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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

Individually and on Behalf of  
All Others Similarly Situated,

Plaintiffs,

vs.

BROADMARK REALTY CAPITAL INC.,  
READY CAPITAL CORPORATION,  
JEFFREY B. PYATT, JONATHAN R.  
HERMES, KEVIN M. LUEBBERS, DANIEL  
J. HIRSCH, PINKIE D. MAYFIELD,  
STEPHEN G. HAGGERTY, DAVID A.  
KARP, NORMA J. LAWRENCE, THOMAS  
E. CAPASSE, ANDREW AHLBORN, JACK  
J. ROSS, FRANK P. FILIPPS, MEREDITH  
MARSHALL, DOMINIQUE MIELLE,  
GILBERT E. NATHAN, ANDREA PETRO,  
J. MITCHELL REESE, TODD M. SINAI, and  
WATERFALL ASSET MANAGEMENT,  
LLC,

Defendants

No.

**CLASS ACTION**

**COMPLAINT FOR VIOLATIONS OF  
THE FEDERAL SECURITIES LAWS**

**DEMAND FOR JURY TRIAL**

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1 Plaintiffs (“plaintiffs”), individually and on behalf of all others similarly  
2 situated, by plaintiffs’ undersigned attorneys, for plaintiffs’ complaint against defendants, allege  
3 the following based upon personal knowledge as to plaintiffs and plaintiffs’ own acts and upon  
4 information and belief as to all other matters based on the investigation conducted by and  
5 through plaintiffs’ attorneys, which included, among other things, a review of U.S. Securities  
6 and Exchange Commission (“SEC”) filings by Broadmark Realty Capital Inc. (“Broadmark”)  
7 and Ready Capital Corporation (“Ready Capital”), Broadmark and Ready Capital press  
8 releases, earning calls, analyst reports, and media reports about Broadmark and Ready  
9 Capital. Plaintiffs believe that substantial additional evidentiary support will exist for the  
10 allegations set forth herein after a reasonable opportunity for discovery.

#### 11 I. NATURE OF THE ACTION

12 1. This is a securities class action on behalf of all holders of Broadmark common  
13 stock as of the record date of the May 2023 merger of Broadmark and Ready Capital (the  
14 “Merger”). This action asserts claims under §14(a) of the Securities Exchange Act of 1934  
15 (“Exchange Act”), 15 U.S.C. §78n(a), SEC Rule 14a-9, 17 C.F.R. §240.14a-9, promulgated  
16 thereunder, and §20(a) of the Exchange Act, 15 U.S.C. §78t(a), against Broadmark and certain of  
17 its former officers and directors and Ready Capital and certain of its current and former executive  
18 officers and directors, as well as Ready Capital’s affiliated investment manager.

#### 19 II. JURISDICTION AND VENUE

20 2. This Court has jurisdiction over the subject matter of this action pursuant to §27  
21 of the Exchange Act, 15 U.S.C. §78aa, for violations of §§14(a) and 20(a) of the Exchange Act,  
22 and SEC Rule 14a-9 promulgated thereunder, and 28 U.S.C. §1331.

23 3. This Court has jurisdiction over each defendant and venue in this case is proper in  
24 this District pursuant to §27 of the Exchange Act and 28 U.S.C. §1391(b) and (c). Acts giving  
25 rise to the violations of law complained of herein, including the dissemination of false and  
26 misleading information to the investing public, occurred in this District. Broadmark was based  
in this District at the time of the Merger, plaintiffs reside in this District (as do many other

1 members of the Class (defined below)), multiple defendants reside in this District, the acts and  
2 transactions that form the subject of this complaint occurred in substantial part in this District,  
3 and Ready Capital maintains substantial business operations in this District, including through its  
4 subsidiary, which now houses Broadmark.

### 5 **III. PARTIES**

6 4. Plaintiff Brian L. Grant (“Grant”) held Broadmark common stock on the record  
7 date of the Merger and was entitled to vote on the Merger, as evidenced by the certification  
8 attached hereto and incorporated herein, and suffered damages. Plaintiff Grant also serves as the  
9 trustee of the Brian L. Grant Living Trust and the managing member of MCN Holdings LLC.

10 5. Plaintiff Brian L. Grant Living Trust held Broadmark common stock on the record  
11 date of the Merger and was entitled to vote on the Merger, as evidenced by the certification  
12 attached hereto and incorporated herein, and suffered damages.

13 6. Plaintiff MCN Holdings LLC held Broadmark common stock on the record date  
14 of the Merger and was entitled to vote on the Merger, as evidenced by the certification attached  
15 hereto and incorporated herein, and suffered damages.

16 7. Defendant Broadmark is real estate investment trust (“REIT”) that was based in  
17 Seattle, Washington at the time of the Merger. Prior to the Merger, Broadmark common stock  
18 was traded on the New York Stock Exchange (“NYSE”) under the ticker symbol “BRMK.” In  
19 connection with the Merger, Broadmark merged with and into RCC Merger Sub, LLC, a wholly  
20 owned subsidiary of Ready Capital.

21 8. Defendant Ready Capital is a REIT that originates, acquires, finances, and services  
22 commercial real estate loans. Ready Capital common stock trades on the NYSE under the ticker  
23 symbol “RC.”

24 9. Defendant Jeffrey B. Pyatt (“Pyatt”) served as Broadmark’s Interim Chief  
25 Executive Officer (“CEO”) and Chairman of the Broadmark Board of Directors (the “Broadmark  
26 Board”) at the time of the Merger.

1           10. Defendant Jonathan R. Hermes (“Hermes”) served as Broadmark’s Chief  
2 Financial Officer (“CFO”) and a director of Broadmark at the time of the Merger.

3           11. Defendant Kevin M. Luebbers (“Luebbers”) served as Interim President and a  
4 director of Broadmark at the time of the Merger and became a director of Ready Capital’s Board  
5 of Directors (the “Ready Capital Board”) in connection with the Merger.

6           12. Defendant Daniel J. Hirsch (“Hirsch”) served as a director of Broadmark at the  
7 time of the Merger and became a director of the Ready Capital Board in connection with the  
8 Merger.

9           13. Defendant Pinkie D. Mayfield (“Mayfield”) served as a director of Broadmark at  
10 the time of the Merger and became a director of the Ready Capital Board in connection with the  
11 Merger.

12           14. Defendant Stephen G. Haggerty (“Haggerty”) served as a director of Broadmark  
13 at the time of the Merger.

14           15. Defendant David A. Karp (“Karp”) served as a director of Broadmark at the time  
15 of the Merger.

16           16. Defendant Norma J. Lawrence (“Lawrence”) served as a director of Broadmark at  
17 the time of the Merger.

