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U.S. DISTRICT COURT
N.D. OF ALABAMA




# Report of the Independent Fiduciary for the Settlement in *Haynes v. James*

September 23, 2026

## TABLE OF CONTENTS

**I. Introduction** ..... **1**

**II. Executive Summary of Conclusions** ..... **1**

**III. Procedure** ..... **1**

**IV. Background** ..... **2**

**V. Settlement** ..... **3**

**VI. PTE 2003-39 Determination** ..... **8**

## I. Introduction

Fiduciary Counselors has been appointed as an independent fiduciary for the AlaTrade Foods Holdings, Inc. Employee Stock Ownership Plan and any trust created thereunder (the "Plan" or the "ESOP"), in connection with the settlement (the "Settlement") reached in *Haynes v. James*, Case No. 5:26-cv-00664-HNJ (the "Litigation" or "Action"), which was brought in the United States District Court for the Northern District of Alabama Middle Division (the "Court"). Fiduciary Counselors has reviewed over 150 previous settlements involving ERISA plans.

## II. Executive Summary of Conclusions

After a review of key pleadings, decisions and orders, selected other materials and interviews with counsel for the parties, Fiduciary Counselors has determined that:

- The Court has preliminarily certified the Litigation as a class action for settlement purposes, and in any event, there is a genuine controversy involving the Plan.
- The Settlement terms, including the scope of the release of claims, the amount of cash received by the Plan and the amount of any attorneys' fee award or any other sums to be paid from the recovery, are reasonable in light of the Plan's likelihood of full recovery, the risks and costs of litigation, and the value of claims forgone.
- The terms and conditions of the transaction are no less favorable to the Plan than comparable arm's-length terms and conditions that would have been agreed to by unrelated parties under similar circumstances.
- The transaction is not part of an agreement, arrangement or understanding designed to benefit a party in interest.
- The transaction is not described in Prohibited Transaction Exemption ("PTE") 76-1.
- All terms of the Settlement are specifically described in the written settlement agreement.
- To the extent there is non-cash consideration, it is in the interest of the Plan's participants and beneficiaries, and the Plan is receiving no assets other than cash in the Settlement.

Based on these determinations about the Settlement, Fiduciary Counselors hereby approves and authorizes the Settlement on behalf of the Plan in accordance with PTE 2003-39.

## III. Procedure

Fiduciary Counselors reviewed key documents, including the Complaint, the parties' mediation briefs, the Settlement Agreement, the Notice, the Motion for Preliminary Approval and related papers, the Court's Order Preliminarily Approving the Settlement, Plaintiffs' Motion for Attorneys' Fees, Litigation Expenses and Cost Reimbursement and Settlement Administration Expenses and related papers and Plaintiffs' Motion for Final Approval of Settlement and

Certification of Settlement Class and related papers. In order to help assess the strengths and weaknesses of the claims and defenses in the Litigation, as well as the process leading to the Settlement, the members of the Fiduciary Counselors Litigation Committee conducted separate telephone interviews with counsel for Defendants and counsel for Plaintiffs.

## IV. Background

### A. Procedural History of Case

***Litigation*.**

Plaintiffs Cheryl Haynes and Marcellus Garner ("Plaintiffs") are participants in the ESOP. Pursuant to Eleventh Circuit administrative exhaustion requirements, they submitted claims to the ESOP's Plan Administrator on August 15, 2024. The Claims Fiduciary for the ESOP denied Plaintiffs' claims on February 11, 2025, and denied Plaintiffs' appeal on August 4, 2025. Before filing the Complaint against AlaTrade Foods Holdings, Inc. and AlaTrade Foods, Inc. (together, "AlaTrade" or the "Company"); Davis Lee, Beth Lee, and Beth Lee as Trustee of the Davis Lee 2017 Irrevocable Trustee Family Trust (together, "Selling Shareholders"); and Stephen C. James acting in his capacity as the trustee of the ESOP (the "Trustee"), (with AlaTrade and the Selling Shareholders, the "Defendants"), the parties mediated the matter on October 21, 2025, and the parties agreed to the Settlement. The Complaint was filed on April 22, 2026, solely for the purpose of facilitating the Settlement.

