

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

Schedule TO
Tender Offer Statement under Section 14(d)(1) or 13(e)(1)
of the Securities Exchange Act of 1934
(Amendment No. 1)

CERNER CORPORATION
(Name of Subject Company (Issuer))

CEDAR ACQUISITION CORPORATION
(Offeror)
a subsidiary of

OC ACQUISITION LLC
(Parent of Offeror)
a subsidiary of

ORACLE CORPORATION
(Parent of Offeror)
(Names of Filing Persons)

Common Stock, Par Value \$0.01 per share
(Title of Class of Securities)

156782104
(CUSIP Number of Class of Securities)

Brian S. Higgins
Senior Vice President, Associate General Counsel and Secretary

Oracle Corporation
2300 Oracle Way
Austin, Texas 78741

Telephone: (737) 867-1000

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications on Behalf of Filing Persons)

With copies to:

Keith A. Flaum

Christopher R. Moore

Tiffany P. Posil

Hogan Lovells US LLP

4085 Campbell Avenue, Suite 100

Menlo Park, California 94025

Telephone: (650) 463-4000

CALCULATION OF FILING FEE

Transaction Valuation*	Amount of Filing Fee*
\$28,477,199,240.00	\$2,639,836.37

* Estimated solely for purposes of calculating the filing fee. This calculation is based on the offer to purchase all of the issued and outstanding shares of common stock, par value \$0.01 per share, of Cerner Corporation ("Cerner"), at a purchase price of \$95.00 per share, net to the seller in cash, without interest thereon and subject to any required tax withholding. Such shares consist of: (i) 292,952,521 shares of common stock of Cerner that were issued and outstanding as of January 11, 2022; (ii) 3,262,118 shares of common stock of Cerner potentially issuable upon exercise of outstanding exercisable in-the-money stock options as of January 11, 2022; (iii) 2,995,301 shares of common stock of Cerner issuable upon the settlement of outstanding restricted stock units as of January 11, 2022; and (iv) 550,052 shares of common stock of Cerner issuable upon the settlement of outstanding performance share units as of January 11, 2022. The foregoing figures have been provided by the issuer to the offeror and are as of January 11, 2022, the most recent practicable date.

** The filing fee was calculated in accordance with Rule 0-11 under the Securities Exchange Act of 1934, as amended, and Fee Rate Advisory No. 1 for Fiscal Year 2022, issued August 23, 2021, by multiplying the transaction value by 0.0000927.

Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

Amount Previously Paid: \$2,639,836.37

Filing Party: Cedar Acquisition Corporation, OC Acquisition
LLC and Oracle Corporation

Form of Registration No.: Schedule TO

Date Filed: January 19, 2022

Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- Third-party tender offer subject to Rule 14d-1.
- Issuer tender offer subject to Rule 13e-4.
- Going-private transaction subject to Rule 13e-3.
- Amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer:

If applicable, check the appropriate box(es) below to designate the appropriate rule provision(s) relied upon:

- Rule 13e-4(i) (Cross-Border Issuer Tender Offer)
 - Rule 14d-1(d) (Cross-Border Third-Party Tender Offer)
-
-

This Amendment No. 1 (this “Amendment”) amends and supplements the Tender Offer Statement on Schedule TO (together with any subsequent amendments and supplements thereto, the “Schedule TO”), filed with the Securities and Exchange Commission on January 19, 2022 by Cedar Acquisition Corporation, a Delaware corporation (“Purchaser”), which is a wholly owned subsidiary of OC Acquisition LLC, a Delaware limited liability company (“Parent”), which is a wholly owned subsidiary of Oracle Corporation, a Delaware corporation (“Oracle”). The Schedule TO relates to the offer by Purchaser to purchase all of the issued and outstanding shares of common stock, par value \$0.01 per share (the “Shares”), of Cerner Corporation, a Delaware corporation (“Cerner”), at a purchase price of \$95.00 per Share (the “Offer Price”) net to the seller in cash, without interest thereon and subject to any required tax withholding, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated January 19, 2022 (the “Offer to Purchase”), and in the related Letter of Transmittal, copies of which are attached to the Schedule TO as Exhibits (a)(1)(A) and (a)(1)(B), respectively.

Except as otherwise set forth in this Amendment, the information set forth in the Schedule TO remains unchanged and is incorporated herein by reference to the extent relevant to the items in this Amendment. Capitalized terms used but not defined herein have the meanings ascribed to them in the Schedule TO.

Items 1 through 9 and 11.

The Offer to Purchase and Items 1 through 9 and 11 of the Schedule TO, to the extent such Items incorporate by reference the information contained in the Offer to Purchase, are hereby amended as follows:

Amending and restating the seventh paragraph of Section 8 – “Certain Information Concerning Oracle, Parent and Purchaser” on page 14 of the Offer to Purchase to read as follows:

“As a result of the Tender and Support Agreements, dated as of December 20, 2021 (the “Tender and Support Agreements”), that Parent and Purchaser entered into with each of the current directors and certain executive officers of Cerner (each a “Supporting Stockholder”) concurrently with entering into the Merger Agreement, Purchaser, Parent and Oracle may each be deemed to be the beneficial owner of an aggregate of 229,263 Shares as of December 20, 2021 (which represents, in the aggregate, less than 0.08% of the outstanding Shares as of January 19, 2022, the date of the Offer to Purchase). In addition, Bruce R. Chizen, an independent director of Oracle, beneficially owned an aggregate of 328 Shares as of January 19, 2022, the date of the Offer to Purchase (which represents less than 0.00012% of the outstanding Shares as of January 19, 2022).”

Amending and restating the first two paragraphs under the caption “Regulatory Approvals – U.S. Antitrust Laws” of Section 16 – “Certain Legal Matters; Regulatory Approvals” on page 46 of the Offer to Purchase to read as follows:

“Under the HSR Act (including the related rules and regulations promulgated thereunder), certain transactions, including Purchaser’s purchase of Shares pursuant to the Offer, may not be consummated until certain information and documentary material (referred to as the “Premerger Notification and Report Forms”) has been furnished to the FTC and the Antitrust Division of the U.S. Department of Justice (the “Antitrust Division”) for review and certain waiting period requirements have been satisfied. Under the HSR Act, Purchaser’s purchase of the Shares pursuant to the Offer is subject to an initial waiting period that will expire at 11:59 pm, Eastern Time, on the date that is 15 days after the date that the Premerger Notification and Report Forms are filed with the FTC and the Antitrust Division. However, the initial waiting period may be terminated prior to such date and time by the FTC or the Antitrust Division (however, such terminations have been infrequently granted since February 2021) or restarted if the acquiring person voluntarily withdraws and re-files its Premerger Notification and Report Form, or Purchaser and Cerner may receive a request for additional information or documentary material from either the FTC or the Antitrust Division prior to such expiration (a “Second Request”). On January 18, 2022, Oracle and Cerner filed their respective Premerger Notification and Report Forms required under the HSR Act in connection with the purchase of Shares in the Offer and the Merger with the FTC and the Antitrust Division. On February 2, 2022, Oracle voluntarily withdrew its Premerger Notification and Report Form to provide the Antitrust Division with additional time for review and then refiled its Premerger Notification and Report Form on February 4, 2022.

The applicable waiting period under the HSR Act with respect to the purchase of Shares in the Offer and the Merger is now scheduled to expire at 11:59 p.m. on February 22, 2022, unless earlier terminated by the Antitrust Division or if Oracle receives a Second Request from the Antitrust Division prior to that time. If a Second Request is issued, the waiting period with respect to the Offer and the Merger would be extended for an additional period of 10 calendar days, which will begin on the date on which Purchaser has substantially complied with the Second Request. Even though the waiting period is not affected by a Second Request to Cerner or by Cerner supplying the requested information, Cerner is obliged to respond to the request within a reasonable time. If the 10-day waiting period expires on a Saturday, Sunday or federal holiday, then such waiting period will be extended until 11:59 p.m. of the next day that is not a Saturday, Sunday or federal holiday. Only one extension of the waiting period pursuant to a Second Request is authorized by the HSR Act. After that time, the waiting period may be extended only by court order or with our consent. The FTC or the Antitrust Division may terminate the additional 10-day waiting period before its expiration. Complying with a Second Request can take a significant amount of time.”

Adding a new heading and paragraphs at the end of Section 16 – “Certain Legal Matters; Regulatory Approvals” of the Offer to Purchase to read as follows:

“Legal Proceedings

On January 21, 2022, two purported stockholders of Cerner filed separate complaints in the United States District Court for the Southern District of New York, captioned *O’Dell v. Cerner Corporation, et al.*, Case No. 1:22-cv-00562 (S.D.N.Y.) (the “O’Dell Complaint”) and *Samant v. Cerner Corporation, et al.*, Case No. 1:22-cv-00584 (S.D.N.Y.) (the “Samant Complaint”). On January 24, 2022, a purported stockholder of Cerner filed a complaint in the United States District Court for the Eastern District of New York, captioned *Berry, Jr. v. Cerner Corporation, et al.*, Case No. 1:22-cv-00405 (E.D.N.Y.) (the “E.D.N.Y. Berry Complaint”). On January 26, 2022, a purported stockholder of Cerner filed a complaint in the United States District Court for the Southern District of New York, captioned *Garrison v. Cerner Corporation, et al.*, Case No. 1:22-cv-00687 (S.D.N.Y.) (the “Garrison Complaint”). On January 27, 2022, a purported stockholder of Cerner filed a complaint in the United States District Court for the Southern District of New York, captioned *Schulte v. Cerner Corporation, et al.*, Case No. 1:22-cv-00731 (S.D.N.Y.) (the “Schulte Complaint”). On February 1, 2022, a purported stockholder of Cerner filed a complaint in the United States District Court for the Southern District of New York, captioned *Berry v. Cerner Corporation, et al.*, Case No. 1:22-cv-00868 (S.D.N.Y.) (the “S.D.N.Y. Berry Complaint”) and, the next day, the E.D.N.Y. Berry Complaint was dismissed without prejudice. On February 2, 2022, a purported stockholder of Cerner filed a complaint in the United States District Court for the Eastern District of New York, captioned *Hansen v. Cerner Corporation, et al.*, Case No. 1:22-cv-00612 (E.D.N.Y.) (the “Hansen Complaint” and, together with the O’Dell Complaint, the Samant Complaint, the Garrison Complaint, the Schulte Complaint and the S.D.N.Y. Berry Complaint, the “Complaints”). All of the Complaints name Cerner and the members of the Cerner Board as defendants, and the Garrison Complaint also names Oracle, Parent and Purchaser as defendants. Each Complaint asserts claims under Sections 14(d), 14(e) and 20(a) of the Exchange Act in connection with the Schedule 14D-9 that was filed with the SEC by Cerner on January 19, 2022, alleging that the Schedule 14D-9 misrepresented and/or omitted material information. The O’Dell Complaint, the Samant Complaint and the Hansen Complaint seek, among other relief, injunctive relief to prevent the Merger until the alleged disclosure violations are cured, as well as damages and attorneys’ fees and costs. The Garrison Complaint, the Schulte Complaint and the S.D.N.Y. Berry complaint seek, among other relief, injunctive relief to prevent the Merger, the filing of a Schedule 14D-9 that does not contain any untrue statements of material fact and that states all material facts required in it or necessary to make the statements contained therein not misleading, as well as attorneys’ fees and costs.

