

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

**FORM 8-K/A
Amendment No. 1**

Current Report Pursuant to Section 13 or 15(d) of
the Securities Exchange Act of 1934
Date of Report (Date of earliest event reported): December 30, 2019

Medley Capital Corporation
(Exact Name of Registrant as Specified in its Charter)

1-35040
(Commission File Number)

Delaware
(State or other jurisdiction
of incorporation)

27-4576073
(I.R.S. Employer
Identification No.)

280 Park Avenue, 6th Floor East
New York, NY 10017
(Address of Principal Executive Offices and Zip Code)

Registrant's telephone number, including area code: **(212) 759-0777**

Not Applicable
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.001 per share	MCC	The New York Stock Exchange
6.500% Notes due 2021	MCX	The New York Stock Exchange
6.125% Notes due 2023	MCV	The New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Explanatory Note

This Current Report on Form 8-K/A is being filed by Medley Capital Corporation (“MCC”) as an amendment (the “Amendment”) to the Current Report on Form 8-K that the Company filed with the Securities and Exchange Commission on November 21, 2019 to disclose the bench ruling by the Court of Chancery of the State of Delaware (the “Court”) approving the settlement of the consolidated stockholder action captioned In re Medley Capital Corporation Stockholder Litigation, C.A. No. 2019-0100-KSJM (the “MCC Stockholder Action”). This Amendment is being filed to disclose the Order and Final Judgment entered into by the Court (the “Order and Final Judgment”)

Item 8.01 Other Events.

On December 20, 2019, the Court entered the Order and Final Judgment approving the settlement of the MCC Stockholder Action. The Order and Final Judgment clarifies and implements the Court’s prior bench ruling on November 19, 2019 with respect to how the Contingent Fee Award (as defined below) is calculated.

The Order and Final Judgment orders payment of attorneys’ fees and expenses as follows:

1. Lead plaintiffs’ counsel and plaintiff Stephen Altman’s counsel were awarded attorneys’ fees and expenses of \$3,495,334.97, which shall be paid within five (5) business days of the entry of the Order and Final Judgment, as follows:
 - a. \$3,000,000, payable to the lead plaintiffs’ counsel (the “Lead Plaintiffs’ Therapeutics Fee Award”);
 - b. \$75,000, payable to plaintiff Stephen Altman’s counsel (the “Altman Counsel’s Therapeutics Fee Award” together with Lead Plaintiffs’ Therapeutics Fee Award, the “Therapeutics Fee Award”); and
 - c. \$420,334.97 of plaintiffs’ counsel’s expenses payable to the lead plaintiffs’ counsel.

MCC paid the Therapeutics Fee Award and the plaintiffs’ counsel’s expenses on December 23, 2019.

2. In addition, lead plaintiffs’ counsel will be paid an additional fee contingent upon closing of the merger (the “MCC Merger”) contemplated by the Amended and Restated Agreement and Plan of Merger, dated as of July 29, 2019, by and between MCC and Sierra Income Corporation (the “Amended MCC Merger Agreement”) and establishment of the settlement fund (the “Additional Fee”), which shall consist of:
 - a. \$100,000 for the agreement to appoint an independent director on the board of directors of the post-merger company; and
 - b. the amount calculated by solving for A in the following formula:

$$\text{Award}[A] = (\text{Monetary Fund}[M] + \text{Award}[A] - \text{Look Through}[L]) * \text{Percentage}[P]$$

Where:

- A shall be the amount of the Additional Fee (excluding the \$100,000 award for the agreement to appoint an independent director on the board of directors of the post-merger company);

M shall be the sum of (i) the \$17 million cash component of the settlement fund and (ii) the value of the post-merger company stock component of the settlement fund, which shall be calculated as the product of the VPS (as defined below) and 4,709,576.14 (the number of shares of post-merger company's stock comprising the stock component of the net settlement amount);

L shall be the amount representing the estimated value of the decrease in shares to be received by eligible class members arising by operation of the change in the "Exchange Ratio" under the Amended MCC Merger Agreement, calculated as follows:

$$L = ((ES * 68\%) - (ES * 66\%)) * VPS$$

Where:

- (i) ES equals the number of eligible shares;
- (ii) VPS is the pro forma net asset value per share of the post-merger company's common stock as of the closing as reported in the public disclosure filed nearest in time and after the closing (the "Closing NAV Disclosure"); and

P shall equal 0.26.