The Complaint alleged the Trustee caused the ESOP to acquire 100% of AlaTrade's issued and outstanding stock on June 14, 2021, from the Selling Shareholders for $160 million ("ESOP Transaction"), an amount Plaintiffs alleged exceeded the stock's fair market value. The Complaint alleged that in so doing, the Trustee violated ERISA's prohibition on transactions between ERISA plans and plan insiders (known as "parties in interest"), 29 U.S.C. § 1106(a) (Count I), and the statute's fiduciary standards, 29 U.S.C. § 1104(a) (Count II). The Complaint also alleged that the Selling Shareholders knowingly participated in the Trustee's § 1106(a) violations (Count III). The Complaint further alleged that AlaTrade and AlaTrade Foods breached their fiduciary duties as defined in 29 U.S.C. § 1104(a) in selecting the Trustee, failing to monitor the Trustee's performance, failing to inform the Trustee of relevant information, and failing to remove the Trustee (Count IV). Finally, the Complaint alleged AlaTrade breached its fiduciary duty under 29 U.S.C. §1104(a) by failing to select and monitor the performance of a Claims Fiduciary who would undertake a full and fair review of Plaintiffs' claims and appointed a Claims Fiduciary who refused to produce relevant information and compiled an inadequate and incomplete administrative record that did not permit a decision on the merits (Count V). Defendants denied any wrongdoing or liability associated with the ESOP Transaction and the allegations in this lawsuit, and have vigorously defended themselves throughout.

Though the parties mediated the matter prior to filing the Complaint, they engaged in substantial pre-litigation proceedings before initiating settlement discussions. Those

proceedings included a year-long administrative claims process pursuant to the Plan's claims procedures, during which Plaintiffs submitted a formal claim for benefits and an appeal challenging the ESOP Transaction. In response to the formal claim, the Claims Fiduciary collected, reviewed, and compiled an administrative record exceeding 1,400 pages of documents, which was produced to Plaintiffs. The administrative record included core transaction documents and analyses relating to the ESOP Transaction, including the closing binder and the fairness opinion relied upon by the Trustee. After considering Plaintiffs' submissions and the administrative record, the Claims Fiduciary issued detailed written decisions at both the claim and appeal stages explaining the factual and legal bases for denying Plaintiffs' claims. After denial, Plaintiffs received additional documents including material relating to the selection of the ESOP trustee, corporate resolutions approving the engagement of the trustee, the valuation report prepared for the ESOP trustee in connection with the transaction, and a summary of the negotiations between the sellers and trustee in connection with the ESOP transaction. The parties utilized that information to exchange detailed mediation statements outlining the strengths of each side's position based on the information learned through the appeal process and subsequent disclosures.

***Settlement and Preliminary Approval.***

The parties held a full-day mediation with JAMS mediator Maxine Aaronson on October 21, 2025. In advance of the mediation, the parties submitted statements to the mediator laying out their positions. At the mediation, the parties reached a settlement in principle. The parties agreed to the Settlement Agreement on April 21, 2026.

Plaintiffs filed a motion seeking preliminary approval of the Settlement on April 27, 2026. The Court granted Plaintiffs' motion on June 9, 2026. The Court's Order: (1) preliminarily certified the Settlement Class as defined in the Settlement; (2) approved the form and method of class notice; (3) set October 7, 2026 as the deadline for objections; (4) set October 28, 2026 as the date for a Final Approval Hearing; and (5) appointed RG/2 Claims Administration, LLC as Settlement Administrator.

***Objections.***

October 7, 2026 is the deadline for Class Members to file objections to the Settlement. As of the date of this report, no Class Members have filed any objections.

## V. Settlement

### A. Settlement Consideration

The Settlement provides for a Cash Settlement Amount of $875,000 from the Company and/or its insurer. After deducting any Court-approved deductions and expenses, including (a) administrative expenses; and (b) attorneys' fees and expenses, the remainder (known as the Net Proceeds) will be distributed to Class Members in accordance with the Plan of Allocation.

The Settlement also requires that effective the latter of January 4, 2027, or sixty (60) days after entry of the Final Order, there will be (i) a $3,700,000 reduction in the Refinanced (External) Company Note A, dated as of June 28, 2021, in the original principal amount of $8,000,000; and (ii) a corresponding reduction of the same amount in that certain Refinanced (Internal) ESOP Note, dated as of June 28, 2021, in the original principal amount of $149,655,000 (the "Notes").

