

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

Fred's, Inc., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 19-11984 (CTG)

Jointly Administered

**CERTIFICATION OF COUNSEL REGARDING  
ORDER APPROVING STIPULATION CONCERNING  
SETTLEMENT TERM SHEET**

The undersigned counsel to Anthony M. Saccullo, in his capacity as liquidating trustee (the "Liquidating Trustee") of the FI Liquidating Trust (the "Trust"), successor-in-interest to the above-captioned debtors and debtors in possession, hereby certifies as follows regarding the *Stipulation Concerning Settlement Term Sheet* (the "Stipulation") attached as Exhibit 1 to the proposed order (the "Proposed Order") attached hereto as Exhibit A:

1. On June 27, 2019, a securities class action lawsuit was filed against, *inter alia*, Fred's Inc. ("Fred's") and Michael Bloom ("Bloom") in the United States District Court for the Western District of Tennessee (the "District Court"), case number 19-02415 (the "District Court Action"). On September 13, 2019, the District Court entered an order appointing Gary Fielder, Herbery Ciesla, and Susan Ciesla as Lead Plaintiffs ("Lead Plaintiffs").

2. On September 9, 2019 (the "Petition Date"), Fred's and certain of its affiliates (collectively, the "Debtors") each filed a voluntary petition for relief under chapter 11 of the

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Fred's Stores of Tennessee, Inc. (9888); Fred's Inc. (4010); National Equipment Management and Leasing, Inc. (4296); National Pharmaceutical Network, Inc. (9687); Reeves-Sain Drug Store, Inc. (4510); Summit Properties-Jacksboro, LLC (9161); Summit Properties-Bridgeport, LLC (2200); and 505 N. Main Opp, LLC (5850). The mailing address is c/o FI Liquidating Trust, 27 Crimson King Drive, Bear, DE 19701.

Bankruptcy Code (the “Chapter 11 Cases”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

3. On April 27, 2020, the Bankruptcy Court entered the *Order Authorizing the Payment of Defense Costs Under the Debtors’ Directors and Officers Liability Insurance Policies* [Docket No. 1041] (the “Defense Costs Order”), which allowed Insurers (as defined in the Defense Costs Order) to pay and/or advanced covered “Defense Costs” and/or “Defense Expenses,” as defined in the D&O Policies, on behalf of Bloom under the directors and officers liability insurance policies maintained by the Debtors (collectively, the “D&O Policies”) in connection with the District Court Action.

4. On June 4, 2020, this Court entered an Order [Docket No. 1162] (the “Confirmation Order”) confirming the Debtors’ *Modified Amended Joint Chapter 11 Plan of Liquidation of Fred’s, Inc. and its Debtor Affiliates Set Forth Herein* [Docket No. 1152] (the “Plan”).

5. The Plan broadly and permanently enjoined entities from, among other things, commencing or continuing any actions against the Debtors and/or the Trust, including the District Court Action, as more fully set forth in the Plan.

6. While the District Court Action remained and continues to remain stayed with respect to Fred’s and the Trust, pursuant to the Defense Costs Order, Lead Plaintiffs and Bloom continued to litigate the District Court Action, and in connection therewith, engaged in discussions, which led to an agreement to resolve the District Court Action with a payment from proceeds of the D&O Policies. Pursuant to the Stipulation, neither Fred’s nor the Trust shall have any obligation to fund the proposed settlement or otherwise participate in the District Court action further. Rather, Fred’s and/or the Trust will be dismissed with prejudice from the District Court Action and will released from any claims or causes of action relating to the District Court Action.

WHEREFORE, for the reasons set forth herein and in the Stipulation, and in an abundance of caution, the Liquidating Trustee respectfully requests that the Court enter the Proposed Order approving the Stipulation at the convenience of the Court. Lead Plaintiffs, the Insurers, and Bloom have each reviewed the Proposed Order and the Stipulation and have indicated that they support this Court's entry of the Proposed Order.

Dated: December 7, 2021  
Wilmington, Delaware

**WOMBLE BOND DICKINSON (US) LLP**

/s/ Ericka F. Johnson

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