The outcome of these matters is uncertain. A preliminary injunction could delay or jeopardize the completion of the Offer or the Merger, and permanent injunctive relief could indefinitely enjoin completion of the Offer or the Merger. Oracle and Cerner believe that these actions have no merit and intend to defend vigorously against these actions.

If additional similar complaints are filed, absent new or different allegations that are material, we will not necessarily announce such additional filings.”

The foregoing summary is qualified in its entirety by the Complaints, copies of which are filed as Exhibits (a)(5)(C), (a)(5)(D), (a)(5)(E), (a)(5)(F), (a)(5)(G), (a)(5)(H) and (a)(5)(I) to the Schedule TO-T and are incorporated by reference herein.

Item 12. Exhibits.

Item 12 of the Schedule TO is hereby amended and supplemented by adding the following exhibits:

<u>Exhibit No.</u>	<u>Description</u>
(a)(5)(C)	<u>Complaint captioned <i>Ryan O’Dell v. Cerner Corporation, et al.</i>, filed January 21, 2022 in the United States District Court for the Southern District of New York.</u>
(a)(5)(D)	<u>Complaint captioned <i>Samant v. Cerner Corporation, et al.</i>, filed January 21, 2022 in the United States District Court for the Southern District of New York.</u>
(a)(5)(E)	<u>Complaint captioned <i>Berry, Jr. v. Cerner Corporation, et al.</i>, filed January 24, 2022 in the United States District Court for the Eastern District of New York.</u>
(a)(5)(F)	<u>Complaint captioned <i>Garrison v. Cerner Corporation, et al.</i>, filed January 26, 2022 in the United States District Court for the Southern District of New York.</u>
(a)(5)(G)	<u>Complaint captioned <i>Schulte v. Cerner Corporation, et al.</i>, filed January 27, 2022 in the United States District Court for the Southern District of New York.</u>
(a)(5)(H)	<u>Complaint captioned <i>Berry v. Cerner Corporation, et al.</i>, filed February 1, 2022 in the United States District Court for the Southern District of New York.</u>
(a)(5)(I)	<u>Complaint captioned <i>Hansen v. Cerner Corporation, et al.</i>, filed February 2, 2022 in the United States District Court for the Eastern District of New York.</u>
107	<u>Filing fee table</u>

SIGNATURES

After due inquiry and to the best knowledge and belief of the undersigned, each of the undersigned certifies that the information set forth in this statement is true, complete and correct.

Date: February 4, 2022

Cedar Acquisition Corporation

By: /s/ Brian S. Higgins

Name: Brian S. Higgins

Title: Senior Vice President and Secretary

OC Acquisition LLC

By: /s/ Brian S. Higgins

Name: Brian S. Higgins

Title: Senior Vice President, Legal

Oracle Corporation

By: /s/ Brian S. Higgins

Name: Brian S. Higgins

Title: Senior Vice President, Associate
General Counsel and Secretary

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RYAN O'DELL,

Plaintiff,

v.

CERNER CORPORATION, DAVID
FEINBERG, M.D., WILLIAM D. ZOLLARS,
GERALD E. BISBEE, JR., MITCHELL E.
DANIELS, JR., JULIE L. GERBERDING,
M.D., M.P.H., DR. ELDER GRANGER,
JOHN GREISCH, MELINDA J. MOUNT,
GEORGE A. RIEDEL, and R. HALSEY
WISE,

Defendants.

:
:
: Case No. 22-cv-00562
:
:
: **COMPLAINT FOR VIOLATIONS OF**
: **SECTIONS 14(e), 14(d) AND 20(a) OF**
: **THE SECURITIES EXCHANGE ACT**
: **OF 1934**
:
: **JURY TRIAL DEMANDED**
:
:

Ryan O'Dell ("Plaintiff"), by and through his attorneys, alleges the following upon information and belief, including investigation of counsel and review of publicly-available information, except as to those allegations pertaining to Plaintiff, which are alleged upon personal knowledge:

1. This is an action brought by Plaintiff against Cerner Corporation ("Cerner or the "Company") and the members Cerner board of directors (the "Board" or the "Individual Defendants" and collectively with the Company, the "Defendants") for their violations of Sections 14(e), 14(d), and 20(a) of the Securities Exchange Act of 1934 (the "Exchange Act"), in connection with the proposed acquisition of Cerner by affiliates of Oracle Corporation ("Oracle").

2. Defendants have violated the above-referenced Sections of the Exchange Act by causing a materially incomplete and misleading Solicitation Statement on Schedule 14D-9 (the "Solicitation Statement") to be filed on January 19, 2022 with the United States Securities and Exchange Commission ("SEC") and disseminated to Company stockholders. The Solicitation Statement recommends that Company stockholders tender their shares in support of a proposed transaction whereby Cedar Acquisition Corporation ("Purchaser"), a wholly owned subsidiary of OC Acquisition LLC ("Parent"), a wholly owned subsidiary of Oracle, will merge with and into Cerner, with Cerner surviving as a subsidiary of Oracle (the "Proposed Transaction"). Pursuant to the terms of the definitive agreement and plan of merger the companies entered into, dated December 20, 2021 (the "Merger Agreement"), each Cerner common share issued and outstanding will be converted into the right to receive \$95.00 in cash (the "Merger Consideration"). In accordance with the Merger Agreement, Purchaser commenced a tender offer to acquire all of Cerner's outstanding common stock and will expire on February 15, 2021 (the "Tender Offer").

3. Defendants have now asked Cerner's stockholders to support the Proposed Transaction based upon the materially incomplete and misleading representations and information contained in the Solicitation Statement, in violation of Sections 14(e), 14(d), and 20(a) of the Exchange Act. Specifically, the Solicitation Statement contains materially incomplete and misleading information concerning, among other things, (i) Cerner's financial projections relied upon by the Company's financial advisor, Centerview Partners LLC ("Centerview") in its financial analyses; and (ii) the data and inputs underlying the financial valuation analyses that support the fairness opinions provided by the financial advisors. The failure to adequately disclose such material information constitutes a violation of Sections 14(e), 14(d), and 20(a) of the Exchange Act as Cerner stockholders need such information in order to tender their shares in support of the Proposed Transaction.

4. It is imperative that the material information that has been omitted from the Solicitation Statement is disclosed to the Company's stockholders prior to the expiration of the tender offer.

5. For these reasons and as set forth in detail herein, Plaintiff seeks to enjoin Defendants from taking any steps to consummate the Proposed Transaction unless and until the material information discussed below is disclosed to Cerner's stockholders or, in the event the Proposed Transaction is consummated, to recover damages resulting from the Defendants' violations of the Exchange Act.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1331 (federal question jurisdiction) as Plaintiff alleges violations of Sections 14(e), 14(d), and 20(a) of the Exchange Act and SEC Rule 14a-9.

7. Personal jurisdiction exists over each Defendant either because each is an individual who is either present in this District for jurisdictional purposes or has sufficient minimum contacts with this District as to render the exercise of jurisdiction over defendant by this Court permissible under traditional notions of fair play and substantial justice.

8. Venue is proper in this District under Section 27 of the Exchange Act, 15 U.S.C. § 78aa, as well as under 28 U.S.C. § 1391, because Plaintiff resides in this District.

PARTIES

9. Plaintiff is, and has been at all relevant times, the owner of Cerner common stock and has held such stock since prior to the wrongs complained of herein.

10. Individual Defendant William D. Zollars has served as a member of the Board since May 2005 and is the Chairman of the Board.

11. Individual Defendant David Feinberg, M.D. has been a member of the Board since August 2021 and is Cerner's President and Chief Executive Officer.

12. Individual Defendant Gerald E. Bisbee, Jr. has served as a member of the Board since February 1988.

13. Individual Defendant Mitchell E. Daniels, Jr. has served as a member of the Board and since December 2013.

14. Individual Defendant Julie L. Gerberding, M.D., M.P.H. has been a member of the Board since March 2017.

15. Individual Defendant Dr. Elder Granger has served as a member of the Board since November 2020.

16. Individual Defendant John Greisch has served as member of the Board since April 2019.

17. Individual Defendant Melinda J. Mount has served as member of the Board since April 2019.

18. Individual Defendant George A. Riedel has served as member of the Board since April 2019.

19. Individual Defendant R. Halsey Wise has served as member of the Board since April 2019.

20. Defendant Cerner is incorporated in Delaware and maintains its principal offices at 2800 Rock Creek Parkway, North Kansas City, Missouri 64117. The Company's common stock trades on the NASDAQ Global Select Market under the symbol "CERN."

21. The defendants identified in paragraphs 10-19 are collectively referred to as the "Individual Defendants" or the "Board."

SUBSTANTIVE ALLEGATIONS

A. The Proposed Transaction

23. Cerner, together with its subsidiaries, provides health care information technology solutions and tech-enabled services in the United States and internationally. The Company offers Cerner Millennium architecture, a person-centric computing framework, which includes clinical, financial, and management information systems that allow providers to access an individual’s electronic health record (EHR) at the point of care, and organizes and delivers information for physicians, nurses, laboratory technicians, pharmacists, front- and back-office professionals, and consumers. It also provides HealtheIntent platform, a cloud-based platform to aggregate, transform, and reconcile data across the continuum of care; and CareAware, an EHR agnostic platform that facilitates connectivity of health care devices to EHRs. In addition, the Company offers a portfolio of clinical and financial health care information technology solutions, as well as departmental and care coordination solutions. Further, it provides tech-enabled services, such as implementation and training, remote hosting, operational management services, revenue cycle services, support and maintenance, health care data analysis, real-world evidence, clinical process optimization, transaction processing, employer health centers, employee wellness programs, and third-party administrator services; and complementary hardware and devices for third parties. The Company serves integrated delivery networks, physician groups and networks, managed care organizations, hospitals, medical centers, reference laboratories, home health agencies, blood banks, imaging centers, pharmacies, pharmaceutical manufacturers, employers, governments, and public health organizations. Cerner was founded in 1979 and is headquartered in North Kansas City, Missouri.