**Class and Class Period**

The Settlement defines the Settlement Class as follows:

> all participants and beneficiaries of the Plan at any time from its inception until December 31, 2025. Excluded from the Class are the shareholders who sold their stock to the Plan, directly or indirectly, and their immediate families, legal representatives, successors, and assigns of any such excluded persons.

The Court has preliminarily certified the Settlement Class, for settlement purposes only.

## B. The Release

The Settlement provides as follows:

> any and all present or past claims, demands, debts, controversies, expenses, rights of action, suits, and causes of action of every kind and nature whatsoever, including those for any and all losses, liabilities, obligations, damages, unjust enrichment, attorneys' fees and expenses, disgorgement of fees, litigation costs, injunctive or declaratory relief or seeking contribution, indemnification, or any other type of legal or equitable relief, whether under ERISA, the Internal Revenue Code, or any other federal, state, local or foreign law, whether based on contract, tort, statute, regulation, ordinance, the common law, or another legal or equitable theory of recovery, whether known or unknown, suspected or unsuspected, existing or claimed to exist, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, in law or equity, that:
>
> (i) arise out of or relate in any way to:
>
> a. the allegations, acts, omissions, representations, facts, events, matters, transactions or occurrences asserted in Plaintiffs' August 15, 2024 claims letter or Plaintiffs' May 12, 2025 claims appeal (the "Administrative Claims");
>
> b. the claims process relating to the Administrative Claims;
>
> c. the 2021 ESOP purchase transaction (the "ESOP Transaction"), including but not limited to the financial projections provided and/or used in determining the purchase price in the ESOP Transaction;

d. the valuation relied upon by the Trustee in the ESOP Transaction; and

e. all other claims arising out of or relating to the facts alleged in the Administrative Claims or that could have been brought in Plaintiffs' Complaint;

(ii) would be barred by principles of *res judicata* had the claims asserted in the Class Action been fully litigated and resulted in a final judgment or order; or

(iii) pertain to any conduct related to the direction to calculate, the calculation of, and/or the method or manner of allocation or distribution of the Settlement Fund.

The Releasing Parties hereby expressly waive any and all rights and benefits respectively conferred upon them by the provisions of Section 1542 of the California Civil Code and all similar provisions of the statutory or common law of any other State, Territory or other jurisdiction. Section 1542 reads in pertinent part:

> 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.

The Releasing Parties each hereby acknowledge that the foregoing waiver of the provisions of Section 1542 of the California Civil Code and all similar provisions of the statutory or common law of any other State, Territory, or other jurisdiction was separately bargained for, and that no Released Party would enter into this Settlement Agreement unless it included a broad release of the Releasing Parties' claims. The Releasing Parties expressly agree that all release provisions in this Settlement Agreement shall be given full force and effect in accordance with each and all of their express terms and provisions. The Releasing Parties assume for themselves, the risk of his, her, or its, respective subsequent discovery or understanding of any matter, fact, or law, that, if now known or understood, would in any respect have affected his, her, or its entry in this Settlement Agreement.

The Released Claims do not include any rights or duties arising out of this Settlement Agreement, including the express representations, warranties, and covenants in this Settlement Agreement.

The terms of the release, including the provision for the Independent Fiduciary to provide a release of claims by the Plan, are reasonable.

**C. The Plan of Allocation**

The Net Proceeds shall be distributed to Class Members as follows:

a. For those Class Members who have redeemed some or all of their vested shares prior to December 31, 2025 ("Cashed-Out Class Members"), the Settlement Administrator shall first set aside from the Net Proceeds an amount for each Cashed-Out Class Member equivalent to $3.70 per each cashed-out share.

b. Each Class Member's share of the remaining Net Proceeds (after deducting the amount set aside for Cashed-Out Class Members under section (a) above) shall be based on the number of vested shares of AlaTrade stock allocated to the Class Member's ESOP account as of December 31, 2025, plus the number of vested shares the Class Member redeemed prior to December 31, 2025, divided by the sum total of all vested shares of AlaTrade stock allocated to the ESOP accounts of all Class Members as of December 31, 2025, plus the total number of vested shares redeemed from Class Members prior to December 31, 2025. The resulting ratio shall constitute the Class Member's "Entitlement Percentage." Class Members who are not current participants in the Plan shall not be eligible to receive a distribution of less than $10. After calculating each Class Member's share of the Net Proceeds under section (b), the Settlement Administrator shall exclude from the distributions any non-participant Class Member due to receive less than $10. The Settlement Administrator shall then recalculate each remaining Class Member's share of the Net Proceeds, excluding the vested and cashed-out shares of those non-participant Class Members due less than $10, to calculate the remaining Class Members' Entitlement Percentage.