Payment of the Additional Fee will be made in two stages. First, within five (5) business days of the establishment of the settlement fund, MCC or its successor shall (i) pay the plaintiffs' counsel an estimate of the Additional Fee (the "Additional Fee Estimate"), less twenty (20) percent (the "Additional Fee Estimate Payment"), and (ii) deposit the remaining twenty (20) percent of the Additional Fee Estimate into escrow (the "Escrowed Fee"). For purposes of calculating such estimate, MCC or its successor shall use the formula set above, except that VPS shall equal the pro forma net asset value of the post-merger company's common stock as reported in the public disclosure filed nearest in time and prior to the closing (the "Closing NAV Estimate"). Second, within five (5) business days of the Closing NAV Disclosure, (i) if the Additional Fee is greater than the Additional Fee Estimate Payment, an amount of the Escrowed Fee shall be released to plaintiffs' counsel such that the total payments made to plaintiffs' counsel equal the Additional Fee and the remainder of the Escrowed Fee, if any, shall be released to MCC or its successor, (ii) if the Additional Fee is less than the Additional Fee Estimate Payment, plaintiffs' counsel shall return to MCC or its successor the difference between the Additional Fee Estimate and the Additional Fee and the Escrowed Fee shall be released to MCC or its successor, or (iii) if the Additional Fee is equal to the Additional Fee Estimate Payment, the Escrowed Fee shall be released to MCC or its successor.

The foregoing description of the Order and Final Judgment is qualified in its entirety by reference to the full text of the Order and Final Judgment, which is attached hereto as Exhibit 99.1 and incorporated herein by reference.

Approval of the Stipulation of Settlement dated July 29, 2019, as amended by the Stipulation Amending Release of Claims and Certain Exhibits, dated August 8, 2019 by the Court is a condition to the closing of the MCC Merger under the Amended MCC Merger Agreement and, as described in this Item 8.01, such condition has been satisfied.

Item 9.01 Financial Statements and Exhibits.

- (a) Not applicable.
- (b) Not applicable.
- (c) Not applicable.
- (d) Exhibits.

Exhibit No.	Description
99.1	Order and Final Judgment, dated December 20, 2019

Forward-Looking Statements

This communication contains “forward-looking” statements, including statements regarding the proposed transactions contemplated by the Amended MCC Merger Agreement. Such forward-looking statements reflect current views with respect to future events and financial performance, and MCC may make related oral forward-looking statements on or following the date hereof. Statements that include the words “should,” “would,” “expect,” “intend,” “plan,” “believe,” “project,” “anticipate,” “seek,” “will,” and similar statements of a future or forward-looking nature identify forward-looking statements in this material or similar oral statements for purposes of the U.S. federal securities laws or otherwise. Because forward-looking statements, such as the possibility that MCC may receive competing proposals and the date that the parties expect the proposed transactions to be completed, include risks and uncertainties, actual results may differ materially from those expressed or implied and include, but are not limited to, those discussed in MCC’s filings with the Securities and Exchange Commission (the “SEC”), and (i) the satisfaction or waiver of closing conditions relating to the proposed transactions described herein, including, but not limited to, the requisite approvals of the stockholders of each of MCC, Sierra Income Corporation (“Sierra”), and Medley Management Inc. (“MDLY”), Sierra successfully taking all actions reasonably required with respect to certain outstanding indebtedness of MCC and MDLY to prevent any material adverse effect relating thereto, certain required approvals of the SEC (including necessary exemptive relief to consummate the merger transactions), approval by the Court of Chancery of the State of Delaware of the Settlement Agreement, the necessary consents of certain third-party advisory clients of MDLY, and any applicable waiting period (and any extension thereof) applicable to transactions under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, shall have expired or been terminated; (ii) the parties’ ability to successfully consummate the proposed transactions, and the timing thereof; and (iii) the possibility that competing offers or acquisition proposals related to the proposed transactions will be made and, if made, could be successful. Additional risks and uncertainties specific to MCC include, but are not limited to, (i) the costs and expenses that MCC has, and may incur, in connection with the proposed transactions (whether or not they are consummated); (ii) the impact that any litigation relating to the proposed transactions may have on MCC; (iii) that projections with respect to distributions may prove to be incorrect; (iv) Sierra’s ability to invest its portfolio of cash in a timely manner following the closing of the proposed transactions; (v) the market performance of the combined portfolio; (vi) the ability of portfolio companies to pay interest and principal in the future; (vii) the ability of MDLY to grow its fee earning assets under management; (viii) whether Sierra, as the surviving company, will trade with more volume and perform better than MCC and MDLY prior to the proposed transactions; and (ix) negative effects of entering into the proposed transactions on the trading volume and market price of the MCC’s common stock. There can be no assurance of the level of any distributions to be paid, if any, following consummation of the proposed transactions.