18           17. Defendant Thomas E. Capasse (“Capasse”) served as CEO and Chief Investment  
19 Officer of Ready Capital and as Chairman of the Ready Capital Board at the time of the Merger.

20           18. Defendant Andrew Ahlborn (“Ahlborn”) served as CFO of Ready Capital at the  
21 time of the Merger.

22           19. Defendant Jack J. Ross (“Ross”) served as President and a director of the Ready  
23 Capital Board at the time of the Merger.

24           20. Defendant Frank P. Filippis (“Filippis”) served as a director of the Ready Capital  
25 Board at the time of the Merger.

26           21. Defendant Meredith Marshall (“Marshall”) served as a director of the Ready  
Capital Board at the time of the Merger.



1 Proxy on Form 424B3. On May 23, 2023, Broadmark subsequently filed with the SEC  
2 supplements to the Proxy on Form 425.

3 31. The record date for the special meeting of Broadmark shareholders was April 17,  
4 2023. Based on the defective Proxy (as detailed herein), Broadmark shareholders voted to  
5 approve the Merger on May 30, 2023, which closed the next day. As a result of the Merger, each  
6 share of Broadmark common stock outstanding at the effective time of the Merger was converted  
7 into the right to receive 0.47233 shares of Ready Capital common stock.

8 32. The Merger has indisputably harmed former Broadmark shareholders. The Ready  
9 Capital shares that Broadmark shareholders voted to receive in the Merger ultimately plunged  
10 from \$10.11 per share at the end of trading on the closing date of the Merger to lows of less than  
11 \$4 per share. This lawsuit alleges strict-liability and negligence claims for omissions in the Proxy,  
12 which defendants issued to Broadmark shareholders in order to effectuate the Merger between  
13 Broadmark and Ready Capital.

#### 14 **Background to the Merger**

15 33. Broadmark is a REIT based in Seattle, Washington. Broadmark's typical  
16 borrowers include real estate investors, developers, and other commercial borrowers. Broadmark  
17 generally uses loan proceeds to fund the vertical construction, horizontal development,  
18 investment, land acquisition, and refinancing of residential properties and commercial properties.  
19 Broadmark also makes loans to fund the renovation and rehabilitation of residential and  
20 commercial properties. Broadmark loans are generally structured with an initial advance at  
21 closing and additional loan installments disbursed to the borrower upon satisfactory completion  
22 of previously agreed stages of construction.

23 34. Ready Capital is a real estate finance company that originates, acquires, and  
24 services commercial loans. Ready Capital's core strategy is to target small-to-medium balance  
25 commercial ("SBC") loans used in the development of multifamily residential properties, which  
26 Ready Capital claims generally range in amounts of up to \$40 million. Ready Capital offers SBC

1 loans to finance the full life cycle of a property, including initial construction, transitional bridge  
2 financing, and stabilized properties.

3 35. Ready Capital's originated SBC loans are loans it originates on its own and are  
4 generally held for investment through maturity of the loan. In contrast, Ready Capital's acquired  
5 SBC loans are purchased from third parties, and typically include performing and non-performing  
6 loans. As part of its strategy, Ready Capital purchases non-performing loans at a discount to their  
7 unpaid principal balance and seeks to extract value from such loans by engaging in certain  
8 borrower-based strategies.

9 36. As a REIT, Ready Capital is required under applicable provisions of the Internal  
10 Revenue Code to annually distribute at least 90% of its net taxable income through dividends. As  
11 such, the value of Ready Capital's common stock is highly dependent on the amount of Ready  
12 Capital's dividend, as well as the underlying real estate assets that support and fund the income  
13 distributions.

14 37. Ready Capital is externally managed and advised by defendant Waterfall. As  
15 manager, Waterfall establishes and directs Ready Capital's investment strategy and identifies loan  
16 acquisitions and originations on behalf of Ready Capital. Defendant Capasse and defendant Ross  
17 co-founded Waterfall in 2005. Pursuant to a management agreement, Waterfall provides Ready  
18 Capital with its management team, including its CEO, CFO, Chief Operating Officer, Chief  
19 Investment Officer, and Chief Credit Officer. As consideration for its services, Waterfall is paid  
20 a management fee that is calculated and payable quarterly in arrears equal to 1.5% per annum of  
21 Ready Capital's stockholders' equity up to \$500 million and 1.0% per annum above \$500 million.

22 38. Management fees paid to Waterfall materially increased in fiscal years 2022 and  
23 2023. For example, following the completion of the Mosaic Merger (defined below) in fiscal  
24 2022, Waterfall's management fees nearly doubled from just \$11 million in fiscal 2021 to \$19  
25 million in 2022. In fiscal year 2023, following completion of the Merger, Waterfall's  
26 management fees increased to \$25 million. Several of the Individual Defendants (such as  
defendant Capasse, defendant Ahlborn, and defendant Ross) had direct pecuniary interests in

1 Waterfall at the time of the Merger and thus directly benefitted from the increase in management  
2 fees paid by Ready Capital to Waterfall as a result of the Merger. As stated in the Proxy:  
3 “Following the Merger, Ready Capital stockholders’ equity will include the additional equity  
4 attributable to the acquisition of Broadmark and, thus, the amount of the management fees payable  
5 to [Waterfall] will also increase, which gives [Waterfall] (and, therefore, Ready Capital’s  
6 management) an incentive, not shared by Ready Capital stockholders, to negotiate and effect the  
7 Merger, possibly on terms less favorable to Ready Capital than would otherwise have been  
8 achieved.”

9 39. Broadmark officers and directors likewise had interests in consummating the  
10 Merger not shared by other Broadmark shareholders. As stated in the Proxy: “Broadmark  
11 stockholders should be aware that the directors and executive officers of Broadmark have interests  
12 in the Merger that may be different from, or in addition to, the interests of Broadmark stockholders  
13 generally and that may present actual or potential conflicts of interests.” These interests included  
14 millions of dollars’ worth of Broadmark equity awards that became converted to Ready Capital  
15 equity in connection with the Merger, severance benefits, and so-called “golden parachute”  
16 payments to certain Broadmark officers.

17 40. Ready Capital reports its earnings in part through a key financial metric it describes  
18 as “Distributable Earnings.” Ready Capital states that it uses Distributable Earnings to “evaluate  
19 [its] performance and determine dividends.” Ready Capital determines Distributable Earnings by  
20 excluding (among other things) any unrealized provisions for expected losses on its loan portfolio  
21 from Net Income (as defined by Generally Accepted Accounting Principles). Accordingly,  
22 increases to expected credit losses that may result from rising delinquencies and/or defaults  
23 negatively impact reported Distributable Earnings in any given period.

