

SUPREME COURT FOR THE STATE OF NEW YORK
COUNTY OF KINGS

IN RE BED BATH & BEYOND INC.
STOCKHOLDER DERIVATIVE
LITIGATION

Lead Case: 516051/2020

This Document Relates To:
ALL ACTIONS

**NOTICE OF PENDENCY AND
PROPOSED SETTLEMENT OF
DERIVATIVE MATTERS**

TO: ALL PERSONS OR ENTITIES WHO HOLD OR BENEFICIALLY OWN, DIRECTLY OR INDIRECTLY, COMMON STOCK OR SECURITIES OF BED BATH & BEYOND INC. (“BBBY” OR THE “COMPANY”) COMMON STOCK AS OF JUNE 13, 2022 (“SECURITIES HOLDERS”).

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT AND DISMISSAL WITH PREJUDICE OF STOCKHOLDER DERIVATIVE LITIGATION AND CONTAINS IMPORTANT INFORMATION REGARDING YOUR RIGHTS.

IF THE COURT APPROVES THE SETTLEMENT OF THE DERIVATIVE MATTERS, SECURITIES HOLDERS WILL BE FOREVER BARRED FROM CONTESTING THE APPROVAL OF THE PROPOSED SETTLEMENT AND DISMISSAL WITH PREJUDICE, AND FROM PURSUING RELEASED CLAIMS AND RELEASED SECURITIES HOLDER/COMPANY CLAIMS.

THIS ACTION IS NOT A “CLASS ACTION.” THUS, THERE IS NO COMMON FUND UPON WHICH YOU CAN MAKE A CLAIM FOR A MONETARY PAYMENT.

PLEASE TAKE NOTICE that this action is being settled on the terms set forth in a Stipulation of Settlement, dated June 13, 2022 (the “Stipulation”). The purpose of this Notice is to inform you of:

- the existence the above-captioned consolidated derivative action pending in the New York Supreme Court, Kings County (the "Court") captioned *In re Bed Bath & Beyond Inc. Stockholder Derivative Litigation*, Lead Case No. 516051/2020 (the “State Action”),
- the existence of the related derivative action pending in the United States District Court for the District of New Jersey captioned *In re Bed Bath & Beyond Stockholder Derivative Litigation*, Lead Case No. 2:20-cv-08673-MCA-MAH (the “Federal Action”),

- the existence of a related litigation demand made by a BBY shareholder, The Vladimir Gusinsky Revocable Trust (the “Demand,” and together with the Federal Action and the State Action, the “Derivative Matters”),
- the proposed settlement between Plaintiffs, the Shareholder¹ and Defendants reached in the Derivative Matters (the “Settlement”), and
- the hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement, the dismissal of the Federal Action with prejudice, and the fees and expenses the Defendants have agreed to cause their insurer to pay Plaintiffs' Counsel.

This Notice describes what steps you may take in relation to the Settlement. This Notice is not an expression of any opinion by the Court about the truth or merits of Plaintiffs’ or the Shareholder’s claims or Defendants’ defenses. This Notice is solely to advise you of the proposed Settlement of the Derivative Matters and of your rights in connection with the proposed Settlement.

Summary

On June 13, 2022, BBY, in its capacity as a nominal defendant, the individual defendants, Plaintiffs, and the demand Shareholder entered into the Stipulation to resolve the Derivative Matters. The Settlement, which is subject to the approval of the Court, is intended by the Settling Parties to fully, finally, and forever compromise, resolve, discharge, and settle the Released Claims and the Released Securities Holder/Company Claims and to result in the complete resolution of the Derivative Matters, including dismissal of the State Action and Federal Action with prejudice and resolution of the Demand, upon the terms and subject to the conditions set forth in the Stipulation. The Settlement was reached after the Settling Parties participated in three mediation sessions with Jed Melnick, Esq. of JAMS, a nationally recognized mediator with extensive experience mediating complex stockholder disputes similar to the Derivative Matters. The proposed Settlement requires the Company to adopt certain corporate governance reforms that are outlined in Exhibit A to the Stipulation (“Reforms”). The Reforms shall be maintained for a minimum period of five (5) years, subject to certain terms set forth in the Stipulation. The Settling Parties agree that Plaintiffs’ and the Shareholder’s efforts, demands, and actions were substantial and material factors in the Company’s agreement to implement and maintain the Reforms, and that the Reforms confer a substantial benefit on the Company and its shareholders.

In light of the substantial benefits conferred upon BBY by Plaintiffs’ Counsel’s efforts, and following arm’s length negotiations overseen by the mediator that occurred only after the Settling Parties agreed to the Reforms, the Individual Defendants agreed to cause their insurers to pay Plaintiffs’ Counsel’s attorneys’ fee and expenses in the amount of \$2,000,000 (the “Fee and Expense Award”), subject to Court approval. Plaintiffs’ Counsel may also apply to the Court for \$2,500 service awards to be paid to each of the five Plaintiffs and the Shareholder (the “Service Awards”), to be paid out of the Fee and Expense Award, which Defendants shall not oppose.