   The allocable portion of the Net Proceeds for each Class Member who does not have an account balance in the Plan shall be distributed by the Settlement Administrator via a check issued directly to that Class Member. Alternatively, should any such Class Member elect to have their funds rolled over into a qualified retirement account, the Settlement Administrator shall do so. The Class Notice shall provide information on electing a payment to a qualified retirement account. The total allocable portion of the Net Proceeds for all Class Members who have an account balance in the Plan shall be distributed to the Plan Administrator or Recordkeeper along with a spreadsheet detailing how much money is to be deposited into each such Class Member's account.

c. The Class Member's share of the Net Proceeds (minus the amount set aside for Cashed-Out Class Members (per section (a) above)) shall be calculated by multiplying the total value of the Net Proceeds (minus the amount set aside for Cashed-Out Class Members) by his or her Entitlement Percentage.

d. The amount payable to Cashed-Out Class Members shall be the sum of the amount due to them under section (a) above plus the amount due to them under

section (c) above. The amount payable to all other Class Members shall be in the amount due to them under section (c) above.

If any checks remain uncashed after 120 days, and the Settlement Administrator has made reasonable efforts to notify the recipients of these checks, the total amount of any uncashed checks shall be re-distributed by the Settlement Administrator *pro rata* to Class Members with an account balance in the Plan. In no event shall any part of the Net Proceeds be used to reimburse Defendants, to offset normal Plan expenses, or to offset settlement-related costs incurred by Defendants.

We find the Plan of Allocation to be reasonable, including:

1. the distribution of the Net Proceeds based on each Class Member's Entitlement Percentage as described above;

2. the provision that because Class Members who have separated from AlaTrade and already cashed out their vested AlaTrade shares will not benefit from the Seller Note Reduction (discussed below)—which, by decreasing AlaTrade's debt, will increase the value of all existing AlaTrade shares—these Class Members will receive an additional payment for their cashed-out shares commensurate with the approximate increase in AlaTrade's stock price from the Seller Note Reduction; and

3. the provision that the Settlement Administrator shall exclude from the distributions any non-participant Class Member due to receive less than $10.

The provisions are cost-effective and fair to Class Members in terms of both calculation and distribution.

**D. Attorneys' Fees, Litigation Expenses and Service Awards**

Class Counsel seek an award of attorneys' fees in the amount of $675,000, which represents slightly less than 15% of the Gross Settlement Amount of $4,575,000. Class Counsel's lodestar was $408,080 through September 11, 2026, the date Class Counsel filed their fee papers, which would result in a lodestar multiplier of 1.65 if the requested $675,000 were awarded. In our experience, the most common award in ERISA class actions nationwide is one-third of the settlement amount. In light of the work performed, the result achieved, the litigation risk assumed by Class Counsel, and the combination of the percentage and the lodestar multiplier, Fiduciary Counselors finds the requested attorneys' fees to be reasonable.

Class Counsel request reimbursement of $39,534.88 in litigation expenses including expert fees ($32,362.50) and mediator expenses ($5,750). Fiduciary Counselors finds the request for expenses to be reasonable.

Class Counsel are not seeking any service awards for Named Plaintiffs.

In sum, although the Court ultimately will decide what attorneys' fees and expenses to approve, we find that the requested amounts are reasonable under ERISA.

## VI. PTE 2003-39 Determination

As required by PTE 2003-39, Fiduciary Counselors has determined that:

- **In connection with preliminary approval of the Settlement, the Court has certified the Settlement Class.** Thus, the requirement of a determination by counsel regarding the existence of a genuine controversy does not apply. Nevertheless, we have determined that there is a genuine controversy involving the Plan. Based on the documents we reviewed and our calls with counsel, we find that there is a genuine controversy involving the Plan within the meaning of the Department of Labor Class Exemption, which the Settlement will resolve.