24 41. In fiscal years 2021 and 2022, Ready Capital dramatically increased its origination  
25 of SBC loans. Speaking during a February 2022 earnings call, defendant Capasse reported that  
26 during the fourth quarter of fiscal year 2021, Ready Capital “originated a record \$2.2 billion” of  
SBC loans, which he stated “exceeded total annual production in both 2020 and 2019.” Ready

1 Capital's outsized origination volume continued the subsequent quarter. For example, during  
2 Ready Capital's first quarter earnings call, defendant Capasse stated that Ready Capital's lending  
3 volume within its SBC segment "remained at record levels with over \$2.2 billion originated," the  
4 vast majority of which was comprised of loans collateralized by multifamily residential  
5 properties. By the end of fiscal year 2022, the combined carrying value of loans originated in  
6 2021 and 2022 was approximately \$7 billion, representing more than 70% of Ready Capital's  
7 nearly \$10 billion loan portfolio.

8 42. On November 4, 2021, Ready Capital issued a press release announcing that it had  
9 agreed to acquire Mosaic Real Estate Credit, LLC, Mosaic Real Estate Credit TE, LLC, and  
10 MREC International Incentive Split, LP (collectively, "Mosaic") in a stock-for-stock merger  
11 valued at approximately \$470 million (the "Mosaic Merger"). Ready Capital's acquisition  
12 included in principal part the purchase of Mosaic's existing loan portfolio, which Ready Capital  
13 claimed was comprised of 32 total loans with an aggregate outstanding balance of \$565 million.

14 43. During the corresponding conference call held the following day, Ready Capital's  
15 Chief Credit Officer Adam Zausmer ("CCO Zausmer") stated that Mosaic's loan portfolio had a  
16 "strong" credit profile, "good" geographic diversity, and was concentrated in the "most liquid"  
17 markets in the country, stating in pertinent part as follows:

18 So the overall credit profile of this portfolio is strong. We have a healthy basis in  
19 the loan portfolio. Moderate weighted average as is LTV is based on fresh  
20 valuations that we ordered through our due diligence process. The portfolio has a  
21 good property type and geographic diversity, approximately 95% of assets are in  
22 what we call geo tiers 1 through 3, which are the largest and most liquid assets,  
23 excuse most liquid markets across the country. Approximately 25% of the portfolio  
24 is backed by multifamily properties, which obviously is a lower volatile asset class  
that we're very, excuse me, bullish on. Majority of the construction projects are  
well into construction phase with guaranteed maximum price contracts. This  
mitigates rising construction costs that the market is experiencing due to materials  
and labor shortages and then also supply chain issues.

25 In terms of a breakdown of the portfolio, construction represents about 60%  
26 of the assets. I'd say from a geographic perspective, about 40% of the assets are on  
the West Coast markets that we – like Los Angeles, et cetera. From a credit  
performance perspective, the performance through the pandemic has been positive  
with over 90% of the portfolio fully performing today. 2 assets are in default, and

1 there are 3 REO assets. 2 of the REOs were due to the pandemic, and there was 1  
2 legacy REO. 3 to 4 assets have experienced a lead due to the pandemic, which is  
3 material supply shortage and our cost overruns. But we're comfortable with the  
4 assets due to the projects being backed by reputable, well-capitalized developers  
5 and sponsors who during the pandemic contributed additional equity as needed and  
6 had executed completion interest in carry guarantees at closing of the deals.  
7 There's 6 deals that received extensions since the onset of the pandemic, and want  
8 to highlight that 6 deals have been repaid at par since the beginning of our due  
9 diligence process, which is extremely favorable.

7 44. On March 16, 2022, Ready Capital announced that the Mosaic Merger had been  
8 completed.

9 45. On February 27, 2023, Broadmark and Ready Capital issued a joint press release  
10 announcing a proposed merger. Under the terms of the merger agreement, Ready Capital would  
11 issue more than 60 million shares to Broadmark shareholders, representing an implied  
12 consideration of approximately \$787 million. Upon closing, Broadmark shareholders were  
13 expected to own roughly 36% of the combined company's stock. In addition, Ready Capital  
14 would assume Broadmark's outstanding senior unsecured notes.

15 46. A presentation deck issued in connection with the acquisition announcement  
16 highlighted the purported benefits of the Merger. For example, the presentation deck claimed the  
17 Merger would provide "significant value creation for shareholders via both economic and  
18 operational leverage" due in part to the combined company's purportedly "Larger Equity Base."  
19 The presentation deck further represented that the Merger was "Strategically & Financially  
20 Compelling" and would provide Broadmark shareholders with a "higher and more consistent  
21 dividend," "attractive risk-adjusted yields," and "more attractive [price to tangible book value]  
22 multiples," among other things. In addition, the presentation deck claimed that the Merger was  
23 "Highly Synergistic" and would "enhance growth and returns across macro and rate cycles," due  
24 in part to the "[c]ombined focus" on construction and bridge loans "in top markets to strong  
25 sponsors."

26

1                   **V.       MATERIALLY FALSE AND MISLEADING STATEMENTS**  
2   **AND OMISSIONS IN THE PROXY**

3           47.     The Proxy was negligently prepared and, as a result, contained untrue statements  
4 of material fact and omitted to state other facts necessary to make the statements made therein not  
5 misleading, and was not prepared in accordance with the rules and regulations governing its  
6 preparation. The Proxy recommended that Broadmark shareholders vote in favor of the Merger.

7           48.     The Proxy highlighted the purported benefits to Broadmark shareholders resulting  
8 from the Merger, including that the combined company would have “[a]ligned [s]trategies” that  
9 focused on construction and bridge loans in “attractive markets to strong sponsors.” The Proxy  
10 also emphasized the “value creation” for Broadmark shareholders, stating that stockholders would  
11 be able to “participate in the long-term upside of the Combined Company.” In addition, the Proxy  
12 highlighted the “Potential for Increased Multiples and Dividend” as a result of the Merger and  
13 represented that the purported “economic and operational leverage” of the combined company  
14 created an “opportunity” for a “higher and more consistent dividend” and an “improved price to  
15 tangible book value and earnings multiples.”

16           49.     The Proxy set forth financial projections relating to Ready Capital’s profits,  
17 dividend, and assets, stating in pertinent part as follows:

|   | <u>2023E</u> | <u>2024E</u> | <u>2025E</u> | <u>2026E</u> |
|---|--------------|--------------|--------------|--------------|
| Distributable Earnings Per Share <sup>(1)</sup> | \$ 1.60      | \$ 1.60      | \$ 1.60      | \$ 1.60      |
| Dividends Per Share                             | \$ 1.60      | \$ 1.60      | \$ 1.60      | \$ 1.60      |
| Book Value Per Share                            | \$15.15      | \$15.10      | \$15.05      | \$14.99      |

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21 (Footnote omitted.)