24. On May 4, 2020, Oracle and the Company announced the Proposed Transaction:

Austin, Texas and Kansas City, Missouri—December 20, 2021 Oracle Corporation (NYSE: ORCL) and Cerner Corporation today jointly announced an agreement for Oracle to acquire Cerner through an all-cash tender offer for \$95.00 per share, or approximately \$28.3 billion in equity value. Cerner is a leading provider of digital information systems used within hospitals and health systems to enable medical professionals to deliver better healthcare to individual patients and communities.

“Working together, Cerner and Oracle have the capacity to transform healthcare delivery by providing medical professionals with better information—enabling them to make better treatment decisions resulting in better patient outcomes,” said Larry Ellison, Chairman and Chief Technology Officer, Oracle. “With this acquisition, Oracle’s corporate mission expands to assume the responsibility to provide our overworked medical professionals with a new generation of easier-to-use digital tools that enable access to information via a *hands-free* voice interface to secure cloud applications. This new generation of medical information systems promises to lower the administrative workload burdening our medical professionals, improve patient privacy and outcomes, and lower overall healthcare costs.”

“We expect this acquisition to be immediately accretive to Oracle’s earnings on a non-GAAP basis in the first full fiscal year after closing—and contribute substantially more to earnings in the second fiscal year and thereafter,” said Safra Catz, Chief Executive Officer, Oracle. “Healthcare is the largest and most important vertical market in the world—\$3.8 trillion last year in the United States alone. Oracle’s revenue growth rate has already been increasing this year—Cerner will be a huge additional revenue growth engine for years to come as we expand its business into many more countries throughout the world. That’s exactly the growth strategy we adopted when we bought NetSuite—except the Cerner revenue opportunity is even larger.”

“Cerner has been a leader in helping digitize medical care and now it’s time to realize the real promise of that work with the care delivery tools that get information to the right caregivers at the right time,” said David Feinberg, President and Chief Executive Officer, Cerner. “Joining Oracle as a dedicated Industry Business Unit provides an unprecedented opportunity to accelerate our work modernizing electronic health records (EHR), improving the caregiver experience, and enabling more connected, high-quality and efficient patient care. We are also very excited that Oracle is committed to maintaining and growing our community presence, including in the Kansas City area.”

“Oracle’s Autonomous Database, low-code development tools, and Voice Digital Assistant user interface enables us to rapidly modernize Cerner’s systems and move them to our Gen2 Cloud,” said Mike Sicilia, Executive Vice President, Vertical Industries, Oracle. “This can be done very quickly because Cerner’s largest business and most important clinical system already runs on the Oracle Database. No change required there. What will change is the user interface. We will make Cerner’s systems much easier to learn and use by making Oracle’s *hands-free* Voice Digital Assistant the primary interface to Cerner’s clinical systems. This will allow medical professionals to spend less time typing on computer keyboards and more time caring for patients.”

Highlights

- All-cash tender offer for \$95.00 per share, or approximately \$28.3 billion, that is immediately accretive to Oracle’s earnings.
- Accretive to Oracle’s earnings on a non-GAAP basis in the first full fiscal year after closing and will contribute substantially more to earnings in the second fiscal year and thereafter.
- Cerner will be a huge additional revenue growth engine for Oracle for years to come as Oracle expands Cerner’s business into many more countries throughout the world.
- Transaction is expected to close in calendar year 2022. The closing of the transaction is subject to receiving certain regulatory approvals and satisfying other closing conditions including Cerner stockholders tendering a majority of Cerner’s outstanding shares in the tender offer.
- Oracle anticipates retaining an investment grade credit rating.
- Oracle brings significant experience helping power the largest industries.
- Oracle provides industry solutions that run the core operations for customers in the world’s largest industries.
- Industries covered by Oracle today include, among others, Financial Services, Telecom, Utilities, Pharmaceuticals, Hospitality, Retail, Food & Beverage, Construction & Engineering, Manufacturing and Government.
- Oracle also brings best in class cloud infrastructure to drive digital modernization, substantially lowering the total cost of IT in these critical industry sectors.

-
- Cerner is a leader in the healthcare IT industry and a complementary business to Oracle.
 - Cerner is a leading provider of digital information systems used within hospitals to enable medical professionals to deliver better healthcare to individual patients and communities.
 - Cerner has over four decades of experience modernizing electronic health records, improving the caregiver experience, and streamlining and automating clinical and administrative workflows.
 - Together, Oracle and Cerner will protect customer investments and transform healthcare.
 - According to a recent study by the Mayo Clinic¹, physicians spend 1 to 2 hours on EHRs and desk work for every hour spent in face-to-face contact with patients, as well as an additional 1 to 2 hours of personal time on EHR related activities.
 - Working together, Cerner and Oracle have the capacity to address these issues and transform healthcare delivery by providing medical professionals with better information—enabling them to make better treatment decisions resulting in better patient outcomes.
 - Customer investments in Cerner are also protected with this combination and will grow in value over time as more modern and connected technologies are made available.
 - With Oracle’s resources, infrastructure and cloud capabilities, Cerner will accelerate the pace of product and technology development to enable more connected, high-quality, and efficient care.
 - Oracle’s focus on usability and voice enabled user interfaces will dramatically reduce the amount of time that medical providers spend dealing with systems and increase the time they spend directly caring for patients.
 - Significant opportunity to help customers use Oracle’s modern technologies such as cloud, AI, ML and other innovations to make care more accessible, secure, efficient and effective for patients and caregivers.
 - Cerner systems running on the Oracle Gen2 Cloud will be available 24 by 7 by 365. Goal is to deliver zero unplanned downtime in the medical environment.
 - With Cerner systems running on the Oracle database, only specifically authorized medical professionals can access patient data. IT professionals running the systems are unable to look at patient data.

- Oracle and Cerner are committed to continued and enhanced stewardship of health information, which will be bolstered by Oracle's global operational infrastructure.
- Cerner will be organized as a dedicated Industry Business Unit within Oracle.
- Cerner will be Oracle's anchor asset to expand into healthcare and together we will improve medical care for individuals and communities around the world.
- Oracle intends to maintain and grow Cerner's community presence, including in the Kansas City area, while utilizing Oracle's global footprint to reach new geographies faster.

* * *

25. It is therefore imperative that Cerner's stockholders are provided with the material information that has been omitted from the Solicitation Statement, so that they can meaningfully assess whether or not the Proposed Transaction is in their best interests.

B. The Materially Incomplete and Misleading Solicitation Statement

26. On January 19, 2022, Cerner filed the Solicitation Statement with the SEC in connection with the Proposed Transaction. The Solicitation Statement was furnished to the Company's stockholders and solicits the stockholders to tender their shares in support of the Proposed Transaction. The Individual Defendants were obligated to carefully review the Solicitation Statement before it was filed with the SEC and disseminated to the Company's stockholders to ensure that it did not contain any material misrepresentations or omissions. However, the Solicitation Statement misrepresents and/or omits material information that is necessary for the Company's stockholders to make an informed decision concerning whether to tender their shares, in violation of Sections 14(e), 14(d), and 20(a) of the Exchange Act.

27. The Solicitation Statement omits material information regarding the Company's financial projections and the valuation analyses performed by the financial advisors, the disclosure of which is material because it provides stockholders with a basis to project the future financial performance of the target company, and allows stockholders to better understand the analyses performed by the financial advisor in support of its fairness opinion of the transaction.

28. For the Company Projections, the Solicitation Statement provides values for non-GAAP (Generally Accepted Accounting Principles) financial metrics: Adjusted EBITDA, Adjusted EBIT, Net Operating Profit After Tax, Unlevered Free Cash Flow, Adjusted Operating Earnings, and Adjusted Diluted Earnings Per Share, but fails to provide line items used to calculate the metrics and/or a reconciliation of the non-GAAP metrics to their most comparable GAAP measures, in direct violation of Regulation G and consequently Section 14(a).

29. When a company discloses non-GAAP financial measures in a solicitation statement that were relied on by a board of directors to recommend that stockholders exercise their corporate suffrage rights in a particular manner, the company must, pursuant to SEC regulatory mandates, also disclose all projections and information necessary to make the non-GAAP measures not misleading, and must provide a reconciliation (by schedule or other clearly understandable method) of the differences between the non-GAAP financial measure disclosed or released with the most comparable financial measure or measures calculated and presented in accordance with GAAP. 17 C.F.R. § 244.100.

30. The SEC has noted that:

companies should be aware that this measure does not have a uniform definition and its title does not describe how it is calculated. Accordingly, a clear description of how this measure is calculated, as well as the necessary reconciliation, should accompany the measure where it is used. Companies should also avoid inappropriate or potentially misleading inferences about its usefulness. For example, “free cash flow” should not be used in a manner that inappropriately implies that the measure represents the residual cash flow available for discretionary expenditures, since many companies have mandatory debt service requirements or other non-discretionary expenditures that are not deducted from the measure.¹

¹ U.S. Securities and Exchange Commission, Non-GAAP Financial Measures, last updated April 4, 2018, available at: <https://www.sec.gov/divisions/corpfin/guidance/nongaapinterp.htm>

31. Thus, to cure the Solicitation Statement and the materially misleading nature of the forecasts under SEC Rule 14a-9 as a result of the omitted information in the Solicitation Statement, Defendants must provide a reconciliation table of the non-GAAP measures to the most comparable GAAP measures to make the non-GAAP metrics included in the Solicitation Statement not misleading.

32. With respect to Centerview's *Selected Public Company Analysis*, the Solicitation Statement fails to disclose the metrics for the companies selected, including each company's enterprise value and EBITDA.

33. With respect to BofA's *Selected Precedent Transactions Analysis*, the Solicitation Statement fails to disclose the metrics for each transaction selected, including the implied enterprise value for each target company, the consideration payable in each selected transaction, and the implied EBITDA for each target company for the 12-month period prior to announcement of each transaction.

34. With respect to Centerview's *Discounted Cash Flow Analysis*, the Solicitation Statement fails to disclose: (i) the basis for applying the range of after-tax discount rates from 7.25% to 8.50%; (ii) the Company's weighted average cost of capital; (iii) the implied terminal values of Cerner at 2030; (iv) the basis for applying the range of perpetuity growth rates ranging from 2.5% to 3.5%; (v) Cerner's estimated net debt as of December 31, 2021; (vi) the implied fully diluted number of Company shares as of December 16, 2021.

