



IBIT

GRANTED WITH MODIFICATIONS

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

BRAD IHLE, Individually and On
Behalf of All Others Similarly
Situated,

Plaintiff,

v.

THEODORE J. BROMBACH,
PATRICK C. EILERS, JAMES P.
NYGAARD, JR., and XPDI SPONSOR
LLC,

Defendants.

C.A. No. 2023-0759-LWW

[PROPOSED] ORDER AND FINAL JUDGMENT

WHEREAS, a stockholder class action is pending in this Court, entitled *Brad Ihle v. Theodore J. Brombach, et al.*, C.A. No. 2023-0759-LWW (the “Action”); and

WHEREAS, a Stipulation and Agreement of Settlement, Compromise, and Release, dated as of November 13, 2025 (the “Stipulation”), has been entered into by and among: (i) Plaintiff Brad Ihle (“Plaintiff”), on behalf of himself and the Class (as defined herein); and (ii) Defendants Theodore J. Brombach, Patrick C. Eilers, James P. Nygaard, Jr., and XPDI Sponsor LLC (collectively, the “Defendants”) (with Plaintiff, the “Parties,” and each a “Party”); and

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WHEREAS, the Stipulation provides for a settlement, subject to the approval of the Court, among the Parties and for dismissal of the claims asserted in the Action against the Defendants upon the terms and conditions set forth in the Stipulation (the “Settlement”); and

WHEREAS, except for terms defined herein, the Court adopts and incorporates the definitions in the Stipulation for purposes of this Order and Final Judgment; and

WHEREAS, by Order dated _____, 2025 (the “Scheduling Order”), the Court (i) provisionally certified the Class solely for purposes of effectuating the Settlement; (ii) ordered that notice of the proposed Settlement be provided to potential Class Members; (iii) provided Class Members with the opportunity to object to the proposed Settlement, the proposed Plan of Allocation, and/or Plaintiff’s Counsel’s application for a Fee and Expense Award; and (iv) scheduled a hearing regarding final approval of the Settlement; and

WHEREAS, the Court conducted a hearing on _____, 2025 (the “Settlement Hearing”) to (i) determine whether certification of the Class for settlement purposes should be made final, (ii) determine whether the Settlement should be approved by the Court as fair, reasonable, and adequate, and in the best interests of the Class, (iii) determine whether the Action should be dismissed with prejudice and the Releases provided under the Stipulation should be granted, (iv)

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determine whether the Order and Final Judgment approving the Settlement should be entered, (v) determine whether the proposed Plan of Allocation of the Net Settlement Fund is fair and reasonable, and should therefore be approved, (vi) determine whether and in what amount any Fee and Expense Award should be paid to Plaintiff's Counsel out of the Settlement Fund and whether and in what amount any service award to Plaintiff should be paid out of the Fee and Expense Award, (vii) hear and rule on any objections to the Settlement, the Plan of Allocation, or Plaintiff's Counsel's application for an award of attorneys' fees and expenses, and (viii) consider such other matters that may properly be brought before the Court in connection with the Settlement; and

WHEREAS, it appearing that (i) due notice of the Settlement Hearing has been given in accordance with the Scheduling Order, (ii) the Parties having appeared by their respective attorneys of record, (iii) the Court having heard and considered evidence in support of the proposed Settlement, the Plan of Allocation, and the application by Plaintiff's Counsel for a Fee and Expense Award, (iv) the attorneys for the respective Parties having been heard, (v) an opportunity to be heard having been given to all Class Members or other persons requesting to be heard in accordance with the Scheduling Order, (vi) the Court having determined that the notice to Class Members was adequate and sufficient, and (vii) the entire matter of the proposed Settlement having been heard and considered by the Court;

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NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Court has jurisdiction over the subject matter of the Action, all matters relating to the Settlement, and personal jurisdiction over the Parties and all Class Members. It is further determined that Plaintiff, Defendants, and all Class Members, as well as any and all of their respective representatives, trustees, executors, administrators, estates, heirs, successors, predecessors, transferees, and assigns, immediate and remote, and any person acting for or on behalf of, or claiming under, any of them, are bound by this Order and Final Judgment.

2. The delivery of the Notice, substantially in the form attached as Exhibit B to the Stipulation, and publication of the Summary Notice, substantially in the form attached as Exhibit C to the Stipulation, pursuant to and in the manner prescribed in the Scheduling Order, together with the publication of the Summary Notice and posting of the Notice and Summary Notice on the Settlement Administrator's website, is hereby determined to be the best notice reasonably practicable under the circumstances. Such notice constituted due and sufficient notice to all persons entitled to receive notice of the Settlement and fully satisfied the requirements of Delaware Court of Chancery Rule 23, due process, and all other applicable law.

