

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

KIMBERLY PETERSEN, 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

STIPULATION AND [PROPOSED] ORDER VOLUNTARILY DISMISSING ACTION

Pursuant to Rules 23.1(c) and 41(a) of the Federal Rules of Civil Procedure, plaintiff Kimberly Petersen, defendants F. Duane Ackerman, Robert D. Beyer, Kermit K. Crawford, Michael L. Eskew, Jack M. Greenberg, Herbert L. Henkel, Siddharth N. Mehta, Jacques P. Perold, Andrea Redmond, John W. Rowe, Steven E. Shebik, Judith A. Sprieser, Mary Alice W Taylor, Thomas J. Wilson, and Matthew E. Winter, and nominal defendant The Allstate Corporation (“Allstate”), by and through their respective counsel, hereby stipulate and agree to the voluntary dismissal of the above-entitled action as follows:

STIPULATION AND [PROPOSED] ORDER VOLUNTARILY DISMISSING ACTION

WHEREAS, this is a stockholder derivative action alleging, *inter alia*, that plaintiff did not make a pre-suit demand on the Allstate board of directors to pursue this action because such a demand would have been futile.

WHEREAS, in an opinion and order entered on December 4, 2018 (ECF No. 37), the Court stayed all proceedings in this action pursuant to the *Colorado River* abstention doctrine until the final resolution of an earlier-filed state court action, *Biefeldt v. Wilson, et al.*, Case No. 2017-CH-10676 (Ill. Cir. Ct.), in which substantially similar stockholder derivative claims were asserted by a different alleged Allstate stockholder. The Court ordered that the stay would remain in effect through “any appeals” in the *Biefeldt* action, and that “[w]hen the state court proceedings conclude, any party may move this court to lift the stay and proceed [] in a manner consistent with the court’s rulings and any preclusion principles that may apply.” *Id.*

WHEREAS, in *Biefeldt*, on February 24, 2021, the Circuit Court of Cook County, Chancery Division, granted the defendants’ motion to dismiss the plaintiffs’ second amended complaint with prejudice based on their failure to make a demand on the Allstate board before instituting suit despite their allegations that such a demand would have been futile. On March 26, 2021, the *Biefeldt* plaintiffs filed a notice of appeal with the Illinois Appellate Court.

WHEREAS, on February 25, 2022, the Illinois Appellate Court entered an order affirming the Circuit Court’s dismissal of the *Biefeldt* action, finding that the *Biefeldt* plaintiff failed to allege sufficient facts showing that a pre-suit demand would have been futile.

WHEREAS, in light of the Appellate Court's order, Plaintiff hereby voluntarily dismisses this action with prejudice as to plaintiff. The parties agree that each party will bear his, her, or its own costs and fees.

WHEREAS, the parties respectfully submit that notice of the voluntary dismissal of this action pursuant to Fed. R. Civ. P. 23.1(c) is not necessary because: (i) there has been no settlement or compromise between the parties; (ii) there has been no collusion among the parties; and (iii) plaintiff and her counsel have not received (and will not receive) any compensation or consideration from Allstate or defendants in connection with the voluntary dismissal of this action.

THEREFORE, IT IS HEREBY STIPULATED AND REQUESTED by the Parties, through their undersigned counsel of record and subject to the Court's approval, as follows:

1. The Action shall be dismissed with prejudice as to plaintiff; and
2. The parties shall bear their own respective attorneys' fees and costs.

IT IS SO STIPULATED.

DATED: March 13, 2022

Respectfully submitted,

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Attorneys for Plaintiff

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: _____

HONORABLE ROBERT W. GETTLEMAN

CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2022, I authorized the electronic filing of the forgoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on March 13, 2022.

Lori A. Fanning

Lori A. Fanning