



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

STEVEN E. SCHWARTZ,

Plaintiff,

v.

COGNIZANT TECHNOLOGY
SOLUTIONS CORPORATION,

Defendant.

C.A. No. _____ - _____

VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff Steven E. Schwartz respectfully requests an Order enforcing the Court's April 17, 2020 and September 22, 2020 Orders in *Schwartz v. Cognizant Technology Solutions Corp.*, C.A. No. 2019-1004-AGB ("Advancement Case"), and an Order enjoining Defendant Cognizant Technology Solutions Corporation ("Cognizant") from prosecuting a lawsuit that Cognizant filed on June 16, 2021 in federal district court in New York raising issues Cognizant already raised in the Advancement Case. The filing disregards this Court's exclusive jurisdiction to hear and determine advancement and indemnification actions involving Delaware corporations. It disregards this Court's previous rulings against Cognizant, including an Order retaining jurisdiction over these disputes. And it violates an expansive forum selection provision that specifies that disputes "arising out of or in connection with [their Indemnification Agreement] shall be brought only in the

Delaware Court and not in any other state and federal court. . . .” Plaintiff also seeks an Order holding Cognizant in civil contempt. Plaintiff, by and through his undersigned attorneys, upon knowledge, information and belief, states and alleges as follows:

NATURE OF THE ACTION

1. On December 16, 2019, Mr. Schwartz filed a Verified Complaint for Advancement in this Court. Ex. A (Verified Complaint for Advancement). Cognizant defended the action by, among other things, directly attacking the propriety and legitimacy of legal invoices submitted by Bohrer PLLC (the “Bohrer Firm”), Plaintiff’s co-counsel in defense of the underlying criminal and civil proceedings in which Mr. Schwartz is a defendant. *See, e.g.*, Ex. B at pp. 26-29 (Defendant’s Answer and Affirmative Defenses to Plaintiff’s Verified Complaint for Advancement) (alleging the Bohrer Firm’s invoices were “excessive,” “abusive,” and that advancement was “unreasonable on its face”). The Court held that those issues could be raised later at a subsequent indemnification action in this Court. *See generally* Ex. C (Aug. 19, 2020 Transcript of Telephonic Status Conference). Plaintiff then moved for summary judgment. The Court partially granted summary judgment and directed advancement of nearly all fees and expenses despite Cognizant’s defenses in the Advancement Case that were predicated on alleged fraud and serious impropriety of the legal bills. The lone

issue on which the Court denied summary judgment related to the Bohrer Firm's use of contract attorneys to perform substantial document review in the underlying proceedings. This issue was settled before trial.

2. Unwilling to wait until the indemnification phase in this Court, Cognizant now wants to end-run this Court's Orders and relitigate these issues in a different venue. In a June 16, 2021 complaint in the United States District Court for the Southern District of New York, *see* Ex. D (Complaint and Demand for Jury Trial) ("SDNY Action"), Cognizant raises similar issues to those that this Court has already considered and ruled upon, which should be addressed in the Court of Chancery pursuant to its exclusive statutory authority over indemnification claims involving the advancement of expenses from a Delaware corporation to its former officer. While Cognizant does not want to wait for this Court to address its allegations of improper billing in an indemnification action, Delaware law and this Court's Orders prohibit Cognizant from seeking a new venue to pursue these recycled claims. That is particularly so where, as here, this Court has "retained jurisdiction to enforce" its Order granting advancement to Mr. Schwartz and where Cognizant raises in a new forum similar claims of fraud it raised unsuccessfully before.

3. Mr. Schwartz accordingly seeks, among other things, an Order from this Court enjoining Cognizant from prosecuting the SDNY Action in that court or

any other forum. No other remedy will adequately protect Mr. Schwartz and his counsel from Cognizant's improper and incessant efforts to corrode his defense of the underlying criminal and civil claims giving rise to advancement.