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3. The Court hereby finally certifies the Action, for purposes of the Settlement only, as a non-opt-out class action pursuant to Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2), on behalf of the following class (the “Class”):

All record and beneficial holders of XPDI Class A Common Stock who held such stock between the close of the market on January 14, 2022 at 5:00 p.m. EST (the “Redemption Deadline”) through the close of the Transaction on January 20, 2022 (the “Class Period”), together with their respective successors-in-interest who obtained shares by operation of law, but excluding: (a) all Defendants in the Action; (b) members of the immediate family of any individual Defendant in the Action; (c) any person who was an officer, director, owner, manager or managing member of any Defendant during the Class Period and any members of their immediate family; (d) any parent, subsidiary, or affiliate of any Defendant; (e) any entity in which any Defendant or any other excluded person or entity has, or had during the Class Period, a controlling interest; and (f) the legal representatives, agents, affiliates, heirs, estates, successors, or assigns of any such excluded party; (g) XPDI; (h) any person who was an officer or director of XPDI during the Class Period and any members of their immediate family; and (i) Redeeming Stockholders.

4. The Court hereby appoints Plaintiff Brad Ihle as Class Representative and Scott + Scott Attorneys at Law LLP, Christensen Law LLC, and Kaskela Law LLC as counsel for the Class. Plaintiff and Plaintiff’s Counsel have fairly and adequately represented the Class, both in prosecuting the Action and in entering into and implementing the Settlement.

5. For purposes of the Settlement only, the Court finds that each element required for certification of the Class pursuant to Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2) has been met in that: (a) the Class Members are so numerous

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that their joinder in the Action would be impracticable; (b) there are questions of law and fact common to the Class; (c) the claims of Plaintiff are typical of the claims of the Class; (d) Plaintiff and Plaintiff's Counsel have fairly and adequately represented and protected the interests of the Class in connection with the prosecution of the Action and the Settlement; (e) the prosecution of separate actions by individual Class Members would create a risk of inconsistent adjudications that would establish incompatible standards of conduct for Defendants, and, as a practical matter, the disposition of the Action against Defendants would influence the disposition of any pending or future identical suits or proceedings brought by other Class Members; and (f) Defendants are alleged to have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

6. The Settlement as set forth in the Stipulation is approved as fair, reasonable, and adequate, and in the best interests of the Class.

7. Pursuant to Court of Chancery Rule 23, the Court fully and finally approves the Settlement in all respects. The Parties are authorized and directed to consummate the Settlement in accordance with the terms and provisions of the Stipulation, and the Register in Chancery is directed to enter and docket this Order and Final Judgment dismissing the Action in its entirety, with prejudice.

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8. The Stipulation shall be binding upon and shall inure to the benefit of the Parties, the Class Members, and the Released Parties.

9. Upon the Effective Date, Plaintiff and each and every Class Member, as well as their respective successors, predecessors, representatives, trustees, executors, administrators, estates, heirs, assigns, transferees, immediate and remote, and any person or entity acting for or on behalf of, or claiming under or through, any of them, in their capacities as such, shall have fully, finally, and forever released, settled, and discharged the Released Defendant Parties from and with respect to each and every one of the Released Plaintiff's Claims. Plaintiff and all Class Members shall thereupon be forever barred and enjoined from commencing, instituting, prosecuting, or continuing to prosecute any of the Released Plaintiffs' Claims against any of the Released Defendant Parties.

10. Upon the Effective Date, any claims (i) against any of the Released Defendant Parties, or (ii) by any of the Defendants against any other Person, in which the injury claimed is the claimant's actual or threatened liability to Plaintiff or any other Class Member, arising out of or relating to the subject matter of the Action, including without limitation any third-party claims for contribution in accordance with 10 Del. C. § 6304 and any similar laws and statutes, are hereby barred; provided, however, that any claims by a Defendant for advancement,

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indemnification, and insurance arising out of or relating to the Action shall not be barred.

11. Upon the Effective Date, Defendants, as well as each of their respective current and former parents, affiliates, subsidiaries, insurers, reinsurers, attorneys, heirs, executors, administrators, trustees, estates, employees, officers, directors, predecessors, successors, immediate family members, beneficiaries, assigns, and any entity under their control, in their capacities as such, shall have fully, finally, and forever released, settled, and discharged the Released Plaintiff Parties from and with respect to each and every one of the Released Defendants' Claims. Defendants shall thereupon be forever barred and enjoined from commencing, instituting, prosecuting, or continuing to prosecute any of the Released Defendants' Claims against any of the Released Plaintiff Parties.

12. The terms of the Settlement were negotiated at arm's length and in good faith, and reflect a Settlement that was reached voluntarily, based upon adequate information and sufficient discovery, and after consultation with experienced legal counsel.