¹ All capitalized terms used in this notice, unless otherwise defined herein, are defined as set forth in the Stipulation.

This notice is a summary only and does not describe all of the details of the Stipulation. For full details of the matters discussed in this summary, please see the full Stipulation and its exhibits posted on the Investor Relations page of the website of BBY, <https://bedbathandbeyond.gcs-web.com/>, contact Plaintiffs' Counsel at the addresses listed below, or inspect the full Stipulation and its exhibits filed with the Clerk of the Court.

What are the Derivative Matters About?

The Derivative Matters are brought derivatively on behalf of nominal defendant BBY and allege that the Individual Defendants breached their fiduciary duties and committed other violations of law by making and/or causing the Company to make false and misleading statements between September 4, 2019, and at least through February 11, 2020, regarding BBY's allegedly deficient internal controls and improper inventory management, which allegedly resulted in reduced revenue and a decline in stock price; for allegedly failing to exercise appropriate oversight over BBY's public statements, internal controls, and inventory management; and for allegedly causing the Company to overpay for repurchases of its stock at allegedly inflated prices.

Why is there a Settlement of the Derivative Matters?

The Court has not decided in favor of Defendants or State Plaintiffs in the State Action. Instead, the Settling Parties have agreed to the Settlement to avoid the distraction, costs, and risks of further litigation, and because the Company and the other Settling Parties have determined that the corporate governance reforms adopted by the Company as part of the Settlement provide substantial benefits to BBY and its shareholders.

Defendants have denied and continue to deny each and all of the claims and contentions alleged by Plaintiffs and the Shareholder in the Derivative Matters. The Individual Defendants have expressly denied and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Derivative Matters. Nonetheless, Defendants have concluded that it is desirable for the Derivative Matters to be fully and finally settled in the matter and upon the terms and conditions set forth in the Stipulation. Defendants have also taken into account the uncertainty and risks inherent in any litigation, especially in complex cases like this. Defendants have, therefore, determined that it is in the best interests of BBY for the Derivative Matters to be settled in the manner and upon the terms and conditions set forth in the Stipulation.

Neither the Stipulation, nor any of its terms or provisions, shall be used as evidence of the validity or infirmity of any of the Released Claims or Released Securities Holder/Company Claims or an admission by or against any Defendant of any fault, wrongdoing, or concession of liability or non-liability whatsoever. Moreover, the fact that the Company has agreed to implement and maintain further enhancements to its corporate governance policies and practices shall not be construed as an admission that any such enhanced policies or practices are legally required, or to the extent such policies or practices were not in place in the past, that this constituted a failure of compliance, a breach of any duty or any other wrongdoing.

Release

The Stipulation, if approved and no longer subject to appeal, will result in a release of all claims that (i) arise directly or indirectly from the operative facts and were, could have been or could be asserted by or on behalf of BBY and/or (ii) all claims that were, could have been or could be asserted in the Derivative Matters through the date of final approval of the Settlement against the Individual Defendants (and related persons and entities defined in the Stipulation as “Releasees”). Court approval of the Stipulation will also result in an injunction and order barring the prosecution of any such claims against any of the Releasees. The full release (including all of its relevant definitions) is set out in the Stipulation.

The Fairness Hearing, and Your Right to Object to the Settlement

On June 24, 2022, the Court entered an order preliminarily approving the Stipulation and the Settlement contemplated therein (the “Preliminary Approval Order”) and providing for notice of the Settlement to be made to Securities Holders. The Preliminary Approval Order further provides that, if any objections are filed, the Court will hold a hearing (the “Fairness Hearing”) on September 6, 2022 at 11:00 a.m. before the Honorable Leon Ruchelsman, Judge of the New York Supreme Court, Kings County, at the Brooklyn Supreme Courthouse, 360 Adams Street, Room 276, Brooklyn, New York 11201, to consider, among other things: (i) whether the terms of the Stipulation should be approved as fair, reasonable, and adequate; (ii) whether to enter the proposed Judgment in its entirety, as set forth in Exhibit E to the Stipulation; (iii) whether all Released Claims and Released Securities Holder/Company Claims against the Releasees should be fully and finally released; (iv) whether the agreed-to Fee and Expense Award as well as the Service Awards should be approved; and (v) to consider such other matters as the Court may deem appropriate.

The Court may, in its discretion, change the date and/or time of the Fairness Hearing without further notice to you. The Court also has reserved the right to hold the Fairness Hearing telephonically or by videoconference without further notice to you. If you intend to attend the Fairness Hearing, please consult the Court’s calendar, for any change in date, time or format of the Fairness Hearing.