THE PARTIES

4. Mr. Schwartz is a former Executive Vice President, Chief Legal and Corporate Affairs Officer of Cognizant. Cognizant employed Mr. Schwartz from October 2001 until his resignation in November 2016.

5. Cognizant is a Delaware corporation.

JURISDICTION

6. This Court has jurisdiction over this matter according to 8 *Del. C.* § 145(k) as it arises from Mr. Schwartz's established advancement rights as determined in the Advancement Case.

7. The Court expressly retained jurisdiction to enforce its April 17, 2020 Order on Plaintiff's Motion for Summary Judgment in its September 22, 2020 Order dismissing the Advancement Case (collectively, "Advancement Orders"). *See* Ex. E (Apr. 17, 2020 Order); Ex. F at ¶ 4 (Sept. 22, 2020 Order) ("The Court retains jurisdiction to enforce the April 17, 2020 Order.").

8. Additionally, in an Indemnification Agreement with Mr. Schwartz, Cognizant "irrevocably and unconditionally" agreed to the exclusive jurisdiction of the Delaware courts:

[Cognizant] and [Mr. Schwartz] hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Delaware Court and not in any other state or federal court in the United States of America or any court in any other country, [and] (ii) consent to submit to the exclusive jurisdiction of the Delaware Court for purposes of any action or proceeding arising out of or in connection with this Agreement. . . .

Ex. G at § 23 (Indemnification Agreement).

9. Furthermore, the Court has inherent power to enforce its orders. *See In re Transperfect Global, Inc.*, 2019 WL 5260362, at *13 & n.106 (Del. Ch. Oct. 17, 2019).

10. Jurisdiction is proper with respect to the Defendant according to 8 *Del. C.* § 321 because Cognizant is a Delaware corporation.

11. This Verified Complaint for Injunctive Relief is filed as a new matter because of Chancellor Bouchard's departure from the bench in April 2021. The Register in Chancery has advised counsel for Plaintiff that a new action to enforce orders of this Court in the Advancement Case is preferable to moving to enforce those orders in the dormant Advancement Case.

FACTUAL ALLEGATIONS

I. Background of the Advancement Case

12. As demonstrated in the earlier proceedings in this Court, Cognizant's By-laws provided Mr. Schwartz with expansive advancement rights. Ex. H (By-

laws). The relevant provisions are described in detail in the complaint in the Advancement Case and incorporated here. *See* Ex. A at ¶¶ 8-14 (excerpting relevant Articles of By-laws and attaching the By-laws).

13. Cognizant also provided Mr. Schwartz expansive rights to indemnification by executing the Indemnification Agreement. Ex. G. Several of the provisions of the Indemnification Agreement are described in detail in the complaint in the Advancement Case and are incorporated here. *See* Ex. A at ¶¶ 15-20 (excerpting sections of Indemnification Agreement and attaching the Indemnification Agreement).

14. Mr. Schwartz sought advancement of fees from Cognizant to enable him to defend certain investigations conducted by the United States Department of Justice and the United States Attorney's Office for the District of New Jersey (collectively, the "DOJ") and the Securities and Exchange Commission (the "SEC") relating to the Foreign Corrupt Practices Act ("FCPA") (collectively, the "Investigations") in connection with the Company's business in India, the subsequent indictment of Mr. Schwartz in *United States of America v. Gordon J. Coburn & Steven Schwartz*, Crim. No. 19-120 (D. N.J.) (the "FCPA Action"), the action brought by the SEC in *Securities and Exchange Commission v. Gordon J. Coburn and Steven E. Schwartz*, Civ. No. 19-5820 (D. N.J.) (the "SEC Action"), the class action in *In Re Cognizant Technology Solutions Corporation Securities*

Litigation, Civ. No. 16-6509 (D. N.J.) (the “Class Action”), and the shareholders derivative action in *In Re Cognizant Technology Solutions Corporation Derivative Litigation*, Civ. No. 17-1248 (D. N.J.) (the “Derivative Action” and, together with the FCPA Action, the SEC Action, and the Class Action, the “Proceedings”).