13. Plaintiff's Counsel are hereby awarded attorneys' fees in the amount of \$_____, inclusive of litigation expenses (the "Fee and Expense Award"), which the Court finds to be fair and reasonable. The Fee and Expense Award shall be paid solely from the Settlement Fund. Neither Plaintiff, Plaintiff's Counsel, nor

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any Class Member shall make, or assist any other counsel in making, any application for an award of fees, costs, or expenses in any other jurisdiction from Defendants or any of the Released Defendant Parties.

14. Plaintiff is hereby awarded a service fee of \$_____ to be paid from the Fee and Expense Award.

15. The Court finds and concludes that the method of distributing payments to Eligible Class Members on a *pro rata* basis, as set forth in the Plan of Allocation described in the Notice, provides a fair and reasonable basis upon which to allocate the proceeds of the Net Settlement Fund among Eligible Class Members, with due consideration given to administrative convenience and necessity.

16. The binding effect of this Order and Final Judgment and the obligations of Plaintiff, Class Members, and Defendants under the Stipulation shall not be conditioned upon or subject to the resolution of any appeal from this Order and Final Judgment that relates solely to the Fee and Expense Award or to the Plan of Allocation.

17. The Parties and all Class Members shall be, and are deemed to be, bound by the Stipulation and this Order and Final Judgment. This Order and Final Judgment, including (i) the release of all Released Plaintiff's Claims against all Released Defendant Parties, and (ii) the release of all Released Defendants' Claims against all Released Plaintiff Parties, shall have res judicata, collateral estoppel, and

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all other preclusive effect in all pending and future lawsuits, arbitrations, or other proceedings involving any of the Released Claims against any of the Released Parties.

18. The Court finds and concludes that the Parties and their respective counsel have complied in all respects with the requirements of Delaware Court of Chancery Rule 11 in connection with the institution, prosecution, defense, and settlement of the Action.

19. If the Settlement is terminated as provided in the Stipulation or if the Effective Date otherwise fails to occur: (a) this Order and Final Judgment shall be rendered null and void and shall be vacated; (b) all orders entered and releases delivered in connection herewith shall be null and void; (c) all of the Parties shall revert to their respective litigation positions as of immediately prior to the execution of the Stipulation, and shall proceed in all respects as if the Stipulation had not been executed and any related orders had not been entered; (d) all claims and defenses in the Action shall be preserved without prejudice; (e) the statements made in connection with the negotiation of the Stipulation shall not be deemed to prejudice in any way the positions of any of the Parties with respect to the Action, shall not constitute an admission by any Party, and shall not be used to recover any fees, costs, or expenses incurred in connection with the Action; and (f) no materials created by or received from any other Party that were used in, obtained during, or related to the

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Settlement discussions shall be admissible for any purpose in any court or other tribunal, or used, absent consent from the disclosing Party, for any other purpose or in any other capacity, except to the extent such materials are otherwise required to be produced during discovery in the Action or in any other litigation.

20. Neither the Stipulation, the fact of or any terms and conditions of the Settlement, nor any communications relating thereto, shall constitute or be construed as evidence, or a presumption, admission, or concession by any Party of any wrongdoing, fault, liability, or damages whatsoever, all of which are expressly denied and disclaimed by each of the Parties. Neither the Stipulation nor any of its terms, conditions, and provisions, nor any of the negotiations or proceedings in connection therewith, nor any documents or statements referred to therein, nor the Settlement, nor the fact of the Settlement, nor the Settlement proceedings, nor any statements in connection therewith, shall (a) be argued to be, used, or construed as, offered or received in evidence as, or otherwise constitute an admission, concession, presumption, proof, evidence, or finding of any liability, fault, wrongdoing, injury, or damages, or of any wrongful conduct, acts, or omissions on the part of any of the Released Defendant Parties, or of any infirmity of any defense, or of any damage to Plaintiff or any Class Member; (b) otherwise be used to create or give rise to any inference or presumption against any of the Released Defendant Parties concerning any fact alleged or that could have been alleged, or any claim asserted or that could

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have been asserted, in the Action, or of any purported liability, fault, or wrongdoing of any of the Released Defendant Parties or of any injury or damages to any person; (c) be argued to be, used, or construed as, offered or received in evidence as, or otherwise constitute an admission, concession, presumption, proof, evidence, or finding that any of Plaintiff's claims are without merit, that any of Defendants had meritorious defenses, or that damages recoverable from Defendants in connection with the Action would not have exceeded the Settlement Amount; or (d) be admissible, referred to, interpreted, construed, deemed, invoked, offered, or received in evidence or otherwise used by any person in the Action or in any other suit, action, or proceeding whatsoever, whether civil, criminal, or administrative. Provided, however, that the Stipulation and/or this Order and Final Judgment may be introduced in any suit, action, or proceeding, whether in this Court or otherwise, as may be necessary to argue that the Stipulation and/or this Order and Final Judgment has res judicata, collateral estoppel, or other issue- or claim-preclusive effect, or to otherwise consummate or enforce the Stipulation, the Settlement, and/or this Order and Final Judgment, including, without limitation, to secure any insurance rights or proceeds, or as otherwise required by law. This provision shall remain in force in the event that the Settlement is terminated for any reason.