The foregoing review of important factors should not be construed as exhaustive and should be read in conjunction with the other cautionary statements that are included in the Joint Proxy Statement/Prospectus (as defined below) relating to the proposed transactions and in the “Risk Factors” sections of MCC’s most recent Annual Report on Form 10-K and most recent Quarterly Report on Form 10-Q. The forward-looking statements in this communication represent MCC’s views as of the date of hereof. MCC anticipates that subsequent events and developments will cause its views to change. However, while MCC may elect to update these forward-looking statements at some point in the future, MCC does not have any current intention of doing so except to the extent required by applicable law. You should, therefore, not rely on these forward-looking statements as representing MCC’s views as of any date subsequent to the date of this material.

Additional Information and Where to Find It

In connection with the proposed transactions, Sierra intends to file with the SEC and mail to its stockholders an amendment to the Registration Statement on Form N-14 that will include a proxy statement and that also will constitute a prospectus of Sierra, and MCC and MDLY intend to file with the SEC and mail to their respective stockholders an amendment to the proxy statement on Schedule 14A (the "Joint Proxy Statement/Prospectus" and, as amended, the "Amended Joint Proxy Statement/Prospectus"). INVESTORS AND STOCKHOLDERS ARE URGED TO READ THE JOINT PROXY STATEMENT/PROSPECTUS, AS WELL AS THE AMENDED JOINT PROXY STATEMENT/PROSPECTUS, WHEN IT BECOMES AVAILABLE, OR ANY SUPPLEMENTS TO THESE DOCUMENTS, CAREFULLY AND IN THEIR ENTIRETY BECAUSE THEY CONTAIN IMPORTANT INFORMATION ABOUT SIERRA, MCC, AND MDLY, THE PROPOSED TRANSACTIONS AND RELATED MATTERS. **Investors and stockholders can obtain the Joint Proxy Statement/Prospectus and other documents filed with the SEC by Sierra, MCC, and MDLY, free of charge, from the SEC's website (www.sec.gov) and from Sierra's website (www.sierraincomecorp.com), MCC's website (www.medleycapitalcorp.com), or MDLY's website (www.mdly.com). Investors and stockholders may also obtain free copies of the Joint Proxy Statement/Prospectus, the Amended Joint Proxy Statement/Prospectus (when available), and other documents filed with the SEC from MCC by using the contact information provided above.**

Participants in the Solicitation

MCC and its directors, executive officers, other members of its management and certain employees of Medley LLC may be deemed to be participants in the anticipated solicitation of proxies in connection with the proposed transactions. Information regarding MCC's directors and executive officers is available in its Annual Report on Form 10-K filed with the SEC on December 16, 2019 (the "MCC 2019 Form 10-K"). To the extent holdings of securities by such directors or executive officers have changed since the amounts disclosed in the MCC 2019 Form 10-K, such changes have been or will be reflected on Statements of Change in Ownership on Form 4 filed by such directors or executive officers, as the case may be, with the SEC. More detailed information regarding the identity of potential participants, and their direct or indirect interests, by security holdings or otherwise, will be set forth in the Amended Joint Proxy Statement/Prospectus when such documents become available and in other relevant materials to be filed with the SEC. These documents may be obtained free of charge from the sources indicated above.

