 30, 2018.

132. When the Individual Petty Defendants surprised the Outside Directors by announcing their intention to seek disparate consideration in the form of rollover equity, the Outside Directors consciously disregarded the best interest of the Company by declining to adopt either of Greenberg Traurig's suggested procedural protections: (1) they failed to form a Special Committee to handle further renegotiations and (2) they failed to condition the TPG Proposed Transaction on a vote of Exactech's Unaffiliated Shareholders.

133. The Outside Directors further breached their fiduciary duties by allowing the Individual Petty Defendants to negotiate directly with TPG and failing to ensure that the Individual Petty Defendants did not exceed that limited permission during the bidding process. In failing to take proper procedural precautions, the Outside Directors enabled the Individual Petty Defendants to undermine the deal with Party A, bypass the bidding contest and thereby ultimately deprive the Unaffiliated Shareholders of value.

134. The Outside Directors failed to enforce the one procedural safeguard that it did invoke, and failed to take corrective action when it learned of the Individual Petty Defendants' violation of that safeguard on December 2, 2017.

135. The Outside Directors failed to protect the interests of the Unaffiliated Shareholders by not conducting any pre-signing market check or demanding a "go-shop" merger provision from TPG.

136. The Board should not have allowed Exactech to be rushed into accepting TPG's proposal by insisting on an artificial, short deadline over the weekend. This is especially so in light of Party A's confirmed serious interest and pending offer to provide consideration similar to TPG's weekend bid.

137. The Board failed to evaluate the likelihood that Party A would submit a second topping bid of its own, although Party A had indicated that it was likely to submit a binding offer.

138. The apotheosis of the Outside Directors' failures came, however, after the Petty Defendants made plain their intent to obstruct Exactech's ability to proceed with an agreement pursuant to Party A's \$54.00-per-share offer. When the Petty Defendants stated that they would not sign the voting agreements with Party A, the Outside Directors simply acquiesced, consciously disregarding their fiduciary duty to get the best value for the Company's Unaffiliated Shareholders. They did not protect the interests of the Exactech's Unaffiliated Shareholders, who were deprived of almost 10% of the benefit they would have had if Party A's offer was accepted, and were deprived of the additional benefit of any subsequent higher offers that could have been solicited from Party A.

139. The Outside Directors did not at this time propose—much less insist—that other potential buyers be identified and encouraged along with Party A and TPG to submit their highest and best offers to acquire Exactech.

140. When Party A gave Exactech an irrevocable offer and later attempted to add a condition, the Outside Directors chose to honor that condition, despite its legal and practical ineffectiveness. The Outside Directors also failed to tell Party A that they would accept the offer as it had been stated. Instead, they consciously disregarded their duty to look out for the best interests of the shareholders and rejected the irrevocable offer without any attempt to negotiate or request an extension.

141. The Board made no attempt to reach out to Party A and renegotiate the December 13, 2017 voting agreement condition. Such an overture would have enabled them to accept Party A's offer without explicitly challenging the validity of the condition.

142. The Outside Directors did not challenge the validity of the voting rights condition by clarifying with Party A that it had made an irrevocable offer that had not expired.

143. The Outside Directors did not discuss with Party A's counsel that a condition could not be made retroactively on this offer.

144. The Outside Directors did not advise Party A that a majority of the Outside Directors and, eventually, Unaffiliated Shareholders could still accept Party A's offer, or another offer by Party A following negotiations without the Individual Petty Defendants' votes—and were likely to.

145. The Outside Directors also did not simply use their votes to accept the irrevocable offer on its original terms.

146. The Outside Directors did not state that they might do so in order to encourage Party A or the Petty Defendants, or both, to make the modest concessions necessary to maximize value for the shareholders.

147. The Outside Directors did not exercise the fiduciary-out clause of their agreement with TPG in order to cause the Petty Defendants to negotiate in good faith with Party A, TPG and any other interested bidders to obtain the best value for the shareholders.

148. Instead, the Outside Directors capitulated to the Individual Petty Defendants' demands and rejected Party A's superior irrevocable offer before it expired.

149. The Outside Directors substantially assisted and encouraged the Individual Petty Defendants by allowing them to continue to negotiate with TPG, to the exclusion of Party A and

other potential bidders, even after the Outside Directors learned that the Individual Petty Defendants had negotiated privately with TPG for improper personal benefits.

150. In repeatedly failing to protect the interests of Exactech's shareholders during the process leading to the approval of the TPG Proposed Transaction, the Outside Directors breached their fiduciary duties to Exactech's Unaffiliated Shareholders.