15. In June 2018, while the Investigations were pending, Mr. Schwartz engaged the Bohrer Firm to defend him along with Paul, Weiss, Rifkind, Wharton & Garrison LLP.

16. Cognizant was immediately reluctant to advance fees to Mr. Schwartz for the legal services of the Bohrer Firm. *See* Ex. A at ¶¶ 38-42. *See also* Ex. D at ¶ 34 (“At the outset, [Cognizant] was reluctant to advance Schwartz fees and expenses. . . .”).

17. In November 2019, Cognizant arbitrarily discontinued advancement of Mr. Schwartz’s legal fees for the Bohrer Firm while continuing to advance legal fees for Mr. Schwartz’s other attorneys.

II. The Advancement Case

18. On December 16, 2019, Mr. Schwartz filed the complaint in the Advancement Case seeking advancement, declaratory judgment, and fees-on-fees for Cognizant’s failure to make advancement payments to Mr. Schwartz for the expenses of the Bohrer Firm. *See generally* Ex. A.

19. On January 3, 2020, this Court granted Mr. Schwartz's motion to expedite the Advancement Case. Ex. I (Jan. 3, 2020 Transcript of Oral Argument and Rulings of the Court on Plaintiff's Motion to Expedite). On January 7, 2020, Cognizant filed an Answer. Ex. B. Plaintiff subsequently moved for summary judgment on January 22, 2020. The Court heard argument on this motion on February 19, 2020. Ex. J (Feb. 19, 2020 Transcript of Oral Argument on Plaintiff's Motion for Summary Judgment).

20. On April 7, 2020, this Court delivered its telephonic rulings on Plaintiff's Motion for Summary Judgment. Ex. K (Apr. 7, 2020 Transcript of Telephonic Rulings of the Court on Plaintiff's Motion for Summary Judgment). The Court held that the Indemnification Agreement's provision that any written demand by Mr. Schwartz for advances of fees and expenses certified by counsel as being reasonable "shall be presumed conclusively to be reasonable," Ex. G at § 2(b)(vi)(g) (the "conclusive presumption"), and applied to all of the Bohrer Firm's bills in the FCPA Action and the SEC Action except for a "contract attorney issue" that the Court carved out as the sole issue for trial. Ex. K at 23:18-24:4, 28:22-29:3. Furthermore, the Court held that this "conclusive presumption" would "apply to future invoices of the Bohrer firm" in the FCPA Action and SEC Action. Ex. K at 24:2-4, 28:22-29-1.

21. On April 17, 2020, this Court granted the parties' implementing order granting in part and denying in part Plaintiff's Motion for Summary Judgment. Ex. E.

22. A one-day trial was set for the only narrow issue for which summary judgment was not granted regarding whether the Bohrer Firm was permitted to mark up the costs of the contract lawyers it engaged to assist with Mr. Schwartz's defense. *See* Ex. K at 24:16-27:8; Ex. E at ¶ 5. However, before the matter went to trial, the parties reached a final settlement on that issue. Once that issue was resolved for purposes of advancement, the parties drafted a joint proposed stipulation of dismissal. Ex. F. The parties' settlement involved a return of the entire amount billed that was attributable to a markup on contract attorneys' fees, with an offset for "fees-on-fees" associated with Mr. Schwartz prevailing on the remainder of his Motion for Summary Judgment. On September 22, 2020, this Court entered the Stipulated Order of Dismissal. That Order preserved "either party's claims or defenses with respect to any claims by Plaintiff for indemnification from Defendant." Ex. F at ¶ 2. Paragraph 4 of the Order expressly retained the jurisdiction of this Court to enforce its April 17, 2020 Order granting in part Plaintiff's Motion for Summary Judgment. Ex. F at ¶ 4.