No Offer or Solicitation

The information in this press release is for informational purposes only and shall not constitute an offer to sell or the solicitation of an offer to sell or the solicitation of an offer to buy any securities or the solicitation of any vote or approval in any jurisdiction pursuant to or in connection with the proposed transactions or otherwise, nor shall there be any sale, issuance or transfer of securities in any jurisdiction in contravention of applicable law. No offer of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the Securities Act of 1933, as amended.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: December 30, 2019

MEDLEY CAPITAL CORPORATION

By: /s/ Richard T. Allorto, Jr.
Name: Richard T. Allorto, Jr.
Title: Chief Financial Officer



GRANTED

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE MEDLEY CAPITAL
CORPORATION STOCKHOLDER
LITIGATION

)
)
) CONS. C.A. No. 2019-0100-KSJM
)
)

REVISED FORM OF ORDER AND FINAL JUDGMENT

On this ____day of____, 2019, a hearing having been held before this Court to determine whether the terms and conditions of the Stipulation and Agreement of Compromise and Settlement, dated July 29, 2019, and the Stipulation Amending Release of Claims and Certain Exhibits, dated August 8, 2019 (together, the “Stipulation”), which are incorporated herein by reference,¹ and the terms and conditions of the settlement proposed in the Stipulation (the “Settlement”) are fair, reasonable and adequate for the settlement of all claims asserted herein; and whether an Order and Final Judgment should be entered in the above-captioned consolidated class action (the “Action”); and the Court having considered all matters submitted to it at the hearing and otherwise;

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

1) The mailing of the Notice of Pendency and Proposed Settlement of Class Action (the “Notice”) pursuant to and in the manner prescribed in the Scheduling Order entered on August 12, 2019 (the “Scheduling Order”), which was mailed by first class mail on September 9, 2019, combined with the publication of the Summary Notice of Pendency and Proposed Settlement of Class Action (the “Summary Notice”) pursuant to and in the manner prescribed in the Scheduling Order, which was published on September 9, 2019, is hereby determined to be the best notice practicable under the circumstances and in full compliance with Court of Chancery Rule 23, the requirements of due process and applicable law. It is further determined that all Class Members are bound by the Order and Final Judgment herein.

¹ Capitalized terms (other than proper nouns) that are not defined herein shall have the meanings set forth in the Stipulation.

2) The Court finds that the Action is a proper class action pursuant to Court of Chancery Rules 23(a) and 23(b)(1) and (b)(2) and hereby certifies a non-opt-out Settlement Class as consisting of:

Any and all record holders and beneficial owners of MCC common stock at any time during the Settlement Class Period, together with their successors and assigns, but excluding Stipulating Defendants, their Immediate Family, SIC and any person, firm, trust, corporation, joint venture, partnership, foundation or other entity related to or affiliated with any of the Stipulating Defendants, members of their Immediate Families or SIC.

“Settlement Class Period” means the period between and including August 9, 2018, and the later of the (i) the Closing, (ii) the consummation of any transaction based on a Superior Proposal (as defined in the Amended MCC Merger Agreement), and (iii) the termination of the Amended MCC Merger Agreement.

“Stipulating Defendants” means Brook Taube, Seth Taube, Jeff Tonkel, Mark Lerdal, Karin Hirtler-Garvey, John E. Mack, Arthur S. Ainsberg, Medley Management Inc. (“MDLY”), Medley Capital Corporation (“MCC”), MCC Advisors LLC, Medley Group LLC, and Medley LLC.

“Immediate Family” means an individual’s spouse, parents, siblings, children, grandparents, grandchildren; the spouses of his or her parents, siblings and children; and the parents and siblings of his or her spouse, and includes step and adoptive relationships. In this paragraph, “spouse” shall mean a husband, a wife, or a partner in a state-recognized domestic partnership or civil union.

3) Specifically, the Court finds that the Settlement Class satisfies the numerosity requirement of Rule 23(a)(1). As of December 21, 2018, there were over 54,474,211 shares of common stock (“Shares”) of Medley Capital Corporation (“MCC”) issued and outstanding which are publicly traded and held by thousands of beneficial owners. There are common issues of fact and law in the Action sufficient to satisfy Rule 23(a)(2), including whether the disclosures made in connection with the Transactions were adequate, whether the Stipulating Defendants breached their fiduciary duties to Class Members (as defined in the Stipulation), whether MDLY, SIC, MCC Advisors LLC, Medley Group LLC, and Medley LLC aided and abetted these breaches, and whether the Plaintiffs and Class Members were injured as a consequence of Defendants’ actions. The claims of the Plaintiffs’ in the Action are typical of the claims of absent members of the Settlement Class in that they all arise from the same allegedly wrongful conduct and are based on the same legal theories, satisfying Rule 23(a)(3). The Plaintiffs and Plaintiffs’ Counsel are adequate representatives of the Settlement Class, satisfying Rule 23(a)(4). The prosecution of separate actions by individual members of the Settlement Class would create a risk of inconsistent adjudications which would establish incompatible standards of conduct for Defendants, and, as a practical matter, the disposition of this Action will influence the disposition of any pending or future identical cases brought by other members of the Settlement Class, satisfying Rule 23(b)(1); and there were allegations that Defendants acted or refused to act on grounds generally applicable to the Class, satisfying Rule 23(b)(2).