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21. Without further order of the Court, the Parties may agree in writing to reasonable extensions of time to carry out any of the provisions of the Stipulation and the Settlement.

22. Without affecting the finality of this Order and Final Judgment in any way, the Court reserves continuing jurisdiction over all matters relating to the administration, interpretation, implementation, and consummation of the Settlement.

23. The claims asserted in the Action are hereby dismissed in their entirety and with prejudice. The Parties shall bear their own costs, except as otherwise provided in this Order and Final Judgment, the Scheduling Order, and the Stipulation.

Vice Chancellor Lori W. Will

This document constitutes a ruling of the court and should be treated as such.

Court: DE Court of Chancery Civil Action

Judge: Lori W. Will

File & Serve

Transaction ID: 77768254

Current Date: Apr 02, 2026

Case Number: 2023-0759-LWW

Case Name: Brad Ihle v. Theodore J. Brombach

Court Authorizer

Comments:

The proposed class is certified, the settlement is approved, and the proposed plan of allocation is approved for the reasons given in the court's March 17, 2026 bench ruling. See Tr. of Mar. 17, 2026 Settlement Hr'g (Dkt. 86).

As explained during that ruling, I took the proposed fee and expense award under advisement and requested that plaintiff's counsel submit revised affidavits breaking their time down into (1) case inception through August 21, 2025 (the date the parties reached an agreement in principle to settle the action) and (2) post-August 21 through the day the stipulation of settlement was filed. Counsel has since filed those revised affidavits (Dkts. 82-84).

The requested net fee of \$2,567,876.99 represents approximately 17.4% of the settlement fund (\$14,750,000). Under the Sugarland factors, the benefit achieved is the most important consideration. See *Sugarland Indus., Inc. v. Thomas*, 420 A.2d 142, 149-50 (Del. 1980). The \$14.75 million recovery is unquestionably a strong result for the class.

Still, the requested 17.4% net fee is elevated for a case resolving at this early stage. As the Delaware Supreme Court observed in *Americas Mining*, cases settling before meaningful litigation efforts typically warrant 10% to 15% of the fund, while those settling after meaningful litigation efforts warrant 15% to 25%. See *Americas Mining Corp. v. Theriault*, 51 A.3d 1213, 1259-60 (Del. 2012). Here, the plaintiff secured a settlement after receiving some document discovery (roughly 21,000 documents) and after certain defendants filed a partial motion to dismiss, which the plaintiff resolved by voluntarily dismissing those defendants without briefing. The plaintiff did not brief, argue, or defeat a dispositive motion, nor did he take any depositions.

I must exercise my independent business judgment to ensure the fee is reasonable and consistent with precedent. See *Goodrich v. E.F. Hutton Gp., Inc.*, 681 A.2d 1039, 1046 (Del. 1996). I recently awarded a fee equal to 15.6% of the net settlement fund in a comparable case, *Offringa v. dMY Sponsor II, LLC*. See *Offringa v. dMY Sponsor II, LLC*, C.A. No. 2023-0929-LWW, at 21-23 (Del. Ch. Mar. 23, 2026) (TRANSCRIPT). The plaintiff in *Offringa* secured a nearly identical \$14.8 million cash recovery, but did so only after surviving a hard-fought motion to dismiss. *Id.* at 12.

The requested fee equates to an approximately 1.95x multiplier (considering pre-agreement in principle time), which is lower than that in *Offringa*. But the hours incurred here are meaningfully higher than in *Offringa*, despite the absence of substantive motions practice. To award a higher fee here versus in that case risks penalizing efficiency in representative litigation.

Accordingly, to appropriately reflect the litigation risk and effort undertaken, as Sugarland counsels, I am

reducing the fee award to match the 15.6% net fee awarded in Offringa. An award of 15.6% of the net settlement fund yields a fee of \$2,287,408.81. Adding the reasonably incurred expenses of \$87,123.01, the total fee and expense award is \$2,374,531.82.

This net fee represents a 1.74x multiplier on plaintiff's counsel's pre-agreement lodestar and an implied hourly rate of roughly \$1,258 for 1,818.1 hours of active litigation work. I believe that the fee is a fair, reasonable, and appropriate one for the benefit conferred upon the class.

Finally, the \$2,500 service award for the named plaintiff is approved, to be paid out of the awarded attorneys' fees. This modest incentive award appropriately rewards the plaintiff's willingness to serve in a representative capacity.

/s/ Judge Lori W. Will