35. With respect to Cerner's *Analyst Price Targets* analysis, the Solicitation Statement fails to disclose the Wall Street research analysts observed and their corresponding price targets.

36. In sum, the omission of the above-referenced information renders statements in the Solicitation Statement materially incomplete and misleading in contravention of the Exchange Act. Absent disclosure of the foregoing material information prior to the expiration of the Tender Offer, Plaintiff will be unable to make a fully-informed decision regarding whether to tender his shares, and he is thus threatened with irreparable harm, warranting the injunctive relief sought herein.

CLAIMS FOR RELIEF

COUNT I

**On Behalf of Plaintiff Against All Defendants for
Violations of Section 14(e) of the Exchange Act**

37. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

38. Section 14(e) of the Exchange Act provides that it is unlawful "for any person to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading..." 15 U.S.C. § 78n(e).

39. Defendants violated Section 14(e) of the Exchange Act by issuing the Solicitation Statement in which they made untrue statements of material facts or failed to state all material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, in conjunction with the Tender Offer. Defendants knew or recklessly disregarded that the Solicitation Statement failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

40. The Solicitation Statement was prepared, reviewed and/or disseminated by Defendants. It misrepresented and/or omitted material facts, including material information about the consideration offered to stockholders via the Tender Offer, the intrinsic value of the Company, the Company's financial projections, and the financial advisor's valuation analyses and resultant fairness opinion.

41. In so doing, Defendants made untrue statements of material fact and omitted material information necessary to make the statements that were made not misleading in violation of Section 14(e) of the Exchange Act. By virtue of their positions within the Company and/or roles in the process and in the preparation of the Solicitation Statement, Defendants were aware of this information and their obligation to disclose this information in the Solicitation Statement.

42. The omissions and misleading statements in the Solicitation Statement are material in that a reasonable stockholder would consider them important in deciding whether to tender their shares or seek appraisal. In addition, a reasonable investor would view the information identified above which has been omitted from the Solicitation Statement as altering the "total mix" of information made available to stockholders.

43. Defendants knowingly, or with deliberate recklessness, omitted the material information identified above from the Solicitation Statement, causing certain statements therein to be materially incomplete and therefore misleading. Indeed, while Defendants undoubtedly had access to and/or reviewed the omitted material information in connection with approving the Tender Offer, they allowed it to be omitted from the Solicitation Statement, rendering certain portions of the Solicitation Statement materially incomplete and therefore misleading.

44. The misrepresentations and omissions in the Solicitation Statement are material to Plaintiff, and Plaintiff will be deprived of his entitlement to make a fully informed decision if such misrepresentations and omissions are not corrected prior to the expiration of the Tender Offer.

COUNT II
**Violations of Section 14(d)(4) of the Exchange Act and
Rule 14d-9 Promulgated Thereunder
(Against All Defendants)**

45. Plaintiff repeats and re-alleges each allegation set forth above as if fully set forth herein.

46. Defendants have caused the Solicitation Statement to be issued with the intention of soliciting stockholder support of the Tender Offer.

47. Section 14(d)(4) of the Exchange Act and SEC Rule 14d-9 promulgated thereunder require full and complete disclosure in connection with tender offers.

48. The Solicitation Statement violates Section 14(d)(4) and Rule 14d-9 because it omits material facts, including those set forth above, which render the Solicitation Statement false and/or misleading.

49. Defendants knowingly, or with deliberate recklessness, omitted the material information identified above from the Solicitation Statement, causing certain statements therein to be materially incomplete and therefore misleading. Indeed, while Defendants undoubtedly had access to and/or reviewed the omitted material information in connection with approving the Tender Offer, they allowed it to be omitted from the Solicitation Statement, rendering certain portions of the Solicitation Statement materially incomplete and therefore misleading.

50. The misrepresentations and omissions in the Solicitation Statement are material to Plaintiff and Plaintiff will be deprived of his entitlement to make a fully informed decision if such misrepresentations and omissions are not corrected prior to the expiration of the Tender Offer.

COUNT III

**On Behalf of Plaintiff Against the Individual Defendants for Violations of Section 20(a) of
the Exchange Act**

51. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

52. The Individual Defendants acted as controlling persons of Cerner within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their positions as directors of Cerner, and participation in and/or awareness of the Company's operations and/or intimate knowledge of the incomplete and misleading statements contained in the Solicitation Statement filed with the SEC, they had the power to influence and control and did influence and control, directly or indirectly, the decision making of Cerner, including the content and dissemination of the various statements that Plaintiff contends are materially incomplete and misleading.

53. Each of the Individual Defendants was provided with or had unlimited access to copies of the Solicitation Statement and other statements alleged by Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

54. In particular, each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of Cerner, and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the Exchange Act violations alleged herein, and exercised the same. The omitted information identified above was reviewed by the Board prior to voting on the Proposed Transaction. The Solicitation Statement at issue contains the unanimous recommendation of the Board to approve the Proposed Transaction. The Individual Defendants were thus directly involved in the making of the Solicitation Statement.

55. In addition, as the Solicitation Statement sets forth at length, and as described herein, the Individual Defendants were involved in negotiating, reviewing, and approving the Merger Agreement. The Solicitation Statement purports to describe the various issues and information that the Individual Defendants reviewed and considered. The Individual Defendants participated in drafting and/or gave their input on the content of those descriptions.

56. By virtue of the foregoing, the Individual Defendants have violated Section 20(a) of the Exchange Act.

57. As set forth above, the Individual Defendants had the ability to exercise control over and did control a person or persons who have each violated Section 14(d) and (e), by their acts and omissions as alleged herein. By virtue of their positions as controlling persons, these defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of Individual Defendants' conduct, Plaintiff will be irreparably harmed.

58. Plaintiff has no adequate remedy at law. Only through the exercise of this Court's equitable powers can Plaintiff be fully protected from the immediate and irreparable injury that Defendants' actions threaten to inflict.

RELIEF REQUESTED

WHEREFORE, Plaintiff demands injunctive relief in his favor and against the Defendants jointly and severally, as follows:

A. Preliminarily and permanently enjoining Defendants and their counsel, agents, employees and all persons acting under, in concert with, or for them, from proceeding with, consummating, or closing the Proposed Transaction, unless and until Defendants disclose the material information identified above which has been omitted from the Solicitation Statement;

A. Rescinding, to the extent already implemented, the Merger Agreement or any of the terms thereof, or granting Plaintiff rescissory damages;

- B. Directing the Defendants to account to Plaintiff for all damages suffered as a result of their wrongdoing;
- C. Awarding Plaintiff the costs and disbursements of this action, including reasonable attorneys' and expert fees and expenses; and
- D. Granting such other and further equitable relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

DATED: January 21, 2022

MELWANI & CHAN LLP

/s Gloria Kui Melwani

Gloria Kui Melwani (GM5661)
1180 Avenue of the Americas, 8th Fl.
New York, NY 10036
Tel: (212) 382-4620
Email: gloria@melwanichan.com

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MOHIT SAMANT,

Plaintiff,

Case No.: _____

-against-

CERNER CORPORATION, DAVID
FEINBERG, WILLIAM ZOLLARS, GERALD
BISBEE, JR., MITCHELL DANIELS, JR.,
JULIE L. GERBERDING, ELDER GRANGER,
JOHN GREISCH, MELINDA MOUNT,
GEORGE RIEDEL, R. HALSEY WISE,

Defendants.

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff Mohit Samant ("Plaintiff"), by his undersigned attorneys, allege upon personal knowledge with respect to himself, and information and belief based upon, *inter alia*, the investigation of counsel as to all other allegations herein, as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action against Cerner Corporation ("Cerner" or the "Company") and the members of the Company's board of directors (collectively referred to as the "Board" or the "Individual Defendants" and, together with Cerner, the "Defendants") for violations of Sections 14(d)(4), 14(e), and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78n(d)(4), 78n(e), 78t(a), respectively, and SEC Rule 14d-9, 17 C.F.R. §240.14d-9(d) ("Rule 14d-9"). Plaintiff's claims arise in connection with the proposed tender offer by Oracle Corporation ("Oracle") to acquire all outstanding shares of Cerner.

2. On December 20, 2021, Cerner entered into an Agreement and Plan of Merger (the "Merger Agreement"), pursuant to which Company shareholders will receive \$95.00 for each share of Cerner common stock they own. Upon completion of the transaction, Cerner will become a wholly owned subsidiary of Oracle, and Cerner common stock will no longer be publicly traded.

3. On January 19, 2022, to convince Cerner shareholders to tender their shares, Defendants authorized the filing of a materially incomplete and misleading Schedule 14D-9 Solicitation/Recommendation Statement (the “Recommendation Statement”) with the Securities and Exchange Commission.

4. In particular, the Recommendation Statement contains materially incomplete and misleading information concerning: (i) financial projections for Cerner; and (ii) the valuation analyses performed by Cerner’s financial advisors, Goldman Sachs & Co. (“Goldman”) and Centerview Partners LLC (“Centerview”) in support of the fairness opinion.

5. For these reasons, and as detailed herein, Plaintiff asserts claims against Defendants for violations of Sections 14(d)(4), 14(e), and 20(a) of the Exchange Act and Rule 14d-9. Plaintiff seeks to enjoin Defendants from closing on the tender offer until the material information identified herein is disclosed to shareholders sufficiently in advance of the Acceptance Time or, in the event the tender offer is consummated without remedial disclosure, to recover damages caused by Defendants’ violations.

JURISDICTION AND VENUE

7. This Court has original jurisdiction over this action pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1331 (federal question jurisdiction) as Plaintiff alleges violations of the Exchange Act.

8. Personal jurisdiction exists over each Defendant either because the Defendant conducts business in or maintains operations in this District, or is an individual who is either present in this District for jurisdictional purposes or has sufficient minimum contacts with this District as to render the exercise of jurisdiction over the Defendants by this Court permissible under traditional notions of

fair play and substantial justice. “Where a federal statute such as Section 27 of the [Exchange] Act confers nationwide service of process, the question becomes whether the party has sufficient contacts with the United States, not any particular state.” *Sec. Inv’r Prot. Corp. v. Vigman* 764 F.2d 1309, 1315 (9th Cir. 1985). “[S]o long as a defendant has minimum contacts with the United States, Section 27 of the Act confers personal jurisdiction over the defendant in any federal district court.” *Id.* At 1316

9. Venue is proper in this District under Section 27 of the Exchange Act and 28 U.S.C. § 1391 because Defendants are found in or inhabit or transact business in this District. Indeed, Cerner common stock trades on the NASDAQ, which is headquartered in this District, and hired two financial advisors for the transaction, Goldman and Centerview, both of whom are located in this District, rendering venue in this District appropriate. *See, e.g., United States v. Svoboda*, 347 F.3d 471, 484 n.13 (2d Cir. 2003) (collecting cases).