4) The Settlement of this Action as provided for in the Stipulation is approved as fair, reasonable and adequate, and in the best interests of Plaintiffs and the Settlement Class.

5) The Parties are hereby 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.

6) "Released Defendants' Claims" means all Claims that were or could have been asserted in the Action through the date of the Settlement Hearing, including, without limitation, all Claims arising out of or relating to (i) alleged mismanagement of MCC; (ii) the Transactions (including any actions, deliberations and negotiations relating thereto); (iii) the MCC Merger Agreement, the Amended MCC Merger Agreement, the MDLY Merger Agreement, and the Amended MDLY Merger Agreement (including any actions, deliberations and negotiations relating thereto); (iv) the disclosures regarding the Transactions; (v) the fiduciary duties or obligations of the Stipulating Defendants in connection with the review of strategic alternatives available to MCC; (vi) the vote or any adjournment of the vote of MCC stockholders on the MCC Merger; and (vii) proxy solicitation efforts in connection with the votes of the MCC stockholders on the MCC Merger. Released Defendants' Claims shall also include all Claims arising out of or relating to the prosecution and settlement of the Action and all Claims that were or could have been asserted in the Federal Action, provided, however, that the Released Defendants' Claims shall not include any Claims that were or could have been asserted in the Federal Action against any of the Highland Parties. Notwithstanding the foregoing, the Released Defendants' Claims shall not include claims to enforce the Stipulation or the Governance Agreement.

7) "Released Defendant Parties" means (i) any and all of the Stipulating Defendants; (ii) the Stipulating Defendants' Immediate Family members, and respective past or present direct or indirect affiliates, associates, members, partners, partnerships, investment funds, subsidiaries, parents, predecessors, successors, officers, directors, employees, agents, representatives, advisors, financial or investment advisors (including the financial advisor to the MCC Special Committee), insurers, and attorneys (including Stipulating Defendants' Counsel); and (iii) the legal representatives, heirs, executors, administrators, predecessors, successors, predecessors-in-interest, successors-in-interest and assigns of any of the foregoing.

8) “Released Plaintiffs’ Claims” means all Claims that were or could have been asserted in the Action through the date of the Settlement Hearing, including, without limitation, all Claims arising out of or relating to (i) alleged mismanagement of MCC; (ii) the Transactions (including any actions, deliberations and negotiations relating thereto); (iii) the MCC Merger Agreement, the Amended MCC Merger Agreement, the MDLY Merger Agreement, and the Amended MDLY Merger Agreement (including any actions, deliberations and negotiations relating thereto); (iv) the disclosures regarding the Transactions; (v) the fiduciary duties or obligations of the Stipulating Defendants in connection with the review of strategic alternatives available to MCC; (vi) the vote or any adjournment of the vote of MCC stockholders on the MCC Merger; and (vii) proxy solicitation efforts in connection with the votes of the MCC stockholders on the MCC Merger. Released Plaintiffs’ Claims shall also include all Claims arising out of or relating to the prosecution and settlement of the Federal Action. Notwithstanding the foregoing, the Released Plaintiffs’ Claims shall not include claims to enforce the Stipulation or the Governance Agreement.

9) “Released Plaintiff Parties” means (i) any and all of Plaintiffs, FrontFour and their respective past or present direct or indirect affiliates, associates, members, managers, partners, partnerships, investment funds, subsidiaries, parents, predecessors, successors, officers, directors, employees, agents, representatives, advisors, financial or investment advisors, insurers, and attorneys (including Plaintiffs’ Counsel); (ii) the legal representatives, heirs, executors, administrators, predecessors, successors, predecessors-in-interest, successors-in-interest and assigns of any of the foregoing; and (iii) all other Class Members.