22           50.     In addition, the Proxy highlighted Ready Capital’s purported “experience” in  
23 “underwriting and managing” commercial real estate loans and claimed Ready Capital was able  
24 to deploy funds to assets “with the most attractive risk-adjusted returns,” stating in pertinent part  
25 as follows:

26                   Ready Capital’s investment strategy is to opportunistically expand its  
                      market presence in its acquisition and origination segments and further grow its

1 SBC securitization capabilities which serve as a source of attractively priced,  
2 match-term financing. Capitalizing on its experience in underwriting and  
3 managing commercial real estate loans, Ready Capital has grown its SBC and SBA  
4 origination and acquisition capabilities and selectively complimented its SBC  
5 strategy with residential agency mortgage originations. As such, Ready Capital has  
6 become a full-service real estate finance platform and Ready Capital believes that  
7 the breadth of its business allows for adaptation to changing market conditions and  
8 the deployment of capital in asset classes with the most attractive risk-adjusted  
9 returns.

10 51. In addition, the Proxy represented that Ready Capital was a multi-strategy real  
11 estate finance company with a focus on SBC loans that ranged in original principal amounts of  
12 “up to \$40 million,” stating in pertinent part as follows:

13 We are a multi-strategy real estate finance company that originates,  
14 acquires, finances, and services SBC loans, SBA loans, residential mortgage loans,  
15 construction loans, and to a lesser extent, MBS collateralized primarily by SBC  
16 loans, or other real estate-related investments. Our loans range in original principal  
17 amounts generally up to \$40 million and are used by businesses to purchase real  
18 estate used in their operations or by investors seeking to acquire multi-family,  
19 office, retail, mixed use or warehouse properties. Our objective is to provide  
20 attractive risk-adjusted returns to our stockholders, primarily through dividends as  
21 well as through capital appreciation. In order to achieve this objective, we continue  
22 to grow our investment portfolio and believe that the breadth of our full-service real  
23 estate finance platform will allow us to adapt to market conditions and deploy  
24 capital to asset classes and segments with the most attractive risk-adjusted returns.

25 52. The Proxy further represented that Ready Capital maintained an “allowance for  
26 credit losses,” to account for “losses on loans and lending commitments.” The Proxy represented  
that such loans and lending commitments were “reviewed quarterly” and evaluated based on  
“credit quality indicators, including probable and historical losses, collateral values, LTV ratio  
and economic conditions.” In addition, the Proxy claimed that Ready Capital’s allowance for  
credit losses was based in part on an “expected loss model known as the Current Expected Credit  
Loss (‘CECL’) model,” which estimated expected losses, “not only based on historical experience  
and current conditions, but also by including reasonable and supportable forecasts incorporating  
forward-looking information.”

1           53.     The Proxy claimed that Ready Capital estimated CECL for its loan portfolio “at  
2 the individual loan level,” based on various “key loan-specific inputs,” among other things, stating  
3 in pertinent part as follows:

4           We implemented loan loss forecasting models for estimating expected life-time  
5 credit losses, at the individual loan level, for its loan portfolio. The CECL  
6 forecasting methods used by the Company include (i) a probability of default and  
7 loss given default method using underlying third-party CMBS/CRE loan database  
8 with historical loan losses and (ii) probability weighted expected cash flow method,  
9 depending on the type of loan and the availability of relevant historical market loan  
10 loss data. We might use other acceptable alternative approaches in the future  
11 depending on, among other factors, the type of loan, underlying collateral, and  
12 availability of relevant historical market loan loss data.

13           We estimate the CECL expected credit losses for our loan portfolio at the  
14 individual loan level. Significant inputs to our forecasting methods include (i) key  
15 loan-specific inputs such as LTV, vintage year, loan-term, underlying property  
16 type, occupancy, geographic location, and others, and (ii) a macro-economic  
17 forecast. These estimates may change in future periods based on available future  
18 macro-economic data and might result in a material change in our future estimates  
19 of expected credit losses for its loan portfolio.

20           54.     In addition, the Proxy stated that, in certain instances, Ready Capital used “relevant  
21 loan-specific qualitative factors” to estimate CECL, stating in pertinent part as follows:

22           In certain instances, we consider relevant loan-specific qualitative factors  
23 to certain loans to estimate its CECL expected credit losses. We consider loan  
24 investments that are both (i) expected to be substantially repaid through the  
25 operation or sale of the underlying collateral, and (ii) for which the borrower is  
26 experiencing financial difficulty, to be “collateral-dependent” loans. For such loans  
that we determine that foreclosure of the collateral is probable, we measure the  
expected losses based on the difference between the fair value of the collateral (less  
costs to sell the asset if repayment is expected through the sale of the collateral) and  
the amortized cost basis of the loan as of the measurement date. For collateral-  
dependent loans that we determine foreclosure is not probable, we apply a practical  
expedient to estimate expected losses using the difference between the collateral’s  
fair value (less costs to sell the asset if repayment is expected through the sale of  
the collateral) and the amortized cost basis of the loan.

27           55.     The Proxy described Ready Capital’s acquisition of Mosaic as the acquisition of  
28 “real estate structured finance opportunities funds, with a focus on construction lending.” The  
29 Proxy claimed that the acquisition “further expanded the Company’s investment portfolio and

1 origination platform to include a diverse portfolio of construction assets with attractive portfolio  
2 yields.”

3 56. The Proxy similarly represented that “acquired SBC loans,” which included all  
4 loans acquired in the Mosaic acquisition, had an “[unpaid principal balance] of \$2.0 billion and a  
5 carrying value of \$2.0 billion as of December 31, 2022.” With respect to Ready Capital  
6 “[o]riginated SBC loans,” the Proxy represented that Ready Capital’s portfolio had an “[unpaid  
7 principal balance] of \$7.6 billion and carrying value of \$7.5 billion as of December 31, 2022.”  
8 The Proxy further represented that all such loans were “substantially” performing loans.