F. The Individual Petty Defendants and Outside Directors Are Attempting to Wrongfully Coerce Unaffiliated Shareholders into Approving the TPG Proposed Transaction.

151. As noted above, shareholders will vote on the TPG Proposed Transaction at a special meeting of Exactech shareholders on February 13, 2018. To be consummated, the TPG Proposed Transaction must be approved by the affirmative vote of the holders of a majority of the outstanding common stock of the Company. Although the Outside Directors failed to condition the transaction on the approval of Exactech's Unaffiliated Shareholders voting as a separate class, Unaffiliated Shareholders will still have the opportunity to vote alongside the Petty Defendants and other Rollover Investors at the special meeting.

152. In connection with the shareholder vote, the Individual Petty Defendants and the Outside Directors have caused Exactech to issue the Proxy Statement, in which the Board has set forth its recommendation that shareholders approve the merger. The Proxy Statement, however, (i) misleads Unaffiliated Shareholders into believing that, in the event they oppose the TPG Proposed Transaction, they have no recourse other than to seek appraisal pursuant to Sections 607.1301 to 607.1333 of the Florida Business Corporations Act, and (ii) seeks to wrongfully coerce Exactech's Unaffiliated Shareholders into voting in favor of the TPG Proposed Transaction. Specifically, the Proxy Statement admonishes that:

Based on Florida's appraisal rights statutes as well as principles of waiver and estoppel, we intend to take the position with respect to any lawsuit seeking recovery outside of the appraisal rights process

that appraisal rights represent the exclusive remedy to challenge the Merger Consideration and that any shareholder who either (i) votes for the Merger Agreement, (ii) does not exercise appraisal rights or (iii) accepts Merger Consideration pursuant to the Merger Agreement, whether by making a valid election or by exchanging any of such shareholder's stock certificates for Merger Consideration, *will have waived and relinquished all claims arising out of or relating to the consideration provided to the Company's shareholders under the Merger Agreement and be barred from seeking recovery of other consideration.*

(emphasis added).

153. The Proxy Statement fails to advise shareholders that the appraisal statute itself includes an express statutory provision pursuant to which a shareholder may challenge a corporate action through means other than appraisal where the action was the result of unfair dealing. Fla. Stat. § 607.1302(4)(b). In any event, the Proxy Statement's admonition is plainly designed to coerce shareholders into approving the TPG Proposed Transaction. Appraisal is not a feasible option for the average shareholder. Likewise, the Proxy Statement is clear that the Petty Defendants will never support a sale of the Company other than the TPG Proposed Transaction. In other words, the Proxy Statement communicates that by voting down the TPG Proposed Transaction, shareholders will never have an opportunity to secure fair value for their shares.

154. By issuing a Proxy Statement intended to coerce shareholders into voting for the TPG Proposed Transaction for reasons other than the merits of the transaction, the Individual Petty Defendants and the Outside Directors breached their fiduciary duties to Exactech's Unaffiliated Shareholders and have rendered the transaction voidable should it be consummated.

V. CLASS REPRESENTATION ALLEGATIONS

155. Plaintiff incorporates by reference and realleges each and every allegation above, as though fully set forth herein.

156. Plaintiff brings this action pursuant to Rule 1.220 of the Florida Rules of Civil Procedure on behalf of itself and all other holders of Exactech common stock (other than Defendants named herein, the Rollover Investors, and any person, firm, trust, corporation, or other entity related to, or affiliated with, them and their successors in interest) who have been harmed and/or are threatened with harm because of Defendants' wrongful conduct as described herein (the "Class").

157. Plaintiff proposes the following class definition:

All persons who have owned shares of common stock in Exactech, Inc. from December 4, 2017 at 9:30 A.M. through the later of (a) February 13, 2018 or (b) the approval of the TPG Proposed Transaction, inclusive, excluding Defendants and all members of their immediate families and excluding Rollover Investors and all members of their immediate families.

158. This action is properly maintainable as a class action.

159. The Class is so numerous that joinder of all members is impracticable. As of November 3, 2017, 14,366,181 shares of Exactech common stock were outstanding. Millions of these shares are not affiliated with Defendants. Consequently, the number of Class members is believed to be in the thousands or larger. Members of the Class are, moreover, likely located across the globe.

160. There are questions of law and fact that are common to all Class members and that predominate over any questions affecting only individuals, including, but not limited to:

- (a) Whether the Defendants have breached their fiduciary duties to the Class in connection with the TPG Proposed Transaction;
- (b) Whether Prima and the Outside Directors have aided and abetted the Individual Petty Defendants in breaching their fiduciary duties; and
- (c) Whether the Class is entitled to damages.