10) "Unknown Claims" means any and all Released Plaintiffs' Claims which Plaintiffs or any other Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Plaintiffs' Claims against the Released Defendant Parties, which if known by him, her or it, might have affected his, her or its decision(s) with respect to the Settlement, and any and all Released Defendants' Claims which any Stipulating Defendant or any other Released Defendant Party does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Defendants' Claims against the Released Plaintiff Parties, which if known by him, her, or it might have affected his, her, or its decision(s) with respect to the Settlement. With respect to any and all Released Plaintiffs' Claims and Released Defendants' Claims, the Parties stipulate and agree that upon this Order and Final Judgment becoming Final, Plaintiffs and Stipulating Defendants shall expressly waive, and each of the Class Members shall be deemed to have, and by operation of the Judgment or Alternative Judgment that becomes Final shall have expressly, waived, relinquished and released any and all provisions, rights and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law or foreign law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Plaintiffs and Stipulating Defendants acknowledge, and the other Class Members by operation of law shall be deemed to have acknowledged, that they may discover facts in addition to or different from those now known or believed to be true with respect to the Released Plaintiffs' Claims and the Released Defendants' Claims, but that it is the intention of Plaintiffs and Stipulating Defendants, and by operation of law the other Class Members, to completely, fully, finally and forever extinguish any and all Released Plaintiffs' Claims and Released Defendants' Claims, known or unknown, suspected or unsuspected, which now exist, or heretofore existed, or may hereafter exist, and without regard to the subsequent discovery of additional or different facts. Plaintiffs and Stipulating Defendants acknowledge, and the other Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Plaintiffs' Claims was separately bargained for and was a key element of the Settlement.

11) The Court hereby finds and concludes that the distribution of the Net Settlement Amount (including the Cash Component) from the Account to Eligible Class Members does not give rise to appraisal rights in connection with the Transactions.

12) The Stock Component of the Net Settlement Amount shall consist of 4,709,576.14 shares of Combined Company Stock, based on a pro forma net asset value of \$6.37 per share as of June 30, 2019.

13) This Action and the Released Plaintiffs' Claims are hereby dismissed as to the Released Defendant Parties on the merits and with prejudice, and without costs.

14) Upon this Order and Final Judgment becoming Final, Plaintiffs and all Class Members, on behalf of themselves, their legal representatives, heirs, executors, administrators, estates, predecessors, successors, predecessors-in-interest, successors-in-interest and assigns, and any person or entity acting for or on behalf of, or claiming under, any of them, and each of them, shall thereupon fully, finally and forever, release, settle and discharge the Released Defendant Parties from and with respect to every one of the Released Plaintiffs' Claims, and shall thereupon be forever barred and enjoined from commencing, instituting or prosecuting any Released Plaintiffs' Claims against any of the Released Defendant Parties.

15) Upon this Order and Final Judgment becoming Final, each of the Stipulating Defendants, on behalf of themselves, their legal representatives, heirs, executors, administrators, estates, predecessors, successors, predecessors-in-interest, successors-in-interest and assigns, and any person or entity acting for or on behalf of, or claiming under, any of them, and each of them, shall thereupon fully, finally and forever, release, settle and discharge the Released Plaintiff Parties from and with respect to every one of the Released Defendants' Claims, and shall thereupon be forever barred and enjoined from commencing, instituting or prosecuting any of the Released Defendants' Claims against any of the Released Plaintiff Parties.

16) Neither this Judgment, the Stipulation, the fact or any terms of the Settlement, nor any communications relating thereto, is evidence, or an admission or concession by any Party or their counsel, Class Member, or any other Released Defendant Party or Released Plaintiff Party, of any fault, liability or wrongdoing whatsoever, as to any facts or claims alleged or asserted in the Action or the Federal Action, or any other actions or proceedings, or as to the validity or merit of any of the claims or defenses alleged or asserted in any such action or proceeding.

17) Neither this Judgment nor the Stipulation is a finding or evidence of the validity or invalidity of any claims or defenses in the Action or the Federal Action, any wrongdoing by any Party, Class Member or other Released Defendant Party or Released Plaintiff Party, or any damages or injury to any Party, Class Member or other Released Defendant Party or Released Plaintiff Party.