23. Cognizant consistently defended the Advancement Case on the basis that the Bohrer Firm's billing practices were improper and its fees unreasonable throughout the Advancement Case. Below are some examples:

- a. **Cognizant's Answer:** Cognizant alleged that the Bohrer Firm's invoices were "excessive," "abusive," and that advancement was "unreasonable on its face." Ex. B at pp. 26-29.
- b. **Oral Argument on Plaintiff's Motion to Expedite:** Cognizant argued that: (i) "the issue that we're here on, really, is whether, in advance of [the summary judgment] hearing, we are entitled to narrow discovery in the face of objective evidence of possible gross misbilling," Ex. I at 15:17-19; and (ii) "but what we see here, from these facts, is objective evidence—several points of objective evidence—suggesting the possibility of a significantly broader problem that requires some discovery. . . ." Ex. I at 17:14-18.
- c. **Summary Judgment:** In Cognizant's brief in opposition to summary judgment, Cognizant argued that: (i) "there are numerous objective indicia of unreasonableness with respect to [the Bohrer Firm's] fees and expenses," Ex. O at p. 3 (Defendant's Answering Brief in Opposition to Plaintiff's Motion for Summary Judgment); and (ii) "Cognizant has been very clear that it does not believe that

Schwartz's advancement requests reflect good faith billing by [the Bohrer Firm]." Ex. O at pp. 30-31. At oral argument, Cognizant argued: (i) that the evidence carries "substantial indicia that at least raise a significant question of fraudulent billing," Ex. J at 88:12-16; and (ii) there existed evidence of "gross billing issues" and "indicia of possible fraud." Ex. J at 105:6-9. And in a February 28, 2020 Letter, Cognizant referred to the Bohrer Firm's contract attorney billing as "naked profiteering." Ex. N at p. 1 (Feb. 28, 2020 Letter from Cognizant to Court Regarding Contract Attorneys).

- d. **August 19, 2020 Telephonic Status Conference:** Cognizant argued that depositions "bear[] directly upon the equitability of permitting plaintiff to continue to retain these millions of dollars for several more years." Ex. C at 6:20-22.

24. Despite Cognizant raising this defense numerous times, the Court rejected it and ultimately required Cognizant to advance fees to Mr. Schwartz for the Bohrer Firm's fees. Having failed in its attempt to have this Court sanction its unilateral decision not to advance fees for the Bohrer Firm's defense of Mr.

Schwartz, Cognizant settled the remaining narrow contract attorney issue and agreed to dismiss the case in September 2020.¹ Ex. F.

III. Cognizant Threatens Mr. Schwartz's Counsel with a Lawsuit

25. On March 11, 2021, Cognizant, through its counsel at Quinn Emanuel, contacted Jeremy Bohrer by email. The email purported to be solely about “[the Bohrer Firm’s] troubling practices regarding billing, not Mr. Schwartz’s advancement or indemnification rights.” Ex. L (email correspondence). A week later, Cognizant’s counsel threatened an imminent lawsuit. Ex. L. After a telephone conference on March 29, 2021, counsel for Cognizant sent the Bohrer Firm a draft complaint. Ex. M (draft complaint). The draft complaint was captioned in the Superior Court of Delaware and alleged three counts: (i) fraud; (ii) civil conspiracy; and (iii) unjust enrichment. It sought damages in the amount of “at least \$20 million,” and demanded punitive damages, pre- and post-judgment interest, attorneys’ fees, and other relief, including “equitable or injunctive relief.” Ex. M at pp. 18-19.

26. The draft complaint alleged that the Bohrer Firm engaged in similar wrongdoing previously litigated in this Court in the Advancement Case. Ex. M at

¹ This was only after the Court warned Cognizant that, if the Court felt that “games [were] being played with [discovery],” there would be “a price to pay for that.” Ex. C at 30:16-18. *See also* Ex. C at 25:21 (warning Cognizant’s counsel that there was a “risk to overplaying your hand”).

¶ 40. The draft complaint alleged that in July 2020—during the pendency of the Advancement Case—Cognizant purportedly received an anonymous communication claiming “billing anomalies” related to the Bohrer Firm’s invoices. Ex. M at ¶¶ 39-40.