PARTIES

10. Plaintiff is, and at all relevant times has been, a holder of Cerner common stock.

11. Defendant Cerner Corporation is a Delaware corporation with principal executive offices located at 2800 Rock Creek Parkway, North Kansas City, Missouri 64117. The Company’s common stock trades on the NASDAQ under the ticker symbol “CERN”.

12. Individual Defendant David Feinberg is, and has been at all relevant times, Cerner’s President and Chief Executive Officer. He is also a director of the Company.

13. Individual Defendant William Zollars is, and has been at all relevant times, Cerner’s Board Chairman.

14. Individual Defendant Gerald Bisbee, Jr. is, and has been at all relevant times, a director of Cerner.

15. Individual Defendant Mitchell Daniels, Jr. is, and has been at all relevant times, a director of Cerner.

16. Individual Defendant Julie L. Gerberding is, and has been at all relevant times, a director of Cerner.
17. Individual Defendant Elder Granger is, and has been at all relevant times, a director of Cerner.
18. Individual Defendant John Greisch is, and has been at all relevant times, a director of Cerner.
19. Individual Defendant Melinda Mount is, and has been at all relevant times, a director of Cerner.
20. Individual Defendant George Riedel is, and has been at all relevant times, a director of Cerner.
21. Individual Defendant R. Halsey Wise is, and has been at all relevant times, a director of Cerner.
22. The Defendants referred to in ¶¶12-21 are referred to herein as the “Individual Defendants” and the “Board.”

SUBSTANTIVE ALLEGATIONS

I. Company Background and the Tender Offer.

23. Cerner Corporation provides health care information technology solutions and tech-enabled services in the United States and internationally. The company offers a portfolio of clinical, financial, and patient management information systems that allow providers to access an individual’s electronic health record (EHR) at the point of care, and organizes and delivers information for medical staff and consumers. The company serves integrated delivery networks, physician groups and networks, managed care organizations, hospitals, medical centers, reference laboratories, home health agencies, blood banks, imaging centers, pharmacies, pharmaceutical manufacturers, employers, governments, and public health organizations.

24. On December 20, 2021, Cerner and Oracle issued a joint press release announcing the tender offer, which stated in relevant part:

Oracle Buys Cerner

AUSTIN, Texas and KANSAS CITY, Mo., Dec. 20, 2021 /PRNewswire/ – Oracle Corporation (NYSE: ORCL) and Cerner Corporation today jointly announced an agreement for Oracle to acquire Cerner through an all-cash tender offer for \$95.00 per share, or approximately \$28.3 billion in equity value. Cerner is a leading provider of digital information systems used within hospitals and health systems to enable medical professionals to deliver better healthcare to individual patients and communities. [...]

“We expect this acquisition to be immediately accretive to Oracle’s earnings on a non-GAAP basis in the first full fiscal year after closing – and contribute substantially more to earnings in the second fiscal year and thereafter,” said Safra Catz, Chief Executive Officer, Oracle. “Healthcare is the largest and most important vertical market in the world – \$3.8 trillion last year in the United States alone. Oracle’s revenue growth rate has already been increasing this year – Cerner will be a huge additional revenue growth engine for years to come as we expand its business into many more countries throughout the world. That’s exactly the growth strategy we adopted when we bought NetSuite – except the Cerner revenue opportunity is even larger.”

“Oracle’s Autonomous Database, low-code development tools, and Voice Digital Assistant user interface enables us to rapidly modernize Cerner’s systems and move them to our Gen2 Cloud,” said Mike Sicilia, Executive Vice President, Vertical Industries, Oracle. “This can be done very quickly because Cerner’s largest business and most important clinical system already runs on the Oracle Database. No change required there. What will change is the user interface. We will make Cerner’s systems much easier to learn and use by making Oracle’s hands-free Voice Digital Assistant the primary interface to Cerner’s clinical systems. This will allow medical professionals to spend less time typing on computer keyboards and more time caring for patients.”

25. The tender offer extends inadequate compensation for Cerner shares. It is therefore imperative that shareholders receive the material information (detailed below) that Defendants have omitted from the Recommendation Statement, which needs to be disclosed so that shareholders can make an informed decision about whether to tender their shares.

II. The Recommendation Statement Omits Material Information

26. On January 13, 2022, Defendants filed the materially incomplete and misleading Recommendation Statement with the SEC. The Individual Defendants were obligated to carefully review the Recommendation Statement before it was filed with the SEC and disseminated to the Company's shareholders to ensure that it did not contain any material misrepresentations or omissions. However, the Recommendation Statement misrepresents and/or omits material information that is necessary for the Company's shareholders to make an informed decision in connection with the tender offer.

The Materially Incomplete and Misleading Disclosures

27. To start, the Recommendation Statement fails to fully disclose the inputs, assumptions, and calculations underlying the figures provided for projected revenue, adjusted EBITDA, EBIT, NOPAT, and UFCF (the "Financial Projections"). In addition, the Financial Projections fail to disclose Cerner's forecasted Net Income. A non-GAAP metric such as adjusted EBITDA is not an adequate substitute for Net Income, as non-GAAP financial measures are not standardized and are therefore easier to manipulate and take out of context than GAAP metrics by excluding material costs.

28. Furthermore, for Goldman's *Discounted Cash Flow Analysis* of Cerner's value, the Recommendation Statement must disclose the following items factored into the calculation: (i) the value of outstanding cash; and (ii) the number of fully diluted shares. Detail must also be provided regarding Goldman's reasons for selecting the discount rate and perpetuity growth rate ranges used.

29. For Goldman's *Selected Precedent Transactions Analysis*, the value of each precedent transaction must be disclosed, along with the mean and median of the observed multiples.

30. For Goldman's *Premia Paid Analysis*, the Recommendation Statement must disclose the number of cash-only acquisitions of healthcare companies observed or specifically identify the transactions studied. The sample size of transactions used for this analysis is entirely unclear, leaving shareholders unable to evaluate the reliability of the analysis.

31. In addition, for Centerview's *Selected Public Company Analysis*, the observed enterprise value (and/or 2022E EBITDA) for each studied company must be disclosed.

32. For Centerview's *Selected Precedent Transactions Analysis*, the value of each precedent transaction must be disclosed, as well as the mean of the observed multiples.

33. For Centerview's *Discounted Cash Flow Analysis* of Cerner's value, the Recommendation Statement must disclose the following items factored into the calculation: (i) the value of outstanding cash; and (ii) the weighted average cost of capital calculation method; and the number of fully diluted shares. Detail must also be provided regarding Cerner's reasons for selecting the discount rate and perpetuity growth rate ranges used.

34. Additionally, the number of analyst reports studied by Centerview must be disclosed in the "*Other Factors*" comments regarding Centerview's work. The mean price target observed must also be provided to ensure that the high / low numbers presently given are not being taken out of context.

35. In sum, the omission of the above-referenced information renders the Recommendation Statement materially incomplete and misleading, in contravention of the Exchange Act. Absent disclosure of the foregoing material information, Plaintiff will be unable to make an informed decision about whether to tender. Plaintiff is thus threatened with irreparable harm, warranting immediate corrective disclosure and the injunctive relief sought herein.

COUNT I
(Against All Defendants for Violation of Section 14(e) of the Exchange Act)

36. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

37. Section 14(e) of the Exchange Act provides that it is unlawful “for any person to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading...” 15 U.S.C. §78n(e).

38. Defendants violated § 14(e) of the Exchange Act by issuing the Recommendation Statement in which they made untrue statements of material facts or failed to state all material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, in connection with the tender offer. Defendants knew or recklessly disregarded that the Recommendation Statement failed to disclose material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading.

39. The Recommendation Statement was prepared, reviewed, and/or disseminated by Defendants. It misrepresented and/or omitted material facts, including material information about the Offer Price and the intrinsic value of the Company.

40. In so doing, Defendants made untrue statements of fact and/or omitted material facts necessary to make the statements made not misleading. Each of the Individual Defendants, by virtue of their roles as officers and/or directors, were aware of the omitted information but failed to disclose such information, in violation of Section 14(e). The Individual Defendants were therefore reckless, as they had reasonable grounds to believe material facts existed that were misstated or omitted from the Recommendation Statement, but nonetheless failed to obtain and disclose such information to stockholders although they could have done so without extraordinary effort.

41. The omissions, and incomplete and misleading statements in the Recommendation Statement are material in that reasonable stockholders would consider them important in deciding whether to tender their shares. In addition, a reasonable investor would view the information identified above which has been omitted from the Recommendation Statement as altering the “total mix” of information made available to stockholders.

42. Defendants knowingly or with deliberate recklessness omitted the material information identified above from the Recommendation Statement, causing certain statements therein to be materially incomplete and therefore misleading. Indeed, while Defendants undoubtedly had access to and/or reviewed the omitted material information in connection with approving the tender offer, they allowed it to be omitted from the Recommendation Statement, rendering certain portions of the Recommendation Statement materially incomplete and therefore misleading.

43. The misrepresentations and omissions in the Recommendation Statement are material to Plaintiff, and Plaintiff will be deprived of his entitlement to make a fully informed decision if such misrepresentations and omissions are not corrected prior to the Acceptance Time.

COUNT II

**(Against all Defendants for Violations of Section 14(d)(4) of the Exchange Act
and SEC Rule 14d-9, 17 C.F.R. § 240.14d-9)**

44. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

45. Defendants have caused the Recommendation Statement to be issued with the intention of soliciting stockholder support of the tender offer. The omission of information from a recommendation statement will violate Section 14(d)(4) and Rule 14d-9(d) if other SEC regulations specifically require disclosure of the omitted information.

46. The Recommendation Statement violates Section 14(d)(4) and Rule 14d-9 because it omits material facts, including those set forth above, which renders the Recommendation Statement false and/or misleading. Defendants knowingly or with deliberate recklessness omitted the material information identified above from the Recommendation Statement, causing certain statements therein to be materially incomplete and therefore misleading. Indeed, while Defendants undoubtedly had access to and/or reviewed the omitted material information in connection with approving the tender offer, they allowed it to be omitted from the Recommendation Statement, rendering certain portions of the Recommendation Statement materially incomplete and therefore misleading.

47. The misrepresentations and omissions in the Recommendation Statement are material to Plaintiff, and Plaintiff will be deprived of his entitlement to make a fully informed decision if such misrepresentations and omissions are not corrected prior to the Acceptance Time.