- **The Settlement terms, including the scope of the release of claims, the amount of cash received by the Plan, and the amount of any attorneys' fee award or any other sums to be paid from the recovery, are reasonable in light of the Plan's likelihood of full recovery, the risks and costs of litigation, and the value of claims foregone.** Plaintiffs alleged that the Trustee violated two provisions of ERISA—29 U.S.C. § 1104 and 29 U.S.C. § 1106—when he, among other things, approved the Plan's purchase of AlaTrade stock at a price that Plaintiffs alleged exceeded fair market value. Plaintiffs alleged that all of the remaining Defendants (AlaTrade shareholders who sold their stock to the ESOP) had knowledge of, and benefitted from, these alleged violations of ERISA, and that Davis Lee—as an officer (CEO) of AlaTrade and AlaTrade's sole director violated his own duties under 29 U.S.C. §§ 1104 and 1105. Defendants denied all allegations of wrongdoing, fault, liability, or damage to the Plaintiffs and the Class, and denied they engaged in any wrongdoing or violation of law or breach of fiduciary duties.

  Plaintiffs faced significant risks in continuing the Litigation. The parties had different views about Defendants' actions, their potential liability, and the likely outcome of the litigation. Plaintiffs' core allegations regarding the ESOP Transaction rested on facts that were strongly contested by Defendants. In their mediation statement, Defendants argued that Plaintiffs' claims would fail because the Court would have to apply an "arbitrary and capricious" standard in analyzing the Claims Fiduciary's decision denying Plaintiffs' claim for benefits, and even if the case would proceed on a *de novo* standard, Defendants argued that Plaintiffs would not be able to survive a motion to dismiss because they have not alleged an injury in fact sufficient to establish Article III standing. Defendants also pointed to evidence that countered Plaintiffs' central critiques, including that the Trustee engaged in a thorough, prudent process with the help of advisors that was documented in the administrative record. If the Action were to proceed, Plaintiffs would have to overcome these and other defenses and arguments. These fact-intensive inquiries would have led to a battle of experts and conflicting evidence and testimony. Proceeding to motions to dismiss, fact and expert discovery, summary judgment, class certification, and ultimately trial also would have taken a significant amount of time and attorney resources. Regardless of whether this case was decided at the pleading stage, summary

judgment, or after a trial, there likely would have been appeals that followed, further delaying resolution and causing more expense.

Plaintiffs commissioned a preliminary damages estimate from their retained valuation expert, who estimated that, in his opinion, the ESOP overpaid by as much as $32.8 million. The $4.575 million in total consideration associated with the Settlement represents 13.9% of the largest amount of estimated damages. While the recovery includes both cash and a reduction in AlaTrade's debt (the Seller Note Reduction), the latter directly benefits the ESOP and each share of AlaTrade stock it holds. The ESOP Transaction was financed by the ESOP's sponsor (AlaTrade), including through promissory notes (the Seller Notes) issued to the Selling Shareholders. Those Seller Notes are a component of AlaTrade's debt, and thus reduces the equity value of AlaTrade stock. As a result, the $3.7 million Seller Note Reduction increases the equity value of AlaTrade stock held by the ESOP.[1] That is a direct benefit to the Plan and its participants, and serves to correct one of the effects of the alleged overpayment (namely, the increased debt taken on by AlaTrade).[2] That benefit is why other courts have approved ESOP settlements that include debt reduction as a component of the recovery. *See, e.g., Chea v. Lite Star Esop Comm.,* No. 1:23-00647, 2025 WL 2938836 (E.D. Cal. Oct. 16, 2025) (preliminarily approving settlement for $1.5 million in cash and $1 million in debt reduction); *Smith v. Greatbanc Trust Company et al.*, No. 1:20-CV-02350, Dkt 163, (N.D. Ill. Aug. 23, 2023) (finally approving settlement for $15 million in debt reduction and $2.5 million in cash, among other consideration).

The proposed Settlement—which includes $875,000 in cash and a $3.7 million reduction in debt held by AlaTrade and the ESOP—is a good result for the Settlement Class given the likely duration and uncertainty associated with further litigation.