27. As was made clear to Cognizant’s counsel in subsequent discussions about the draft complaint, those allegations were false.

28. Cognizant’s counsel and the Bohrer Firm’s counsel engaged in discussions regarding the draft complaint from March through May 2021.

29. During these conversations, Mr. Schwartz and his counsel became concerned that Cognizant had impermissibly encroached into the defense camp including through contact with Stephen Ward, who—before, during, and after such contact—and until recently was the lead investigator on Mr. Schwartz’s defense team.

30. Accordingly, on June 1, 2021, Mr. Schwartz moved for discovery in the FCPA Action to probe evidence that Mr. Ward worked with Cognizant and the Government in violation of Mr. Schwartz’s Fifth Amendment right to due process and Sixth Amendment right to counsel. *See* Ex. P (Brief in Support of Defendant Steven Schwartz’s Motion Regarding Intrusion into the Defense Camp, with Exhibits and Certifications). This motion is currently pending before the Court in the FCPA Action.

31. On June 2, 2021, Cognizant’s counsel requested an opportunity to respond to Mr. Schwartz’s motion in the FCPA Action. The Court denied this request, holding it in abeyance until after further briefing.

IV. Cognizant Files the SDNY Action

32. On June 16, 2021, Cognizant filed the SDNY Action in the U.S. District Court for the Southern District of New York, asserting federal diversity jurisdiction as the basis for subject matter jurisdiction. *See generally* Ex. D.

33. The SDNY Action, while nominally filed against Plaintiff’s counsel, raises similar issues as were litigated and resolved in the Advancement Case: alleged improper and excessive billing from the Bohrer Firm. The SDNY Action includes claims—many of which are explicitly rehashed from the Advancement Case—that the Bohrer Firm: (a) marked up professionals’ time by “hundreds of percent,” Ex. D at ¶ 45; (b) used “unqualified personnel” to perform tasks for which they were unqualified, Ex. D at ¶ 45; (c) marked up invoices from vendors, Ex. D at ¶ 45; (d) charged significantly more than the other firms representing Mr. Schwartz, Ex. D at ¶ 47; and (e) encouraged “churning” or billing for performing “the same tasks over and over,” Ex. D at ¶ 48. Cognizant even claims that statements made during the Advancement Case *to this Court* were fraudulent in that they maintained the Bohrer Firm’s fees were reasonable and incurred in connection with Mr. Schwartz’s defense. Ex. D at ¶¶ 59, 66.

34. Cognizant’s misleading version of the Advancement Case as stated in the SDNY Action, Ex. D at ¶¶ 55-64, is belied by the record before this Court. Cognizant fails to mention in the SDNY Action that: (a) Cognizant had repeatedly raised issues surrounding the alleged impropriety of the Bohrer Firm’s bills in this Court months prior to the supposed anonymous tip; or (b) that this Court ruled that Cognizant could raise concerns about the propriety of the bills in connection with an indemnification process.

35. Tellingly, however, Cognizant chose not to press its rehashed claims of fraud in this Court, but rather chose to flee from this Court, change the caption of its draft complaint, and instead try for a second bite of the apple in New York federal court. While Cognizant claims in the SDNY Action a “fraud on the [Delaware] court,” it failed to go to this Court seeking relief from this alleged wrong. Ex. D at p. 14. *See also* Ex. D at ¶ 66 (“material misrepresentations” made to “the Delaware Court of Chancery”). This is the very definition of forum shopping.

36. The timeline of events Cognizant describes in the SDNY Action suggest that Cognizant strategically opted to double down in another forum notwithstanding this Court’s rulings in the Advancement Case. Cognizant asserts there that “[i]n July 2020, *during the course of the Advancement Proceeding*, counsel for Cognizant in that matter received an unsolicited, anonymous email

from a whistleblower” who alleged fraudulent billing practices. Ex. D at ¶ 40 (emphasis added). This was during the active pendency of the Advancement Case and months before the case was settled.