COUNT III
(Against all Defendants for Violations of Section 20(a) of the Exchange Act)

48. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

49. The Individual Defendants acted as controlling persons of the Company within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their positions as officers and/or directors of the Company, and participation in and/or awareness of the Company's operations and/or intimate knowledge of the incomplete and misleading statements contained in the Recommendation Statement filed with the SEC, they had the power to influence and control and did influence and control, directly or indirectly, the decision making of the Company, including the content and dissemination of the various statements that are materially incomplete and misleading.

50. Each of the Individual Defendants were provided with or had unlimited access to copies of the Recommendation Statement and other statements alleged by Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

51. In particular, each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company, and, therefore, are presumed to have had the power to control or influence the particular transactions giving rise to the Exchange Act violations alleged herein, and exercised the same. The Recommendation Statement contains the unanimous recommendation of each of the Individual Defendants to approve the tender offer. They were thus directly involved in preparing this document.

52. In addition, as the Recommendation Statement sets forth at length, and as described herein, the Individual Defendants were involved in negotiating, reviewing, and approving the Merger Agreement. The Recommendation Statement purports to describe the various issues and information that the Individual Defendants reviewed and considered. The Individual Defendants participated in drafting and/or gave their input on the content of those descriptions.

53. By virtue of the foregoing, the Individual Defendants have violated Section 20(a) of the Exchange Act.

//

//

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment and relief as follows:

A. Preliminarily enjoining Defendants and all persons acting in concert with them from proceeding with the tender offer or consummating the tender offer, unless and until the Company discloses the material information discussed above which has been omitted from the Recommendation Statement;

B. Directing the Defendants to account to Plaintiff for all damages sustained as a result of their wrongdoing;

C. Awarding Plaintiff the costs and disbursements of this action, including reasonable attorneys' and expert fees and expenses; and

D. Granting such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: January 21, 2022

MONTEVERDE & ASSOCIATES PC

/s/ Juan E. Monteverde

Juan E. Monteverde (JM-8169)
The Empire State Building
350 Fifth Avenue, Suite 4405
New York, NY 10118
Tel: (212) 971-1341
Fax: (212) 202-7880
Email: jmonteverde@monteverdelaw.com

Attorneys for Plaintiff

Daniel Sadeh, Esq.
HALPER SADEH LLP
667 Madison Avenue, 5th Floor
New York, NY 10065
Telephone: (212) 763-0060
Facsimile: (646) 776-2600
Email: sadeh@halpersadeh.com

Counsel for Plaintiff

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

LEROY BERRY, JR.,

Plaintiff,

v.

CERNER CORPORATION, DAVID
FEINBERG, WILLIAM D. ZOLLARS,
GERALD E. BISBEE, JR., MITCHELL E.
DANIELS, JR., JULIE L. GERBERDING,
ELDER GRANGER, JOHN GREISCH,
MELINDA J. MOUNT, GEORGE A.
RIEDEL, and R. HALSEY WISE,

Defendants.

Case No:

JURY TRIAL DEMANDED

COMPLAINT FOR VIOLATIONS OF THE FEDERAL SECURITIES LAWS

Plaintiff Leroy Berry, Jr. (“Plaintiff”), by Plaintiff’s undersigned attorneys, for Plaintiff’s complaint against Defendants (defined below), alleges the following based upon personal knowledge as to Plaintiff and Plaintiff’s own acts, and upon information and belief as to all other matters, based upon, *inter alia*, the investigation conducted by and through Plaintiff’s attorneys.

NATURE OF THE ACTION

1. This is an action against Cerner Corporation (“Cerner” or the “Company”) and its Board of Directors (the “Board” or the “Individual Defendants”) for their violations of Sections 14(e), 14(d)(4), and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. §§ 78n(e), 78n(d)(4), and 78t(a), and Rule 14d-9 promulgated thereunder by the SEC, 17 C.F.R. § 240.14d-9, in connection with the proposed acquisition (the “Proposed Transaction”) of Cerner by Oracle Corporation (“Oracle”).

JURISDICTION AND VENUE

2. The claims asserted herein arise under and pursuant to Sections 14(e), 14(d)(4), and 20(a) of the Exchange Act (15 U.S.C. §§ 78n(e), 78n(d)(4), and 78t(a)) and Rule 14d-9 promulgated thereunder by the SEC (17 C.F.R. § 240.14d-9).

3. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331, and Section 27 of the Exchange Act, 15 U.S.C. § 78aa.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)) as a substantial portion of the transactions and wrongs complained of herein had an effect in this District, the alleged misstatements entered and the subsequent damages occurred in this District, and the Company conducts business in New York City.

5. In connection with the acts, conduct and other wrongs alleged in this complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including but not limited to, the United States mails, interstate telephone communications and the facilities of the national securities exchange.

PARTIES

6. Plaintiff is, and has been at all relevant times hereto, an owner of Cerner common stock.

7. Defendant Cerner, together with its subsidiaries, provides health care information technology solutions and tech-enabled services in the United States and internationally. The Company is incorporated in Delaware. The Company's common stock trades on the NASDAQ under the ticker symbol, "CERN."

8. Defendant William D. Zollars (“Zollars”) is Chairman of the Board of the Company.
9. Defendant David Feinberg (“Feinberg”) is President, Chief Executive Officer, and a director of the Company.
10. Defendant Gerald E. Bisbee, Jr. (“Bisbee”) is a director of the Company.
11. Defendant Mitchell E. Daniels, Jr. (“Daniels”) is a director of the Company.
12. Defendant Julie L. Gerberding (“Gerberding”) is a director of the Company.
13. Defendant Elder Granger (“Granger”) is a director of the Company.
14. Defendant John Greisch (“Greisch”) is a director of the Company.
15. Defendant Melinda J. Mount (“Mount”) is a director of the Company.
16. Defendant George A. Riedel (“Riedel”) is a director of the Company.
17. Defendant R. Halsey Wise (“Wise”) is a director of the Company.
18. Defendants Zollars, Feinberg, Bisbee, Daniels, Gerberding, Granger, Greisch, Mount, Riedel, and Wise are collectively referred to herein as the “Individual Defendants.”
19. Defendants Cerner and the Individual Defendants are collectively referred to herein as the “Defendants.”

SUBSTANTIVE ALLEGATIONS

A. The Proposed Transaction

20. On December 20, 2021, Cerner and Oracle announced an agreement for Oracle to acquire Cerner through an all-cash tender offer for \$95.00 per share. The press release announcing the Proposed Transaction states, in pertinent part:

NEWS PROVIDED BY

Oracle

Dec 20, 2021, 09:37 ET

AUSTIN, Texas and KANSAS CITY, Mo., Dec. 20, 2021 /PRNewswire/ — Oracle Corporation (NYSE: ORCL) and Cerner Corporation today jointly announced an agreement for Oracle to acquire Cerner through an all-cash tender offer for \$95.00 per share, or approximately \$28.3 billion in equity value. Cerner is a leading provider of digital information systems used within hospitals and health systems to enable medical professionals to deliver better healthcare to individual patients and communities.

* * *

About Oracle

Oracle offers integrated suites of applications plus secure, autonomous infrastructure in the Oracle Cloud. For more information about Oracle (NYSE: ORCL), please visit us at www.oracle.com.

About Cerner

Cerner’s health technologies connect people and information systems at thousands of contracted provider facilities worldwide dedicated to creating smarter and better care for individuals and communities. Recognized globally for innovation, Cerner assists clinicians in making care decisions and assists organizations in managing the health of their populations. The company also offers a connected clinical and financial ecosystem to help manage day-to-day revenue functions, as well as a wide range of services to support clinical, financial and operational needs, focused on people. For more information, visit Cerner.com.

21. On January 19, 2022, Defendants caused to be filed with the SEC a Schedule 14D- 9 Solicitation/Recommendation Statement under Section 14(d)(4) of the Exchange Act (the “Solicitation Statement”) in connection with the Proposed Transaction.

B. The Solicitation Statement Contains Materially False and Misleading Statements and Omissions

22. The Solicitation Statement, which recommends that Cerner shareholders tender their shares in connection with the Proposed Transaction, omits and/or misrepresents material information concerning: (i) Cerner’s financial projections; (ii) the financial analyses performed by the Company’s financial advisors, Goldman Sachs & Co. LLC (“Goldman”) and Centerview Partners LLC (“Centerview”), in connection with their fairness opinions; and (iii) potential conflicts of interest involving Centerview.

23. The omission of the material information (referenced below) renders the following sections of the Solicitation Statement false and misleading, among others: (i) Recommendation of the Cerner Board; (ii) Reasons for the Recommendation of the Cerner Board; (iii) Opinions of Cerner's Financial Advisors; and (iv) Certain Prospective Financial Information about Cerner.

24. The tender offer in connection with the Proposed Transaction is set to expire at 12:00 midnight, Eastern Time, at the end of the day on February 15, 2022 (the "Expiration Date"). It is imperative that the material information that was omitted from the Solicitation Statement be disclosed to the Company's shareholders prior to the Expiration Date to enable them to make an informed decision as to whether to tender their shares. Plaintiff may seek to enjoin Defendants from closing the tender offer or the Proposed Transaction unless and until the material misstatements and omissions (referenced below) are remedied. In the event the Proposed Transaction is consummated, Plaintiff may seek to recover damages resulting from Defendants' misconduct.

1. Material Omissions Concerning Cerner's Financial Projections

25. The Solicitation Statement omits material information concerning Cerner's financial projections.

26. With respect to the Company's financial projections, the Solicitation Statement fails to disclose: (1) all line items underlying the Company's financial projections; (2) the Company's net income projections; and (3) a reconciliation of all non-GAAP to GAAP metrics.

27. The disclosure of this information is material because it would provide the Company's shareholders with a basis to project the future financial performance of the Company and would allow shareholders to better understand the financial analyses performed by the Company's financial advisors in support of their fairness opinions. Shareholders cannot hope to replicate management's inside view of the future prospects of the Company. Without such information, which is uniquely possessed by Defendant(s) and the Company's financial advisors, the Company's shareholders are unable to determine how much weight, if any, to place on the Company's financial advisors' fairness opinions in determining whether to tender their shares in connection Proposed Transaction.

28. When a company discloses non-GAAP financial metrics in a Solicitation Statement that were relied upon by its board of directors in recommending that shareholders exercise their corporate suffrage rights in a particular manner, the company must also disclose, pursuant to SEC Regulation G, all projections and information necessary to make the non-GAAP metrics not misleading, and must provide a reconciliation (by schedule or other clearly understandable method) of the differences between the non-GAAP financial metrics disclosed or released with the most comparable financial metrics calculated and presented in accordance with GAAP. 17 C.F.R. § 244.100.¹

29. The above-referenced omitted information, if disclosed, would significantly alter the total mix of information available to the Company's shareholders.