161. These claims are typical to all Class members based on their ownership of common stock. Injury is typical to all Class members, because all the Unaffiliated Shareholders bore the same loss per share.

162. Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in litigation of this nature. Plaintiff will fairly and adequately protect the interests of the Class.

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

164. Defendants have acted in a manner that affects Plaintiff and all members of the Class alike, thereby making appropriate relief with respect to the Class.

165. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. The expense and burden of individual litigation make it impracticable for Class members individually to seek redress for the wrongful conduct alleged herein. Plaintiff anticipates that there will be no difficulty in the management of this litigation as a class action.

COUNT I
Breach of Fiduciary Duty Against the Individual Petty Defendants
(In Their Capacities as Directors and Officers of the Company)

166. Plaintiff repeats and realleges each and every allegation above as if set forth fully herein.

167. William Petty and David Petty, as directors and officers of Exactech, and Betty Petty, as an officer of Exactech, owe Plaintiff and the Class the utmost fiduciary duties of loyalty, care and good faith.

168. William Petty and David Petty breached their fiduciary duties by conditioning their votes as Board members on undisclosed future employment and other agreements with TPG rather than the shareholders' best interests, and thereby derived an improper personal benefit, at the expense of Exactech's Unaffiliated Shareholders.

169. The Individual Petty Defendants breached their fiduciary duties by withholding information about Party A's interest from the Outside Directors.

170. The Individual Petty Defendants breached their fiduciary duties through their conscious disregard for the best interests of the corporation by steering the Company's sale toward a deal with TPG and obstructing Party A's superior proposal in order to secure an improper personal benefit for themselves not shared with Exactech's Unaffiliated Shareholders.

171. As a direct and proximate result of the Individual Petty Defendants' breach of their fiduciary duties, Plaintiff and the Class have sustained significant monetary damages.

172. As a result of the misconduct alleged herein, the Individual Petty Defendants are liable to Plaintiff and the Class.

COUNT II
Breach of Fiduciary Duty Against the Outside Directors

173. Plaintiff repeats and realleges each and every allegation above as if set forth fully herein.

174. The Outside Directors, as directors of Exactech, owe Plaintiff and the Class the utmost fiduciary duties of loyalty, care and good faith.

175. The Outside Directors breached their fiduciary duties through their conscious disregard for the best interest of the corporation, acquiescing in the Petty Defendants' efforts to cause Exactech to enter the TPG Proposed Transaction and forgoing Party A's superior proposal without seeking to negotiate at arm's-length with the Petty Defendants or otherwise discharging their duties to protect Exactech's Unaffiliated Shareholders.

176. The Outside Directors breached their fiduciary duties by failing to engage a non-conflicted financial advisor, by failing to implement procedural safeguards in light of the Petty Defendants' conflicts, by failing to consider alternatives to the TPG Proposed Transaction, and by failing to exercise the fiduciary-out clause after Party A made its second topping bid.

177. As a direct and proximate result of the Outside Directors' breach of their fiduciary duties, Plaintiff and the Class have sustained significant monetary damages.

178. As a result of the misconduct alleged herein, the Outside Directors are liable to Plaintiff and the Class.

COUNT III
Breach of Fiduciary Duty Against the Individual Petty Defendants and Prima
(In Their Capacities as Shareholders of Exactech)

179. Plaintiff incorporates by reference and realleges each and every allegation above, as though fully set forth herein.

180. The Petty Defendants, as Exactech's controlling shareholders, owe Plaintiff and the Class the utmost fiduciary duties of loyalty, care and good faith.

181. The Petty Defendants breached their fiduciary duties by exploiting their positions of control and influence to steer Exactech's sale process toward a deal with TPG and obstruct Party A's superior proposal in order to secure improper personal benefits for themselves not shared with Exactech's Unaffiliated Shareholders.

182. The Petty Defendants breached their fiduciary duties in order to secure an improper personal benefit for themselves not shared with Exactech's Unaffiliated Shareholders.

183. As a direct and proximate result of the Petty Defendants' breach of their fiduciary duties, Plaintiff and the Class have sustained significant monetary damages.

184. As a result of the misconduct alleged herein, the Petty Defendants are liable to Plaintiff and the Class.

COUNT IV
Breach of Fiduciary Duty Against the Individual Petty Defendants and the Outside Directors for Wrongful Coercion

185. Plaintiff incorporates by reference and realleges each and every allegation above, as though fully set forth herein.