9 57. The statements in ¶¶48–56 were materially false and misleading when made  
10 because they failed to disclose and/or misrepresented the following adverse facts that existed at  
11 the time:

12 a) that a material portion of borrowers within Ready Capital’s originated  
13 portfolio were experiencing significant financial distress due to high interest rates that had  
14 increased their borrowing costs;

15 b) that an oversupply of multifamily properties in Ready Capital’s markets of  
16 operation had severely limited the ability of Ready Capital borrowers to raise their rents by  
17 the amounts necessary to cover their growing debt costs;

18 c) that a major development project acquired in the Mosaic Merger (a Ritz-  
19 Carlton located in Portland, Oregon), which accounted for approximately \$500 million of  
20 Ready Capital’s acquired loan portfolio, had experienced catastrophic setbacks since its  
21 inception, including significant cost overruns, construction delays, and funding shortfalls;

22 d) that, as a result of (a)–(c) above, Ready Capital’s CECL reserves and  
23 expected credit losses were materially understated; and

24 e) that, as a result of (a)–(d) above, Ready Capital’s financial projections  
25 regarding Ready Capital’s Distributable Earnings per share, dividends per share, and book  
26 value per share had no basis in fact when made.

1           58.     Furthermore, Item 303 of SEC Regulation S-K, 17 C.F.R. §229.303(b)(2)(ii)  
2 (“Item 303”), required defendants to “[d]escribe any known trends or uncertainties that have had  
3 or that are reasonably likely to have a material favorable or unfavorable impact on net sales or  
4 revenues or income from continuing operations.” Similarly, Item 105 of SEC Regulation S-K, 17  
5 C.F.R. §229.105 (“Item 105”), required, in the “Risk Factors,” “a discussion of the material  
6 factors that make an investment in the registrant or offering speculative or risky” and required  
7 each risk factor to “adequately describe[] the risk.”

8           59.     The failure of the Proxy to disclose that a material portion of borrowers within  
9 Ready Capital’s originated portfolio were experiencing significant financial distress, and that a  
10 significant development project acquired in the Mosaic Merger had suffered catastrophic  
11 setbacks, violated Item 303, because these undisclosed facts were known to defendants and would  
12 (and did) have an unfavorable impact on Ready Capital’s CECL reserves, distributable earnings,  
13 and net book value. This failure also violated Item 105, because these adverse facts created  
14 significant risks that were not disclosed even though they were some of the most significant facts  
15 that made an investment in Ready Capital stock speculative or risky.

16           60.     Indeed, the risk factors that were provided in the Proxy were themselves materially  
17 misleading because they provided generic statements of potential or contingent risk, yet failed to  
18 disclose that the potential future adverse impacts described therein were already occurring. For  
19 example, the Proxy stated that “[d]ifficult conditions in the mortgage, residential and commercial  
20 real estate markets, or in the financial markets and the economy generally, including market  
21 volatility, inflation, the outbreak of COVID-19 and the emergence and severity of variants, *may*  
22 cause us to experience market losses related to our holdings,” yet failed to disclose that a material  
23 number of Ready Capital’s borrowers were already experiencing significant financial distress and  
24 already impacting its CECL reserves and expected credit losses at the time of the Merger.

25  
26

1                   **VI.   EVENTS FOLLOWING THE ISSUANCE OF THE PROXY**

2           61.    On May 30, 2023, Ready Capital and Broadmark shareholders approved the  
3 proposal relating to the Merger based on the defective Proxy. The false and misleading Proxy  
4 induced stockholder action that resulted in substantial harm to plaintiffs and Broadmark’s other  
5 shareholders. Specifically, the material misrepresentations and omissions in the Proxy were an  
6 essential link in the approval of the Merger, and the Broadmark common stock held by plaintiffs  
7 and other Class members declined substantially in value subsequent and due to the approval of  
8 the Merger, causing economic loss and damages.

9           62.    On May 31, 2023, Ready Capital announced the close of the Merger. As a result  
10 of the Merger, Ready Capital issued more than 60 million shares to Broadmark shareholders. The  
11 stock issued in the Merger closed at \$10.11 per share on its first day of trading (*i.e.*, May 31,  
12 2023). Following the close of the Merger, Ready Capital’s legacy SBC loan portfolio began  
13 showing significant signs of weakness and deterioration. For example, Ready Capital engaged in  
14 hundreds of millions of dollars’ worth of loan modifications that represented a significant  
15 departure from Ready Capital’s historical norms.

16           63.    On August 7, 2024, Ready Capital announced earnings for its second fiscal quarter  
17 of 2024. During the earnings call held on August 8, 2024, defendant Capasse reported that 60-  
18 day plus delinquencies within Ready Capital’s originated portfolio had improved sequentially to  
19 5.2% from 7.9% in the prior quarter, which he attributed in part to Ready Capital’s loan  
20 modification initiatives. Defendant Ahlborn similarly stated that a “majority” of Ready Capital’s  
21 improved delinquency rates were “driven by modifications and natural improvement in credit.”  
22 Defendant Capasse further reported that Ready Capital had extended loan modifications to 25  
23 loans within its originated portfolio totaling \$800 million, 82% of which were completed in the  
24 second quarter alone.

25           64.    Certain reported quarterly metrics revealed previously undisclosed distress in  
26 Ready Capital’s originated portfolio. For example, in its quarterly report filed with the SEC on  
Form 10-Q the following day, Ready Capital reported that in the six months ending June 30, 2024,

1 approximately \$28.5 million of Ready Capital’s interest income had been “paid-in-kind” (aka  
2 “PIK”), meaning that instead of collecting cash interest payments from certain borrowers, Ready  
3 Capital had increased the borrowers’ debt by the amount of interest due and then recognized that  
4 amount as income. An increase in PIK loans in a portfolio indicates heightened stress and  
5 degraded loan quality. The quarterly report further reported that Ready Capital’s quarterly  
6 Distributable Earnings had declined roughly 67% year-over-year from \$51 million in the quarter  
7 immediately following the Merger to \$16.6 million.

8 65. On September 12, 2024, *Barron’s* published an article regarding Ready Capital’s  
9 second quarter earnings. Citing analyst discussions with Ready Capital, the article reported that  
10 PIK interest in the second quarter was \$14.7 million, revealing that nearly all of Ready Capital’s  
11 \$16.6 million in reported Distributable Earnings were comprised of non-cash income that had  
12 accrued from distressed borrowers.

13 66. On November 7, 2024, Ready Capital announced its financial results for its third  
14 fiscal quarter of 2024. During the corresponding conference call held on November 8, 2024, an  
15 analyst inquired regarding Ready Capital’s third quarter PIK interest. In response, defendant  
16 Ahlborn stated that “a little over 20%” of Ready Capital’s reported \$226 million in interest income  
17 was PIK or accrued, implying that approximately \$45 million of Ready Capital’s revenues were  
18 comprised of non-cash accruals. Defendant Ahlborn further stated that roughly half of Ready  
19 Capital’s PIK interest stemmed from construction assets acquired in the Mosaic Merger and that  
20 the remaining half stemmed from modified loans Ready Capital had previously provided. In  
21 addition, defendant Ahlborn stated that roughly 74% of the Mosaic assets that were generating  
22 PIK interests were “expected to be repaid at the end of year.”

