

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DENISE SUNDQUIST, derivatively and on
behalf of THE ALLSTATE CORPORATION,

Plaintiff,

v.

THOMAS J. WILSON, STEVEN E. SHEBIK,
JUDITH A. SPRIESER, KERMIT R.
CRAWFORD, MICHAEL L. ESKEW, F.
DUANE ACKERMAN, JACK M.
GREENBERG, ROBERT D. BEYER,
HERBERT L. HENKEL, SIDDHARTH N.
MEHTA, ANDREA REDMOND, JOHN W.
ROWE, MARY ALICE W. TAYLOR,
JACQUES P. PEROLD, and MATTHEW E.
WINTER,

Defendants,

-and-

THE ALLSTATE CORPORATION, a
Delaware Corporation,

Nominal Defendant.

Case No. 1:18-cv-03598

Hon. Robert W. Gettleman

REQUEST FOR JUDICIAL NOTICE

Plaintiff Denise Sundquist (“Plaintiff”), derivatively and on behalf of the Allstate Corporation (“Allstate”), respectfully requests, pursuant to Rule 201 of the Federal Rules of Evidence, that the Court take judicial notice of a “Letter from Independent Directors to Stockholders,” filed with the Securities Exchange Commission on March 28, 2018 (the “SEC Filing”) and two complaints filed in the Circuit Court of Cook County, Illinois (the “*Biefeldt* Complaints”) in support of her Opposition to Defendants’ Motion to Dismiss the Complaint or Stay this Action.

Rule 201 of the Federal Rules of Evidence authorizes the Court to take judicial notice “at any stage of the proceeding,” of any fact that is “not subject to reasonable dispute because it . . . can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201. A court’s determination that judicial notice of certain facts is proper will not convert a motion to dismiss into a motion for summary judgment. *Henson v. CSC Credit Servs.*, 29 F.3d 280, 284 (7th Cir. 1994) (“Despite the express language of Fed R. Civ. P. 12(b) . . . ‘the district court may . . . take judicial notice of matters of ‘public record’ without converting a 12(b)(6) motion into a motion for summary judgment.”).

With regard to the SEC Filing, courts have taken judicial notice of such filings “for the purpose of showing what statements the documents contain” *George v. Kraft Foods Global, Inc.*, 674 F. Supp. 2d 1031, 1044 (N.D. Ill. 2009); *Kramer v. Time Warner*, 937 F.2d 767, 774 (2nd Cir. 1991) (“a district court may take judicial notice of the contents of relevant public disclosure documents required to be filed with the SEC as facts ‘capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.’”); *Riggs Ptnrs, LLC v. Hub Grp., Inc.*, No. 02 C 1188, 2002 U.S. Dist. LEXIS 20649, at *4 (N.D. Ill. Oct. 23, 2002) (“the court may take judicial notice of documents filed with the SEC for the purpose of showing what statements the documents contain, but not for the proof of the facts stated therein.”). This can include SEC filings made after the filing of a complaint. *In Re Hansen Natural Corp. Sec. Litig.*, 527 F. Supp. 2d 1142, 1149-50 (C.D. Cal. 2007) (taking judicial notice of SEC filings that were not referenced in the complaint and were dated after the filing of the complaint).

The Court may similarly take judicial notice of court filings. *Kravetz v. Bridge to Life, Ltd.*, No. 16 CV 9194, 2017 U.S. Dist. LEXIS 132195, at *6 (N.D. Ill. Aug. 18, 2017). Accordingly, Plaintiff requests that the Court take judicial notice of the *Biefeldt* Complaints filed

against Defendants in the Circuit Court of Cook County, Illinois on August 3, 2017 (styled *Biefeldt v. Wilson, et al.*, 2017-CH-10676) and August 10, 2018 (styled *Biefeldt and IBEW Local 98 Pension Fund v. Wilson, et al.*, 2017-CH-10676), respectively.

Based upon the foregoing, Plaintiff respectfully requests that the Court take judicial notice of Exhibits A-C, attached to the Declaration of Kristen L. O'Connor in Support of Plaintiff's Request for Judicial Notice.

DATED: September 7, 2018

/s/ Lori A. Fanning

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Attorneys for Plaintiff Denise Sundquist

CERTIFICATE OF SERVICE

I hereby certify that on September 7, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system. The electronic filing system sent a “Notice of Electronic Filing” to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Lori A. Fanning
Lori A. Fanning