18) Neither this Judgment, the Stipulation, nor any of the terms and provisions of the Stipulation, nor any of the negotiations or proceedings in connection therewith, nor any of the documents or statements referred to herein or therein, nor the Settlement, nor the fact of the Settlement, nor the Settlement proceedings, nor any statements in connection therewith, (a) shall (i) be argued to be, used or construed as, offered or received in evidence as, or otherwise constitute an admission, concession, presumption, proof, evidence, or a 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 Released Plaintiff Parties, or of any infirmity of any defense, or of any damage to Plaintiffs or any other Class Member, or (ii) otherwise be used to create or give rise to any inference or presumption against any of the Released Defendant Parties or Released Plaintiff Parties concerning any fact or any purported liability, fault, or wrongdoing of the Released Defendant Parties or Released Plaintiff Parties or any injury or damages to any person or entity, or (b) shall otherwise be admissible, referred to or used in any proceeding of any nature, for any purpose whatsoever; provided, however, that (i) the Stipulation and/or this Judgment may be introduced in any proceeding, whether in the Court or otherwise, as may be necessary to argue and establish that the Stipulation and/or Judgment has res judicata, collateral estoppel or other issue or claim preclusion effect or to otherwise consummate or enforce the Settlement and/or Judgment or to secure any insurance rights or proceeds of any of the Released Defendant Parties or Released Plaintiff Parties, and (ii) the foregoing shall not prohibit any Party from making any statement or disclosure required under the federal securities laws or other applicable laws (including to comply with any subpoena or other legal process from any governmental or regulatory authority with competent jurisdiction over the relevant Party) or stock exchange regulations.

19) Plaintiffs' Counsel and Plaintiff Stephen Altman's counsel are hereby awarded attorneys' fees and expenses of \$3,495,334.97 in connection with the Action, which shall be paid pursuant to the provisions of the Stipulation within five (5) business days of the entry of this Order and Final Judgment, as follows:

- a) \$3,000,000, payable to Plaintiffs' Counsel, which sum the Court finds to be fair and reasonable compensation for the corporate therapeutic benefits achieved by the Settlement;
- b) \$420,334.97, payable to Plaintiffs' Counsel, which the Court finds to be fair and reasonable reimbursement of Plaintiffs' Counsel's expenses; and
- c) \$75,000, payable to Plaintiff Stephen Altman's counsel, which the Court finds to be fair and reasonable compensation for their contribution to the Settlement.

20) In addition, the Court finds that Plaintiffs' Counsel shall be entitled to an additional fee contingent upon the establishment of the Settlement Fund in accordance with the Stipulation (the "Additional Fee"). In that event, in accordance with Paragraph 21 below, MCC or its successor shall pay Plaintiffs' Counsel the Additional Fee, which shall consist of:

- a) \$100,000 for the agreement to appoint an independent director on the board of the post-merger entity; and

b) the amount calculated by solving for *A* in the following formula:

$$\text{Award}[A] = (\text{Monetary Fund}[M] + \text{Award}[A] - \text{Look Through}[L]) * \text{Percentage}[P]$$

Where:

- A* shall be the amount of the Additional Fee (excluding the \$100,000 award for the agreement to appoint an independent director on the board of the post-merger entity);
- M* shall be the sum of (i) the \$17 million cash component of the Settlement Fund and (ii) the value of the Combined Company Stock component of the Settlement Fund, which shall be calculated as the product of the VPS (defined below) and 4,709,576.14 (the number of shares of Combined Company Stock comprising the Stock Component of the Net Settlement Amount, as set forth above in Paragraph 12);
- L* shall be the amount representing the estimated value of the decrease in shares to be received by Eligible Class Members arising by operation of the change in the “Exchange Ratio” under the Amended MCC Merger Agreement, calculated as follows:

$$L = ((ES * 68\%) - (ES * 66\%)) * VPS$$

Where:

- (i) ES equals the number of Eligible Shares;
- (ii) VPS is the pro forma net asset value per share of the Combined Company Stock as of the Closing as reported in the public disclosure filed nearest in time and after the Closing (the “Closing NAV Disclosure”); and
- P* shall equal 0.26.