37. Further, in the SDNY Action, Cognizant confirms that, shortly after the supposed “tip,” Cognizant hired an investigations company, Guidepost Solutions (“Guidepost”), to investigate allegations about the Bohrer Firm in the months preceding the settlement of the Advancement Case, but never disclosed this investigation (or the alleged “whistleblower”) to this Court or sought relief from the Court’s April 17, 2020 Order. *See* Ex. D at ¶¶ 7-8, 41-44 (describing Guidepost’s investigation between July and October 2020).

38. Moreover, at an August 19, 2020, hearing in the Advancement Action—one month after the supposed anonymous email—Cognizant tried to press for depositions on a claim that Mr. Schwartz had attempted to withdraw. Mr. Schwartz’s counsel raised a concern “that there’s some other motive for going forward on this.” Ex. C at 17:9-10. Cognizant responded that their refusal to accept the withdrawal of the claim and their insistence on depositions was “not because of some ulterior motive.” Ex. C at 25:12-13.

39. Cognizant had, to that point, received a chilly reception to its defense of billing impropriety before this Court, as described above. Instead of disclosing the supposed tip, therefore, Cognizant improperly chose to hide it, and preserve it

as a second potential opportunity to allege fraud in a new forum. The Court should not permit Cognizant to do this and should grant the relief sought herein.

COUNT I – INJUNCTIVE AND DECLARATORY RELIEF

40. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

41. Plaintiff will establish actual success on the merits in this action because, among other things, any new or renewed claims challenging Cognizant's duty to advance Mr. Schwartz's fees and expenses as invoiced by the Bohrer Firm, or challenging this Court's Advancement Orders must be brought in this Court. The Southern District of New York lacks jurisdiction to hear this matter.

42. In the Court's Advancement Orders, this Court retained jurisdiction to enforce the Court's determination that the conclusive presumption applies to the Bohrer Firm's legal expenses incurred in defending Mr. Schwartz in the SEC Action and FCPA Action.

43. The Court's September 22, 2020 Order envisioned that the parties' "claims or defenses" regarding indemnification would be later addressed by this Court. Ex. F at ¶ 2. *See also* Ex. C at 26:9-10 (indicating the Court's position that issues regarding the reasonableness of the Bohrer Firm's fees would properly be before this Court in a subsequent indemnification action).

44. The Court of Chancery has jurisdiction to address matters of advancement and indemnification involving Delaware corporations according to 8 *Del. C.* § 145(k).

45. Further, Cognizant expressly agreed to the exclusive jurisdiction of the Delaware courts for any action “arising out of or in connection with” the Indemnification Agreement. Ex. G at § 23.

46. The Court also has inherent power to compel a party to comply with its orders.

47. Cognizant’s June 16, 2021 filing of the SDNY Action, and any other action it may file attacking the reasonableness of the Bohrer Firm’s fees incurred in connection with Mr. Schwartz’s defense, violates this Court’s Advancement Orders, this Court’s statutory jurisdiction under 8 *Del. C.* § 145(k), and the forum selection provision in the Indemnification Agreement.

48. Cognizant’s SDNY Action continues a tactic of attacking Mr. Schwartz by attacking his defenders in the Proceedings. Cognizant’s actions are irreparably harmful to Mr. Schwartz’s defense of the Proceedings. First, Mr. Schwartz and his counsel in the Proceedings are now required to defend a fifth action while preparing for trial in the FCPA Action. Second, if the Court does not issue an order enjoining the SDNY Action, Plaintiff will be forced to litigate in a forum that lacks jurisdiction over the controversy and could be subject to

competing court orders. Third, the SDNY Action simply allows Cognizant a second bite at the apple on issues that it previously forced Mr. Schwartz to litigate before this Court—and lost. Fourth, issues raised in the SDNY Action will inevitably intrude on Mr. Schwartz’s attorney-client privilege with the Bohrer Firm.