Given the substantial expense and risk involved in further litigation, the difficulty in prevailing on the merits and establishing damages, and the delay that would have resulted in providing any relief to the Class if the matter had been prolonged through trial and appeal, the amount of the Settlement is reasonable.

Fiduciary Counselors also finds the other terms of the Settlement to be reasonable, including the scope of the release, attorneys' fees and expenses and the Plan of Allocation.

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[1] It is unclear whether this reduction in debt produces a dollar-for-dollar increase in the value of the stock. However, to the extent a market value reduction would be appropriate, that also would affect the impact of the remainder of the debt on the value of the Company, and thus would affect the potential damages. Even if there were a market value discount, we believe the total consideration is reasonable. Additionally, any conceivable market value discount for the reduction in debt still would leave the requested attorneys' fees well below 25% of the value of the Settlement, even considering the point made in footnote 2.

[2] For arguably similar reasons, to the extent the cash payment comes from the Company, it potentially could be considered to reduce the equity value of AlaTrade stock. In reaching our determination that the consideration received is reasonable and that the requested attorneys' fees are well below 25% of the value of the Settlement, we concluded that any potential impact to share value is minor, taking into account the sources of the cash payment, which were disclosed to us on condition of confidentiality.

- **The terms and conditions of the transaction are no less favorable to the Plan than comparable arm's-length terms and conditions that would have been agreed to by unrelated parties under similar circumstances.** As indicated in the finding above, Fiduciary Counselors determined that Class Counsel obtained a favorable agreement from Defendants in light of the challenges in proving the underlying claims. The agreement also was reached after arm's-length negotiations supervised by JAMS mediator Maxine Aaronson.

- **The transaction is not part of an agreement, arrangement or understanding designed to benefit a party in interest.** Fiduciary Counselors found no indication the Settlement is part of any broader agreement between Defendants and the Plan.

- **The transaction is not described in PTE 76-1.** The Settlement did not relate to delinquent employer contributions to multiple employer plans and multiple employer collectively bargained plans, the subject of PTE 76-1.

- **All terms of the Settlement are specifically described in the written settlement agreement and the plan of allocation.**

- **To the extent there is non-cash consideration, it is in the interest of the Plan's participants and beneficiaries, and the Plan is receiving no assets other than cash in the Settlement.** The Settlement includes non-cash consideration in addition to the $875,000 Cash Settlement Amount. The Settlement requires that effective the latter of January 4, 2027, or sixty (60) days after entry of the Final Order, a $3,700,000 reduction in the Refinanced (External) Company Note A, dated as of June 28, 2021, in the original principal amount of $8,000,000; and (ii) a corresponding reduction of the same amount in that certain Refinanced (Internal) ESOP Note, dated as of June 28, 2021, in the original principal amount of $149,655,000. This relief is consistent with the allegations in the Complaint that the ESOP overpaid for the stock, primarily through the issuance of debt. Additionally, obtaining a significant reduction in the amount of ESOP related debt was much more achievable than obtaining additional cash. The total value to participants exceeds what could have been recovered in an all-cash settlement, and including the non-cash consideration is in the interest of Plan's participants and beneficiaries. The non-cash consideration does not include non-cash assets, so the requirements related to non-cash assets do not apply.

- **Acknowledgement of fiduciary status.** Fiduciary Counselors has acknowledged in its engagement that it is a fiduciary with respect to the settlement of the Litigation on behalf of the Plan.

- **Recordkeeping**. Fiduciary Counselors will keep records related to this decision and make them available for inspection by the Plan's participants and beneficiaries as required by PTE 2003-39.

- **Fiduciary Counselors' independence**. Fiduciary Counselors has no relationship to, or interest in, any of the parties involved in the litigation, other than the Plan, that might affect the exercise of our best judgment as a fiduciary.

Based on these determinations about the Settlement, Fiduciary Counselors (i) authorizes the Settlement in accordance with PTE 2003-39; and (ii) gives a release in its capacity as a fiduciary of the Plan, for and on behalf of the Plan. Fiduciary Counselors also has determined not to object to any aspect of the Settlement.

Sincerely,

Stephen Caflisch

Stephen Caflisch
Senior Vice President & General Counsel