23 67. Then, on March 3, 2025, Ready Capital issued a release announcing Ready  
24 Capital’s financial results for its fourth fiscal quarter and year ending December 31, 2024. The  
25 earnings release stated that Ready Capital had increased its CECL reserve during the quarter by  
26 \$277 million, which reduced book value per share of common stock to \$10.61 as of December  
31, 2024, and caused Ready Capital to widely miss the projected book value of \$15.10 per share

1 stated in the Proxy. The earnings release further stated Ready Capital was reducing its quarterly  
2 cash dividend to \$0.125 per share of common stock – translating to \$0.50 per share of common  
3 stock on an annualized basis – in order to “align with anticipated cash earnings.” The declared  
4 dividend significantly missed the projected \$1.60 dividend per share for fiscal 2025 set forth in  
5 the Proxy. The earnings release also reported that Ready Capital had generated Distributable  
6 Earnings per share of common stock of just \$.07 in fiscal 2024 (or just \$0.97 of distributable  
7 earnings before realized losses on investments, net of tax), a tiny fraction of the \$1.60 in annual  
8 Distributable Earnings per share set forth in the Proxy.

9 68. The press release quoted defendant Capasse who stated that Ready Capital’s  
10 multifamily-related business had been negatively impacted during the year by “higher rates,  
11 inflationary pressures, and lower rent growth.” Defendant Capasse further stated that Ready  
12 Capital was “fully reserving for all our non-performing loans in our CRE portfolio,” which in  
13 effect, reduced Ready Capital’s book value, stating in pertinent part as follows:

14 “Entering 2025, we have taken decisive actions to stabilize and better position our  
15 balance sheet going forward by fully reserving for all of our non-performing loans  
16 in our CRE portfolio. While this reduces our book value per share in the short term,  
17 we believe it provides a path to recovery in our net interest margin through the  
18 accelerated resolution of our non-performing loans to generate liquidity for  
19 reinvestment in higher-yielding new originations. Additionally, we have adjusted  
20 our dividend to \$0.125 per share to align with anticipated cash earnings to preserve  
21 capital for reinvestment and share repurchases with potential upward bias co-  
22 incident with the recovery in earnings.”

23 69. During the corresponding conference call held that same day, defendant Capasse  
24 stated that Ready Capital’s reserve action taken in the quarter lowered Ready Capital’s basis in  
25 non-performing loans and would provide its “asset managers with more options for accelerated  
26 resolutions” of its non-performing assets. Defendant Capasse further announced that, consistent  
with Ready Capital’s asset resolution efforts, Ready Capital was bifurcating its commercial real  
estate portfolio into two categories: (i) core; and (ii) non-core. Defendant Capasse explained that  
assets designated as “core” were loans Ready Capital intended to “hold to maturity,” while “non-  
core” assets were comprised in large part of assets “tagged with aggressive liquidation strategies.”

1 Notably, defendant Capasse stated that Ready Capital’s non-core portfolio contained \$1.2 billion  
2 in loans and was comprised almost entirely of Ready Capital’s originated loans and a single  
3 mixed-use asset acquired in the Mosaic Merger.

4 70. Regarding the originated portion of Ready Capital’s non-core portfolio, CCO  
5 Zausmer stated that the loans were comprised of modified loans that had “lower yields,” a “less  
6 viable path to stabilization,” and a “higher probability of foreclosure” absent liquidation, stating  
7 in pertinent part as follows:

8 On the non-core, this is really the bucket of more challenging loans that  
9 we’ve deemed this represents 17% of the portfolio. These are where we’re going  
10 to have short term holdings and the primary asset management strategy is, as Tom  
11 mentioned, really an expeditious liquidation. These assets have lower yields, less  
12 viable path to stabilization and takeout, the multi-family specifically agency  
takeout, little or no fresh equity from the borrowers inside of those modifications.  
And we feel that ultimately, if we don’t liquidate specifically on the loan side,  
there’ll be a higher probability of foreclosure.

13 71. Adding to these remarks, defendant Capasse stated that Ready Capital had been  
14 trying to “stay alive to ‘25” until interests rates eased, which ultimately caused loans that were  
15 previously modified to be “split into two buckets,” stating in pertinent part as follows:

16 Yeah, and I want to just add to that, Doug, the – yeah, I think this is systemic  
17 to the industry, especially on the multi-family side where you look to bridge to –  
18 I’m sorry – to loans that have been made it through the rate hike period and 2025.

19 There’s an old saying a year ago, you stay alive to ‘25. Well, rates didn’t  
20 go down. So what you’re now seeing is loans that were previously modified split  
into two buckets.

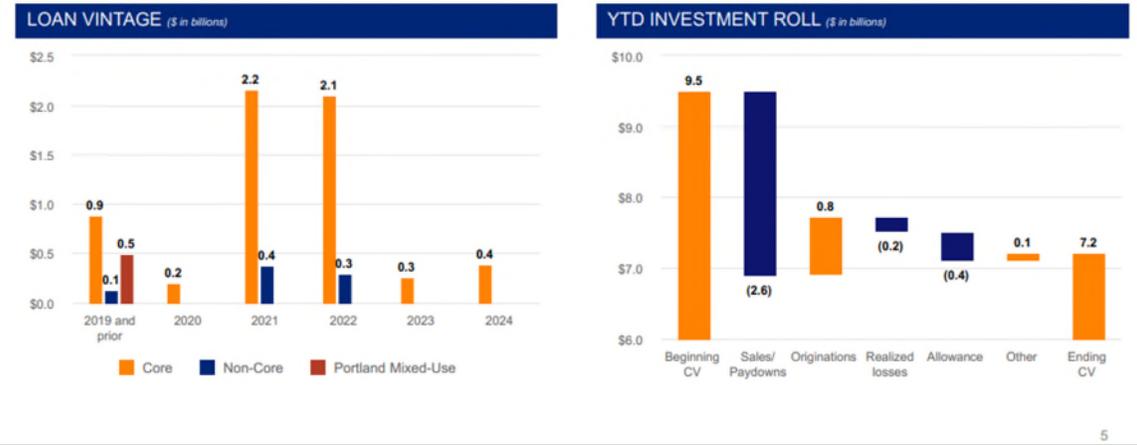
21 72. A presentation deck issued in connection with Ready Capital’s earnings  
22 announcement further revealed that the originated segment of Ready Capital’s non-core portfolio  
23 was *entirely* comprised of loans originated in fiscal years 2022 and prior (*i.e.*, before the Merger),  
24 as depicted in the following slide:  
25  
26