186. The Individual Petty Defendants and the Outside Directors owe Plaintiff and the Class the utmost fiduciary duties of loyalty, care and good faith.

187. The Individual Petty Defendants and the Outside Directors breached their fiduciary duties by attempting to wrongfully coerce Exactech's Unaffiliated Shareholders into approving the TPG Proposed Transaction for reasons other than the merits of the transaction.

188. As a direct and proximate result of the Individual Petty Defendants' and the Outside Directors' breach of their fiduciary duties, Plaintiff and the Class have been harmed and will sustain significant monetary damages.

189. As a result of the misconduct alleged herein, the Individual Petty Defendants and the Outside Directors are liable to Plaintiff and the Class.

COUNT V
Aiding and Abetting Breach of Fiduciary Duty
Against Prima and the Outside Directors

190. Plaintiff incorporates by reference and realleges each and every allegation above, as though fully set forth herein.

191. The Individual Petty Defendants owe Plaintiff and the Class the utmost fiduciary duties of loyalty, care and good faith.

192. The Individual Petty Defendants were primary wrongdoers, who breached their fiduciary duties by consciously disregarding the best interest of the Company and deriving an improper personal benefit at the expense of Exactech's Unaffiliated Shareholders.

193. Both Prima and the Outside Directors knew of the Individual Petty Defendants' breach of their fiduciary duties.

194. Prima substantially assisted or encouraged the Individual Petty Defendants to breach those duties by refusing to vote its shares for any offer from Party A, depriving the Unaffiliated Shareholders of value while furthering the Individual Petty Defendants' goal of promoting an inferior offer from TPG, by coordinating its shares in a much larger block than any of the Individual Petty Defendants owned individually, and otherwise providing the Individual Petty Defendants with the voting means to affect their breach in conscious disregard of their duties.

195. The Outside Directors substantially assisted or encouraged the Individual Petty Defendants to breach those duties by assisting the Individual Petty Defendants' private negotiations with TPG, and by failing to take—or consider taking—Party A's irrevocable offer on its terms. The Outside Directors further assisted and encouraged the Individual Defendants to breach their fiduciary duties by not adopting procedural safeguards and in failing to rescind the Individual Petty Defendants' permission to accept different consideration when it became clear that this permission was inhibiting a superior offer.

196. The Outside Directors further substantially assisted the Individual Petty Defendants by agreeing, on December 1, 2017, to meet over the weekend and approve TPG's offer, without giving Party A or other bidders an opportunity to match or top that offer, and notwithstanding the fact they were informed that Party A's offer of similar value was forthcoming.

197. As a direct and proximate result of the Petty Defendants' breach of their fiduciary duties, Plaintiff and the Class have sustained significant monetary damages.

198. As a result of the misconduct alleged herein, the Petty Defendants are liable to Plaintiff and the Class.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment and relief as follows:

- A. Declaring that this action is properly maintainable as a class action;
- B. Declaring that the Petty Defendants and Outside Directors have breached their fiduciary duties to Plaintiff and the Class;
- C. Declaring that Prima and the Outside Directors have aided and abetted the Individual Petty Defendants in breaching their fiduciary duties;
- D. Awarding damages to the members of the Class for the harm they suffered as a result of the unfair price they received for their shares of Exactech stock;
- E. Awarding Plaintiff the costs of pursuing this action, including, but not limited to, Plaintiff's attorneys' fees and expenses and experts' fees; and
- F. Awarding such other and further relief as the Court deems just and proper.

JURY TRIAL DEMAND

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

Dated: February 12, 2018.

Respectfully Submitted,

/s/ David S. Oliver

David S. Oliver, Esq.
Florida Bar No.: 521922
david.oliver@gray-robinson.com
GRAYROBINSON, P.A.
301 East Pine Street
Suite 1400
Orlando, Florida 32801
Telephone: 407-843-8880
Facsimile: 407-244-5690

Jason A. Zimmerman, Esq.
Florida Bar No.: 104392
jason.zimmerman@gray-robinson.com
GRAYROBINSON, P.A.
301 East Pine Street
Suite 1400
Orlando, Florida 32801
Telephone: 407-843-8880
Facsimile: 407-244-5690

Mark D. Schellhase, Esq.
Florida Bar No.: 57103
mark.schellhase@gray-robinson.com
GRAYROBINSON, P.A.
225 NE Mizner Boulevard
Suite 500
Boca Raton, FL 33432
Telephone: 561-368-3808
Facsimile: 561-368-4008

Counsel for Plaintiff