Securities Holders who wish to object to the fairness, reasonableness, or adequacy of the Settlement as set forth in the Stipulation, or to the agreed-upon Fee and Expense Award or Service Awards, must at least twenty-eight (28) calendar days prior to the Fairness Hearing: (1) send or deliver to each of the Clerk of the Court, Plaintiffs’ Counsel, and Defendants’ Counsel to the addresses listed below, and also email to melinda.nicholson@ksfcounsel.com, ssanders@robbinsllp.com, and jerichman@proskauer.com, a statement of objection setting forth: (i) the Securities Holder’s name, address, telephone number and e-mail address (if available), (ii) if the objection is made by the Securities Holder’s counsel, the counsel’s name, address, telephone number and e-mail address; and (iii) evidence that the individual or entity making the objection (or on whose behalf the objection is being made) is and has been a Securities Holder from September 4, 2019 through the present; and (2) if any Securities Holder’s counsel is intending to appear at the Fairness Hearing, he, she, or it must, in addition to the requirements of (1) above, send or deliver to each of the Clerk of the Court, Plaintiffs’ Counsel, and Defendants’ Counsel to the addresses listed below, and also email to melinda.nicholson@ksfcounsel.com, ssanders@robbinsllp.com, and jerichman@proskauer.com, a notice of his, her, or its intention to appear at the Fairness Hearing at least twenty-eight (28) calendar days prior to the Fairness Hearing.

IF YOU MAKE A WRITTEN OBJECTION, IT MUST BE ON FILE WITH THE CLERK OF THE COURT NO LATER THAN AUGUST 1, 2022. The Clerk's address is:

Clerk of Court
New York Supreme Court, Kings County
360 Adams Street
Brooklyn, New York 11201

YOU ALSO MUST DELIVER COPIES OF THE MATERIALS TO PLAINTIFFS' COUNSEL AND DEFENDANTS' COUNSEL SO THEY ARE RECEIVED NO LATER THAN AUGUST 1, 2022. Counsel's addresses are:

Counsel for Plaintiffs:

Melinda A. Nicholson
Kahn Swick & Foti, LLC
100 Poydras Street, Suite 3200
New Orleans, LA 70163
melinda.nicholson@ksfcounsel.com

Shane P. Sanders
Robbins LLP
5040 Shoreham Place
San Diego, CA
ssanders@robbsinllp.com

Counsel for Defendants:

Jonathan E. Richman
Julia D. Alonzo
Proskauer Rose LLP
Eleven Times Square
New York, NY 10036
jerichman@proskauer.com
jalonzo@proskauer.com

Any Securities Holder that fails to comply with the requirements set forth above and in the Preliminary Approval Order shall waive and forfeit any and all rights he, she or it may otherwise have to object and/or to appear separately at the Fairness Hearing. Securities Holders do not need to appear at the hearing or take any other action to indicate their approval of the Stipulation.

Interim Stay and Preliminary Injunction

Pending the Effective Date of the Stipulation according to its terms, Plaintiffs and their Related Persons, the Shareholder and his Related Persons, and Securities Holders and their Related Persons, and anyone who acts or purports to act on their behalf, are barred and enjoined from filing, commencing, prosecuting, intervening in, participating in, or receiving any benefits or other relief from any other lawsuit, arbitration, or administrative, regulatory, or other proceeding (including a motion or complaint in intervention in any such action or proceeding if the person or entity filing such motion or complaint in intervention purports to be acting as, on behalf of, for the benefit of, or derivatively for any of the above persons or entities) or order, in any jurisdiction or

forum, as to the Releasees based on or relating in any way to the Released Securities Holder/Company Claims.

Pending the Effective Date, all proceedings in the Derivative Matters are to be stayed except as otherwise provided in the Stipulation.

Scope of the Notice

This Notice is a summary description of the Derivative Matters, including the lawsuits and the Demand, the terms of the Settlement, and the Fairness Hearing. For a more detailed statement of the matters involved in the Derivative Matters, reference is made to the Stipulation and its exhibits, copies of which may be reviewed and downloaded at <https://bedbathandbeyond.gcs-web.com/>.

* * *

You may obtain further information by contacting Plaintiffs' Counsel at: Melinda A. Nicholson, Kahn Swick & Foti, LLC, 100 Poydras Street, Suite 3200, New Orleans, LA 70163, Telephone: (504) 648-1842, E-mail: melinda.nicholson@ksfcounsel.com; or Shane P. Sanders, Robbins LLP, 5040 Shoreham Place, San Diego, CA 92122, E-mail: ssanders@robbinsllp.com. **Please Do Not Call the Court or Defendants with Questions About the Settlement.**