# CRE Portfolio Review



**Core: Long-term holdings expected to generate a competitive return with minimal future credit losses**  
**Non-Core: Short-term holdings where the primary strategy is expeditious liquidation**

|                    | COUNT <sup>10</sup> | UPB   | ALLOWANCE | CARRY VALUE | 60+ DQ STATUS <sup>5</sup> | WA RISK RATING | WAC   | CASH YIELD |
|--------------------|---------------------|-------|-----------|-------------|----------------------------|----------------|-------|------------|
| CORE               | 1,447               | 6.07B | 80M       | 5.99B       | 2.0%                       | 2.15           | 8.0%  | 7.6%       |
| NON-CORE           | 73                  | 1.04B | 218M      | 0.82B       | 36.2%                      | 3.40           | 9.1%  | 3.1%       |
| PORTLAND MIXED-USE | 2                   | 0.56B | 130M      | 0.43B       | —%                         | 4.00           | 13.4% | —%         |
| TOTAL              | 1,522               | 7.67B | 428M      | 7.24B       | 5.8%                       | 2.40           | 8.6%  | 6.6%       |



73. Regarding the Mosaic portion of Ready Capital’s non-core portfolio, defendant Capasse stated that the mixed-use asset was a Ritz-Carlton located in Portland, Oregon with hospitality, office, and residential components, consisting of a \$504 million senior loan and a \$62 million equity position. Defendant Capasse further revealed that although Ready Capital’s “original strategy was to refinance the construction into a bridge loan, the current appraisal and other factors favored ownership and serial asset disposition on the components.” As a result of the property’s appraisal value, defendant Capasse stated Ready Capital had “reserved \$130 million of [its] original exposure to mark the asset to its as is value.”

74. On March 19, 2025, Broadway EB-5 Fund, LLC, a mezzanine lender in the Ritz-Carlton development project at issue, filed a lawsuit in New York state court against BRMK Lending SPE JP, LLC and Sutherland Asset I, LLC, each indirect subsidiaries or affiliates of

1 Ready Capital, and various other entities. The lawsuit, among other things, sought to permanently  
2 enjoin the transfer of the property from the development entities to Ready Capital.

3 75. According to Ready Capital’s filings submitted in that action, the Ritz-Carlton  
4 project faced drastic challenges from the outset of its construction in late 2019, which had  
5 negatively impacted its value. For example, a sworn affirmation of Alex Ovalle, a Managing  
6 Director and Head of Construction Lending and Syndications at Ready Capital, stated that the  
7 project “*faced catastrophic setbacks from the beginning,*” which “*impeded the Project’s*  
8 *development,*” and had caused the project to “*cost far more to construct than originally*  
9 *contemplated,*” stating in pertinent part as follows:

10 **The Project Encounters Catastrophic Setbacks From the Beginning**

11 . . . Construction on the Project began in late 2019 and Senior Lender began  
12 advancing funds to the Senior Borrowers consistent with the terms of the CLA.

13 . . . Shortly thereafter, the Project encountered numerous and substantial  
14 delays. Mr. Sher refers to these, in passing, as “certain delays and cost overruns.”  
15 Sher Aff. ¶28. In fact, the Project faced catastrophic setbacks from the beginning.  
16 As construction on the Project was commencing, the COVID-19 pandemic erupted  
17 and halted progress on the construction. Certain COVID-19 restrictions remained  
18 in place for the next several years, which exacerbated construction delays and the  
19 Project’s financial difficulties. Moreover, during this same time, downtown  
20 Portland, where the Project is located, was beset by significant civil unrest.  
21 Protests, demonstrations, looting, and vandalism plagued downtown, and further  
impeded the Project’s development. In addition, a water leak caused substantial  
damage. As a result, the Project cost far more to construct than originally  
contemplated and the value, upon completion of construction, was far less than  
projected. In consequence, deadlines and obligations relating to both the Senior  
Loan and Mezzanine Loan were amended and extended to provide additional time  
to finance and complete the Project.

22 . . . These unprecedented events forced the parties to reevaluate both their  
23 original funding plan and the expected timeframes to complete the Project.

24 76. The affirmation further stated that “[b]y March 2023” – approximately two months  
25 before the Merger – the project had “insufficient funds to allocated to [its] construction budget”  
26 due to increased construction costs and the developer’s failure to make the equity contributions  
necessary to cover the funding shortfall.



1 f) whether defendants violated §14(a) of the Exchange Act by misrepresenting  
2 or omitting material information in the Proxy;

3 g) whether Waterfall and the Individual Defendants are liable as “controlling  
4 persons” under §20(a) of the Exchange Act; and

5 h) whether plaintiffs and the other members of the Class were injured as a  
6 result of defendants’ misconduct.

7 83. A class action is superior to all other available methods for the fair and efficient  
8 adjudication of this controversy since joinder of all members is impracticable. Furthermore, as  
9 the damages suffered by individual Class members may be relatively small, the expense and  
10 burden of individual litigation make it impossible for members of the Class to individually redress  
11 the wrongs done to them. There will be no difficulty in the management of this action as a class  
12 action.

13 **COUNT ONE — FOR VIOLATIONS OF §14(A) OF THE EXCHANGE ACT**  
14 **AND RULE 14A-9 PROMULGATED THEREUNDER**  
15 **(Against All Defendants)**

16 84. Plaintiffs incorporate by reference and reallege each and every allegation  
17 contained above as though fully set forth herein.

18 85. This Count does not sound in fraud. Plaintiffs do not allege that defendants had  
19 scienter or fraudulent intent as they are not elements of a §14(a) claim.

20 86. SEC Rule 14a-9, 17 C.F.R. § 240.14a-9, promulgated pursuant to §14(a) of the  
21 Exchange Act, provides:

22 No solicitation subject to this regulation shall be made by means of any proxy  
23 statement, form of proxy, notice of meeting or other communication, written or  
24 oral, containing any statement which, at the time and in the light of the  
25 circumstances under which it is made, is false or misleading with respect to any  
26 material fact, or which omits to state any material fact necessary in order to make  
the statements therein not false or misleading or necessary to correct any statement  
in any earlier communication with respect to the solicitation of a proxy for the same  
meeting or subject matter which has become false or misleading.

1           87. Defendants prepared and disseminated the false and misleading Proxy specified  
2 above, which failed to disclose material facts necessary in order to make the statements made, in  
3 light of the circumstances under which they were made, not misleading in violation of §14(a) of  
4 the Exchange Act and Rule 14a-9 promulgated thereunder.