¹ Mary Jo White, *Keynote Address, International Corporate Governance Network Annual Conference: Focusing the Lens of Disclosure to Set the Path Forward on Board Diversity, Non-GAAP, and Sustainability* (June 27, 2016), <https://www.sec.gov/news/speech/chair-white-icgn-speech.html> (footnotes omitted) (last visited Jan. 24, 2022) ("And last month, the staff issued guidance addressing a number of troublesome practices which can make non-GAAP disclosures misleading: the lack of equal or greater prominence for GAAP measures; exclusion of normal, recurring cash operating expenses; individually tailored non-GAAP revenues; lack of consistency; cherry-picking; and the use of cash per share data. I strongly urge companies to carefully consider this guidance and revisit their approach to non-GAAP disclosures.").

2. Material Omissions Concerning the Financial Advisors' Analyses

30. In connection with the Proposed Transaction, the Solicitation Statement omits material information concerning analyses performed by Goldman and Centerview.

31. The valuation methods, underlying assumptions, and key inputs used by Goldman and Centerview in rendering their purported fairness opinions must be fairly disclosed to the Company's shareholders. The description of Goldman's and Centerview's fairness opinions and analyses, however, fail to include key inputs and assumptions underlying those analyses.

32. Without the information described below, the Company's shareholders are unable to fully understand Goldman's and Centerview's fairness opinions and analyses, and are thus unable to determine how much weight, if any, to place on them in determining whether to tender their shares in connection with the Proposed Transaction. This omitted information, if disclosed, would significantly alter the total mix of information available to the Company's shareholders.

A. Goldman's Analyses

33. The Solicitation Statement fails to disclose the following concerning Goldman's "*Illustrative Discounted Cash Flow Analysis*": (1) the individual inputs and assumptions underlying the (i) discount rates ranging from 6.25% to 7.75%, (ii) perpetuity growth rates ranging from 1.75% to 2.5%, and (iii) exit terminal year LTM EBITDA multiples ranging from 8.4x to 13.6x; (2) the terminal values for Cerner; (3) Cerner's net debt as of November 30, 2021; and (4) the total number of the Company's fully diluted shares as of December 16, 2021.

34. The Solicitation Statement fails to disclose the following concerning Goldman's "*Selected Precedent Transactions Analysis*": (1) the closing date of each transaction; and (2) the value of each transaction.

35. With respect to Goldman's "*Premia Paid Analysis*," the Solicitation Statement fails to disclose each transaction and the individual premiums paid therein.

B. Centerview's Analyses

36. With respect to Centerview's "Selected Public Company Analysis," the Solicitation Statement fails to disclose the financial metrics of each company Centerview observed in its analysis, including each company's enterprise value and EBITDA.

37. The Solicitation Statement fails to disclose the following concerning Centerview's "Selected Precedent Transactions Analysis": (1) the closing date of each transaction; and (2) the value of each transaction.

38. The Solicitation Statement fails to disclose the following concerning Centerview's "Discounted Cash Flow Analysis": (1) the individual inputs and assumptions underlying the (i) discount rates ranging from 7.25% to 8.50%, and (ii) perpetuity growth rates ranging from 2.5% to 3.5%; (2) the terminal values of the Company; (3) Cerner's estimated net debt as of December 31, 2021; and (4) the number of fully-diluted outstanding Company shares as of December 16, 2021.

39. The Solicitation Statement fails to disclose the following concerning Centerview's "Analyst Price Targets" analysis: (1) the individual price targets observed by Centerview in its analysis; and (2) the sources thereof.

3. Material Omissions Concerning Potential Conflicts of Interest Involving Centerview

40. The Solicitation Statement omits material information concerning potential conflicts of interest involving Centerview.

41. The Solicitation Statement provides that, "[d]uring the two year period ended December 20, 2021, the Investment Banking Division of Goldman Sachs has not been engaged by the Significant Shareholder² or its affiliates to provide financial advisory or underwriting services for which Goldman Sachs has recognized compensation."

² The Solicitation Statement defines the "Significant Shareholder" as Lawrence Ellison, the Chairman and Chief Technology Officer of Oracle.

42. Yet, the Solicitation Statement fails to disclose the timing and nature of the past services Centerview and/or its affiliates provided the Significant Shareholder and/or its affiliates, including the amount of compensation Centerview received or expects to receive for providing each service within the past two years of the date of its fairness opinion.

43. Disclosure of a financial advisor's compensation and potential conflicts of interest to shareholders is required due to their central role in the evaluation, exploration, selection, and implementation of strategic alternatives and the rendering of any fairness opinions. Disclosure of a financial advisor's potential conflicts of interest may inform shareholders on how much weight to place on that analysis.

44. The omission of the above-referenced information renders the Solicitation Statement materially incomplete and misleading. This information, if disclosed, would significantly alter the total mix of information available to the Company's shareholders.

COUNT I
For Violations of Section 14(e) of the Exchange Act
Against All Defendants

45. Plaintiff repeats and re-alleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

46. Section 14(e) of the Exchange Act states, in relevant part:

It shall be unlawful for any person to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading . . . in connection with any tender offer or request or invitation for tenders[.]

47. During the relevant period, Defendants, individually and in concert, directly or indirectly, disseminated or approved the false and misleading Solicitation Statement specified above, which failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in violation of Section 14(e) of the Exchange Act.

48. Each of the Individual Defendants, by virtue of their positions within the Company as officers and/or directors, were aware of materially false and/or misleading and/or omitted information but failed to disclose such information, in violation of Section 14(e) of the Exchange Act. Defendants, by use of the mails and means and instrumentalities of interstate commerce, solicited and/or permitted the use of their names to file and disseminate the Solicitation Statement with respect to the Proposed Transaction.

49. The false and misleading statements and omissions in the Solicitation Statement are material in that a reasonable shareholder would consider them important in deciding whether to tender their shares in connection with the Proposed Transaction.

50. Defendants acted knowingly or with deliberate recklessness in filing or causing the filing of the materially false and misleading Solicitation Statement.

51. By reason of the foregoing, Defendants violated Section 14(e) of the Exchange Act.

52. Because of the false and misleading statements in the Solicitation Statement, Plaintiff is threatened with irreparable harm.

COUNT II
For Violations of Section 14(d)(4) of the Exchange Act and Rule 14d-9 Promulgated Thereunder
Against All Defendants

53. Plaintiff repeats and re-alleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

54. Defendants caused the Solicitation Statement to be issued with the intent to solicit shareholder support for the Proposed Transaction.

55. Section 14(d)(4) of the Exchange Act and SEC Rule 14d-9 promulgated thereunder require full and complete disclosure in connection with tender offers. Specifically, Section 14(d)(4) states, in relevant part:

Any solicitation or recommendation to the holders of such a security to accept or reject a tender offer or request or invitation for tenders shall be made in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

56. SEC Rule 14d-9(d), adopted to implement Section 14(d)(4) of the Exchange Act, states, in relevant part:

Any solicitation or recommendation to holders of a class of securities referred to in section 14(d)(1) of the Act with respect to a tender offer for such securities shall include the name of the person making such solicitation or recommendation and the information required by Items 1 through 8 of Schedule 14D-9 (§ 240.14d-101) or a fair and adequate summary thereof[.]

57. In accordance with SEC Rule 14d-9, Item 8 of Schedule 14D-9 requires that a company:

Furnish such additional material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading.

58. During the relevant period, Defendants, individually and in concert, directly or indirectly, disseminated or approved the false and misleading Solicitation Statement specified above, which failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in violation of Section 14(d)(4) of the Exchange Act and SEC Rule 14d-9.

59. Each of the Individual Defendants, by virtue of their positions within the Company as officers and/or directors, were aware of materially false and/or misleading and/or omitted information but failed to disclose such information, in violation of Section 14(d)(4) of the Exchange Act and SEC Rule 14d-9. Defendants, by use of the mails and means and instrumentalities of interstate commerce, solicited and/or permitted the use of their names to file and disseminate the Solicitation Statement with respect to the Proposed Transaction.

60. Defendants acted knowingly or with deliberate recklessness in filing the materially false and misleading Solicitation Statement which omitted material information.

61. The false and misleading statements and omissions in the Solicitation Statement are material in that a reasonable shareholder would consider them important in deciding whether to tender their shares in connection with the Proposed Transaction.

COUNT III
Violations of Section 20(a) of the Exchange Act
Against the Individual Defendants

62. Plaintiff repeats and re-alleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

63. The Individual Defendants acted as control persons of the Company within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their senior positions as officers and/or directors of the Company and participation in and/or awareness of the Company's operations and/or intimate knowledge of the false statements contained in the Solicitation Statement filed with the SEC, they had the power to and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the false and misleading Solicitation Statement.

64. Each of the Individual Defendants was provided with or had unlimited access to copies of the Solicitation Statement and other statements alleged by Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected. As officers and/or directors of a publicly owned company, the Individual Defendants had a duty to disseminate accurate and truthful information with respect to the Solicitation Statement, and to correct promptly any public statements issued by the Company which were or had become materially false or misleading.

65. In particular, each of the Individual Defendants had direct and supervisory involvement in the operations of the Company, and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same. The Individual Defendants were provided with or had unlimited access to copies of the Solicitation Statement and had the ability to prevent the issuance of the statements or to cause the statements to be corrected. The Solicitation Statement at issue contains the recommendation of the Individual Defendants to tender their shares pursuant to the Proposed Transaction. Thus, the Individual Defendants were directly involved in the making of the Solicitation Statement.

66. In addition, as the Solicitation Statement sets forth at length, and as described herein, the Individual Defendants were involved in negotiating, reviewing, and approving the Proposed Transaction. The Solicitation Statement purports to describe the various issues and information that they reviewed and considered—descriptions which had input from the Individual Defendants.