21) Payment of the Additional Fee shall be made in two stages. First, within five (5) business days of the establishment of the Settlement Fund, MCC or its successor shall (i) pay Plaintiffs' Counsel an estimate of the Additional Fee (the "Additional Fee Estimate"), less twenty (20) percent (the "Additional Fee Estimate Payment"), and (ii) deposit the remaining twenty (20) percent of the Additional Fee Estimate into escrow (the "Escrowed Fee"). For purposes of calculating such estimate, MCC or its successor shall use the formula set forth in the foregoing Paragraph, except that VPS shall equal the pro forma net asset value of the Combined Company Stock as reported in the public disclosure filed nearest in time and prior to the Closing (the "Closing NAV Estimate"). Second, within five (5) business days of the Closing NAV Disclosure, (i) if the Additional Fee is greater than the Additional Fee Estimate Payment, an amount of the Escrowed Fee shall be released to Plaintiffs' Counsel such that the total payments made to Plaintiffs' Counsel under this Paragraph equal the Additional Fee and the remainder of the Escrowed Fee, if any, shall be released to MCC or its successor, (ii) if the Additional Fee is less than the Additional Fee Estimate Payment, Plaintiffs' Counsel shall return to MCC or its successor the difference between the Additional Fee Estimate and the Additional Fee and the Escrowed Fee shall be released to MCC or its successor, or (iii) if the Additional Fee is equal to the Additional Fee Estimate Payment, the Escrowed Fee shall be released to MCC or its successor.

22) If the Transactions close, no counsel representing any Class Member in the Action shall make any further or additional application for fees and expenses to the Court or any other court beyond those specified in this Order and Final Judgment.

23) If this Order and Final Judgment does not become Final, this Order and Final Judgment shall be rendered null and void and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void; the Parties and SIC returned, without prejudice in any way, to their respective litigation positions immediately prior to the execution of the Stipulation, provided, however, that any disputes or appeals relating solely to the amount, payment or allocation of any award of attorneys' fees and expenses shall have no effect on finality for purposes of determining the date on which the Judgment becomes Final and shall not otherwise prevent, limit or otherwise affect the effectiveness of the Judgment or prevent, limit, delay or hinder entry of the Judgment. In the event that the Fee and Expense Award is disapproved, reduced, reversed or otherwise modified, whether on appeal, further proceedings on remand, successful collateral attack or otherwise, then Plaintiffs' Counsel and/or Plaintiff Stephen Altman's counsel (as applicable) shall, within ten (10) business days after they receive notice of any such disapproval, reduction, reversal or other modification, return to MCC or its successor the difference between the attorneys' fees and expenses awarded to them by the Court on the one hand, and any attorneys' fees and expenses ultimately and finally awarded to them on appeal, further proceedings on remand or otherwise, on the other hand.

24) The binding effect of this Order and Final Judgment and the obligations of Plaintiffs, Class Members and Defendants under the Settlement shall not be conditioned upon or subject to the resolution of any appeal from this Order and Final Judgment that relates solely to the issue of Plaintiffs' Counsel's (or any other counsel's) application for an award of attorneys' fees and expenses.

25) All Class Members shall be and are deemed bound by the Stipulation and this Order and Final Judgment. This Order and Final Judgment, including the release of all Released Plaintiffs' Claims against all Released Defendant Parties, shall have *res judicata* and other preclusive effect in all pending and future lawsuits, arbitrations or other proceedings maintained by, or on behalf of, any of the Plaintiffs or any Class Members, as well as their respective heirs, executors, administrators, estates, predecessors-in-interest, predecessors, successors-in-interest, successors, and assigns and anyone claiming through or on behalf of any of them.

26) Without further order of this Court, the Parties may agree in writing to reasonable extensions of time to carry out any of the provisions of the Stipulation.

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

Dated: _____, 2019

Vice Chancellor McCormick

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

Court: DE Court of Chancery Civil Action

Judge: Kathaleen St Jude McCormick

File & Serve

Transaction ID: 64547648

Current Date: Dec 20, 2019

Case Number: 2019-0100-KSJM

Case Name: CONF ORD - CONS W/ 2019-0219-KSJM - IN RE MEDLEY CAPITAL CORPORATION STOCKHOLDER LITIGATION

Court Authorizer: McCormick, Kathaleen St Jude

/s/ Judge McCormick, Kathaleen St Jude