5           88. By virtue of their positions within Broadmark and Ready Capital and their due  
6 diligence regarding the Merger, defendants were aware of this information and of their duty to  
7 disclose this information in the Proxy. The Proxy was jointly prepared, reviewed, and/or  
8 disseminated by Broadmark, Ready Capital, their respective officers and directors, and Waterfall.  
9 The Proxy misrepresented and/or omitted material facts, as detailed above. Defendants were at  
10 least negligent in filing the Proxy with these materially false and misleading statements.

11           89. As stated herein, the Proxy contained untrue statements of material fact and  
12 omitted to state material facts necessary to make the statements made not misleading in violation  
13 of §14(a) of the Exchange Act and SEC Rule 14a-9 promulgated thereunder. The Proxy was an  
14 essential link in the consummation of the Merger. Defendants also failed to correct the Proxy  
15 prior to the Merger, and the failure to update and correct false statements is also a violation of  
16 §14(a) of the Exchange Act and SEC Rule 14a-9 promulgated thereunder.

17           90. As a direct result of defendants' negligent preparation, review, and dissemination  
18 of the false and/or misleading Proxy, plaintiffs and the Class were precluded from exercising their  
19 right to vote on the Merger on a fully informed basis and were induced to vote their shares and  
20 accept inadequate consideration in connection with the Merger. The false and misleading Proxy  
21 used to obtain shareholder approval of the Merger deprived plaintiffs and the Class of the full and  
22 fair value for their Broadmark shares. At all times relevant to the dissemination of the materially  
23 false and/or misleading Proxy, defendants were aware of and/or had access to the true facts  
24 concerning the true value of Ready Capital, which was far below the assets that shareholders  
25 received. Thus, as a direct and proximate result of the dissemination of the false and misleading  
26 Proxy defendants used to obtain shareholder approval of and thereby consummate the Merger,

1 plaintiffs and the Class have suffered damages and actual economic losses in an amount to be  
2 determined at trial.

3 91. The omissions and false and misleading statements in the Proxy were material in  
4 that a reasonable stockholder would have considered them important in deciding how to vote on  
5 the Merger. In addition, a reasonable investor would view a full and accurate disclosure as  
6 significantly altering the “total mix” of information made available in the Proxy and in other  
7 information reasonably available to stockholders.

8 92. By reason of the foregoing, defendants have violated §14(a) of the Exchange Act  
9 and Rule 14a-9(a) promulgated thereunder.

10 **COUNT TWO — FOR VIOLATION OF §20(A) OF THE EXCHANGE ACT**  
11 **(Against Defendant Waterfall and the Individual Defendants)**

12 93. Plaintiffs incorporate by reference and reallege each and every allegation  
13 contained above, as though fully set forth herein.

14 94. Section 20(a) of the Exchange Act imposes liability on “[e]very person who,  
15 directly or indirectly, controls any person liable under any provision of” the Exchange Act or any  
16 of the rules promulgated thereunder. Such “controlling persons” are “liable jointly and severally  
17 with and to the same extent as such controlled person to any person to whom such controlled  
18 person is liable . . . , unless the controlling person acted in good faith and did not directly or  
19 indirectly induce the act or acts constituting the violation or cause of action.”

20 95. By reason of the allegations herein, defendant Waterfall and the Individual  
21 Defendants violated §14(a) of the Exchange Act by preparing, issuing, and publishing the Proxy,  
22 which contained untrue statements of material fact concerning the Merger and omitted to state  
23 material facts concerning the Merger necessary in order to make the statements made in the Proxy  
24 not misleading.

25 96. Defendant Waterfall and the Individual Defendants were controlling persons of  
26 Broadmark and/or Ready Capital within the meaning of §20(a) of the Exchange Act.

1           97.     The Individual Defendants, by virtue of their high-level positions as officers and/or  
2 directors of Broadmark and/or Ready Capital, participated in the operation and management of  
3 Broadmark and Ready Capital, and conducted and participated, directly and indirectly, in the  
4 conduct of their business affairs, and therefore exercised general control over the operations of  
5 Broadmark and Ready Capital. The Individual Defendants had the power to influence and control  
6 and did influence and control, directly or indirectly, the decision-making of Broadmark and Ready  
7 Capital, including the identification of target companies to be acquired by Ready Capital, the  
8 evaluation of the assets to be received by Broadmark shareholders in the Merger, and the content  
9 and dissemination of the Proxy, which plaintiffs contend was false and misleading.

10           98.     Likewise, defendant Waterfall, as the external manager of Ready Capital and the  
11 employer of Ready Capital's executive management, and due to its influence and control over the  
12 Ready Capital Board and historical relationships with Ready Capital's management, exercised  
13 general control over the operations of Ready Capital and its business affairs. Defendant Waterfall,  
14 either directly or indirectly through its affiliates, influenced and controlled the drafting of the  
15 Proxy, which plaintiffs contend was false and misleading.

16           99.     Defendant Waterfall and the Individual Defendants were each involved in  
17 negotiating, reviewing, and approving the Merger. The Proxy purports to describe the various  
18 issues and information that defendant Waterfall and the Individual Defendants reviewed and  
19 considered concerning the Merger. Defendant Waterfall and the Individual Defendants, by virtue  
20 of their positions as managers, owners, officers, and/or directors of Ready Capital and/or  
21 Broadmark, had the ability to control the issuance, publication, and contents of the Proxy, prevent  
22 the dissemination of the materially misleading Proxy, or to cause the Proxy to be corrected so that  
23 it was not in violation of §14(a) of the Exchange Act.

24           100.    By virtue of the foregoing, defendant Waterfall and the Individual Defendants  
25 violated §20(a) of the Exchange Act, and plaintiffs are entitled to relief.

1 **VIII. PRAYER FOR RELIEF**

2 WHEREFORE, plaintiffs pray for relief and judgment, as follows:

3 A. Determining that this action is a proper class action, designating plaintiffs as Lead  
4 Plaintiffs and certifying plaintiffs as class representatives under Rule 23 of the Federal Rules of  
5 Civil Procedure and plaintiffs' counsel as Lead Counsel;

6 B. Declaring that the Proxy distributed by defendants to shareholders was materially  
7 false and misleading, in violation of Rule 14a-9 and §14(a) of the Exchange Act;

8 C. Awarding plaintiffs and the members of the Class compensatory and/or rescissory  
9 damages against defendants;

10 D. Awarding plaintiffs and the members of the Class pre-judgment and post-judgment  
11 interest, as well as reasonable attorneys' fees, expert witness fees, and other costs; and

12 E. Awarding such other relief as this Court may deem just and **proper**.

13 **IX. JURY DEMAND**

14 Plaintiffs hereby demand a trial by jury.

15  
16 Dated: May 28, 2025.  
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