49. Cognizant’s SDNY Action involves the same controversy or subject matter at issue in the Advancement Case. To wit, Cognizant avers in the SDNY Action that, though not a party in the action, the Bohrer Firm was intimately involved in the Advancement Case. *See* Ex. D at ¶¶ 58-59.

50. Mr. Schwartz is without an adequate remedy at law absent injunctive relief enforcing this Court’s Advancement Orders and jurisdiction over Cognizant.

51. As such, Plaintiff’s allegations, as plead in the foregoing paragraphs, establish the basis for issuance of a permanent injunction against Cognizant: (i) Mr. Schwartz has suffered irreparable harm by Cognizant’s filing and prosecution of the SDNY Action; (ii) no other remedy for Cognizant’s actions is sufficient to remedy the harm to Plaintiff; and (iii) the public interest would not be disserved by issuing a permanent injunction.

52. Mr. Schwartz respectfully requests this Court declare that Cognizant has violated this Court’s Advancement Orders and jurisdiction by filing its SDNY Action.

53. Mr. Schwartz also requests an injunction compelling Cognizant to dismiss the SDNY Action, enjoining it from instituting any other action based on the same or similar allegations except in a subsequent indemnification action, and issuing such other relief as is just to fully induce Cognizant's compliance.

54. Mr. Schwartz requests costs and reimbursement of legal expenses incurred in bringing this action to enforce the Court's Advancement Orders, uphold this Court's jurisdiction, and defend against Cognizant's unending attempts to flank his defense of the Proceedings.

COUNT II – CIVIL CONTEMPT

55. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

56. Court of Chancery Rule 70(b) permits the Court to hold in contempt a party for its "failure . . . to obey or to perform any order." DEL. CT. CH. R. 70(b).

57. Cognizant, as a party to the Advancement Orders, was bound by the Orders of this Court in the Advancement Case.

58. Cognizant had clear notice of the Advancement Orders.

59. The filing of the SDNY Action violates this Court's Advancement Orders and the Court's exclusive jurisdiction.

60. Cognizant's filing of the SDNY Action is a meaningful failure to obey this Court's Advancement Orders. Having tried and failed to convince the Court to

block advancement based on alleged billing improprieties, Cognizant settled the Advancement Case and subsequently filed the SDNY Action alleging substantially similar allegations of fraud.

61. Plaintiff requests the Court hold Cognizant in contempt of this Court's Orders and issue relief meant to both: (i) coerce Cognizant's compliance with the Advancement Orders; and (ii) remedy Plaintiff's injury resulting from Cognizant's failure to comply with the Court's Orders.

WHEREFORE, Plaintiff respectfully requests that the Court issue an Order:

- i. Entering judgment in favor of Plaintiff and against Cognizant on this Verified Complaint;
- ii. Declaring Cognizant has violated the Court's Advancement Orders and jurisdiction by filing the SDNY Action;
- iii. Enjoining Cognizant from prosecuting the claims in the SDNY Action until such time as an indemnification action is pursued in this Court;
- iv. Holding Cognizant in civil contempt of this Court's Advancement Orders and issuing relief meant to coerce Cognizant's compliance with the Advancement Orders and remedy Plaintiff's injury resulting from Cognizant's failure to comply with the Advancement Orders; and

- v. Granting Plaintiff such other and further relief as the Court deems just and proper, including costs of this action and reasonable attorneys' fees.

DALTON & ASSOCIATES, P.A.

/s/ Bartholomew J. Dalton

Bartholomew J. Dalton, Esq. (#808)

Michael C. Dalton, Esq. (#6272)

1106 West 10th Street

Wilmington, DE 19806

(302) 652-2050

BALICK & BALICK, LLC

/s/ Adam Balick

Adam Balick, Esq. (#2718)

Michael Collins Smith, Esq. (#5997)

711 King Street

Wilmington, Delaware 19801

(302) 658-4265

Dated: July 21, 2021

Attorneys for Plaintiff Steven E. Schwartz