67. By virtue of the foregoing, the Individual Defendants have violated Section 20(a) of the Exchange Act.

68. As set forth above, the Individual Defendants had the ability to exercise control over and did control a person or persons who have each violated Sections 14(e), 14(d)(4), and Rule 14d-9 promulgated thereunder, by their acts and omissions as alleged herein. By virtue of their positions as controlling persons, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of Defendants' conduct, the Company's shareholders will be irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment and relief as follows:

- A. Preliminarily and permanently enjoining Defendants and all persons acting in concert with them from proceeding with, consummating, or closing the Proposed Transaction and the tender offer in connection with the Proposed Transaction, unless and until Defendants disclose and disseminate the material information identified above to the Company's shareholders;
- B. In the event Defendants consummate the Proposed Transaction, rescinding it and setting it aside or awarding Plaintiff rescissory damages;
- C. Declaring that Defendants violated Sections 14(e), 14(d)(4), and 20(a) of the Exchange Act, and Rule 14d-9 promulgated thereunder;
- D. Awarding Plaintiff reasonable costs and expenses incurred in this action, including counsel fees and expenses and expert fees; and
- E. Granting such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

Dated: January 24, 2022

Respectfully submitted,
HALPER SADEH LLP

By: /s/ Daniel Sadeh
Daniel Sadeh, Esq.
Zachary Halper, Esq. (to be admitted *pro hac vice*)

667 Madison Avenue, 5th Floor
New York, NY 10065
Telephone: (212) 763-0060
Facsimile: (646) 776-2600

Email: sadeh@halpersadeh.com
zhalper@halpersadeh.com

Counsel for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARK GARRISON,)	
)	
Plaintiff,)	
)	Case No. _____
v.)	
)	JURY TRIAL DEMANDED
CERNER CORPORATION, WILLIAM D.)	
ZOLLARS, DAVID FEINBERG, GERALD)	
E. BISBEE, JR., MITCHELL E. DANIELS,)	
JR., JULIE L. GERBERDING, ELDER)	
GRANGER, JOHN GREISCH, MELINDA J.)	
MOUNT, GEORGE A. RIEDEL, R. HALSEY)	
WISE, OC ACQUISITION LLC, CEDAR)	
ACQUISITION CORPORATION, and)	
ORACLE CORPORATION,)	
)	
Defendants.)	

COMPLAINT FOR VIOLATION OF THE SECURITIES EXCHANGE ACT OF 1934

Plaintiff, by his undersigned attorneys, for this complaint against defendants, alleges upon personal knowledge with respect to himself, and upon information and belief based upon, *inter alia*, the investigation of counsel as to all other allegations herein, as follows:

NATURE OF THE ACTION

1. This action stems from a proposed transaction announced on December 20, 2021 (the "Proposed Transaction"), pursuant to which Cerner Corporation ("Cerner" or the "Company") will be acquired by Oracle Corporation ("Oracle"), OC Acquisition LLC ("Parent"), and Cedar Acquisition Corporation ("Purchaser").
2. On December 20, 2021, Cerner's Board of Directors (the "Board" or "Individual Defendants") caused the Company to enter into an agreement and plan of merger (the "Merger Agreement") with Oracle, Parent, and Purchaser. Pursuant to the terms of the Merger Agreement, Purchaser commenced a tender offer (the "Tender Offer") to purchase all of Cerner's outstanding common stock for \$95.00 in cash per share. The Tender Offer is set to expire on February 16, 2022.

3. On January 19, 2022, defendants filed a Solicitation/Recommendation Statement (the “Solicitation Statement”) with the United States Securities and Exchange Commission (“SEC”) in connection with the Proposed Transaction.

4. The Solicitation Statement omits material information with respect to the Proposed Transaction, which renders the Solicitation Statement false and misleading. Accordingly, plaintiff alleges herein that defendants violated Sections 14(e), 14(d), and 20(a) of the Securities Exchange Act of 1934 (the “1934 Act”) in connection with the Solicitation Statement.

JURISDICTION AND VENUE

5. This Court has jurisdiction over all claims asserted herein pursuant to Section 27 of the 1934 Act because the claims asserted herein arise under Sections 14(e), 14(d), and 20(a) of the 1934 Act and Rule 14a-9.

6. This Court has jurisdiction over defendants because each defendant is either a corporation that conducts business in and maintains operations within this District, or is an individual with sufficient minimum contacts with this District so as to make the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

7. Venue is proper under 28 U.S.C. § 1391 because a portion of the transactions and wrongs complained of herein occurred in this District.

PARTIES

8. Plaintiff is, and has been continuously throughout all times relevant hereto, the owner of Cerner common stock.

9. Defendant Cerner is a Texas corporation and maintains its principal executive offices at 150 Spear Street, Suite 400, San Francisco, CA 94105. Cerner’s common stock trades on the NASDAQ, which is headquartered in New York, New York, under the ticker symbol “CERN.”

10. Defendant William D. Zollars is Chairman of the Board of the Company.
11. Defendant David Feinberg is President, Chief Executive Officer, and a director of the Company.
12. Defendant Gerald E. Bisbee, Jr. is a director of the Company.
13. Defendant Mitchell E. Daniels, Jr. is a director of the Company.
14. Defendant Julie L. Gerberding is a director of the Company.
15. Defendant Elder Granger is a director of the Company.
16. Defendant John Greisch is a director of the Company.
17. Defendant Melinda J. Mount is a director of the Company.
18. Defendant George A. Riedel is a director of the Company.
19. Defendant R. Halsey Wise is a director of the Company.
20. The defendants identified in paragraphs 10 through 19 are collectively referred to herein as the “Individual Defendants.”
21. Defendant Oracle is a Delaware corporation and a party to the Merger Agreement.
22. Defendant Parent is a Delaware corporation and a party to the Merger Agreement.
23. Defendant Purchaser is a Delaware corporation, a wholly-owned subsidiary of Parent, and a party to the Merger Agreement.

SUBSTANTIVE ALLEGATIONS

Background of the Company and the Proposed Transaction

24. Cerner’s health technologies connect people and information systems at thousands of contracted provider facilities worldwide dedicated to creating smarter and better care for individuals and communities. Cerner assists clinicians in making care decisions and assists organizations in managing the health of their populations.

25. On December 20, 2021, Cerner's Board caused the Company to enter into the Merger Agreement.

26. Pursuant to the terms of the Merger Agreement, Purchaser commenced the Tender Offer to acquire all of Cerner's outstanding common stock for \$95.00 in cash per share.

27. According to the press release announcing the Proposed Transaction:

Oracle Corporation (NYSE: ORCL) and Cerner Corporation today jointly announced an agreement for Oracle to acquire Cerner through an all-cash tender offer for \$95.00 per share, or approximately \$28.3 billion in equity value. Cerner is a leading provider of digital information systems used within hospitals and health systems to enable medical professionals to deliver better healthcare to individual patients and communities.

The Solicitation Statement Omits Material Information, Rendering It False and Misleading

28. Defendants filed the Solicitation Statement with the SEC in connection with the Proposed Transaction.

29. As set forth below, the Solicitation Statement omits material information with respect to the Proposed Transaction, which renders the Solicitation Statement false and misleading.

30. First, the Solicitation Statement omits material information regarding the Company's financial projections.

31. The Solicitation Statement fails to disclose: (i) all line items used to calculate the projections; (ii) a reconciliation of all non-GAAP to GAAP metrics; and (iii) projected net income.

32. The disclosure of projected financial information is material because it provides stockholders with a basis to project the future financial performance of a company, and allows stockholders to better understand the financial analyses performed by the company's financial advisor in support of its fairness opinion.

33. Second, the Solicitation Statement omits material information regarding the analyses performed by the Company's financial advisors in connection with the Proposed Transaction, Goldman Sachs & Co. LLC ("Goldman") and Centerview Partners LLC ("Centerview").

34. With respect to Goldman's Illustrative Discounted Cash Flow Analysis, the Solicitation Statement fails to disclose: (i) the terminal values; (ii) the individual inputs and assumptions underlying the discount rates and perpetuity growth rates; (iii) Goldman's basis for selecting the multiples used in the analysis; (iv) the net debt used in the analysis; and (v) the total number of fully diluted shares used in the analysis.

35. With respect to Goldman's Illustrative Present Value of Future Stock Price Analysis, the Solicitation Statement fails to disclose: (i) the individual inputs and assumptions underlying the discount rate; (ii) Goldman's basis for selecting the multiples used in the analysis; and (iii) the dividends used in the analysis.

36. With respect to Goldman's Selected Precedent Transactions Analysis, the Solicitation Statement fails to disclose: (i) the closing dates of the transactions; and (ii) the total values of the transactions.

37. With respect to Goldman's Premia Paid Analysis, the Solicitation Statement fails to disclose: (i) the transactions observed in the analysis; and (ii) the premiums paid in the transactions.

38. With respect to Centerview's Selected Precedent Transactions Analysis, the Solicitation Statement fails to disclose: (i) the closing dates of the transactions; and (ii) the total values of the transactions.

39. With respect to Centerview's Discounted Cash Flow Analysis, the Solicitation Statement fails to disclose: (i) the terminal values; (ii) the individual inputs and assumptions underlying the discount rates and perpetuity growth rates; (iii) the net debt used in the analysis; and (iv) the total number of fully diluted shares used in the analysis.

40. With respect to Centerview's Analyst Price Targets analysis, the Solicitation Statement fails to disclose: (i) the price targets observed in the analysis; and (ii) the sources thereof.

41. When a banker's endorsement of the fairness of a transaction is touted to shareholders, the valuation methods used to arrive at that opinion as well as the key inputs and range of ultimate values generated by those analyses must also be fairly disclosed.

42. Third, the Solicitation Statement fails to disclose the timing and nature of the past services Goldman provided to Cerner and its affiliates.

43. The omission of the above-referenced material information renders the Solicitation Statement false and misleading.

44. The above-referenced omitted information, if disclosed, would significantly alter the total mix of information available to the Company's stockholders.

COUNT I

(Claim for Violation of Section 14(e) of the 1934 Act Against Defendants)

45. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

46. Section 14(e) of the 1934 Act states, in relevant part, that:

It shall be unlawful for any person to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading . . . in connection with any tender offer or request or invitation for tenders[.]

47. Defendants disseminated the misleading Solicitation Statement, which contained statements that, in violation of Section 14(e) of the 1934 Act, in light of the circumstances under which they were made, omitted to state material facts necessary to make the statements therein not misleading.

-
48. The Solicitation Statement was prepared, reviewed, and/or disseminated by defendants.
49. The Solicitation Statement misrepresented and/or omitted material facts in connection with the Proposed Transaction as set forth above.
50. By virtue of their positions within the Company and/or roles in the process and the preparation of the Solicitation Statement, defendants were aware of this information and their duty to disclose this information in the Solicitation Statement.
51. The omissions in the Solicitation Statement are material in that a reasonable shareholder will consider them important in deciding whether to tender their shares in connection with the Proposed Transaction. In addition, a reasonable investor will view a full and accurate disclosure as significantly altering the total mix of information made available.
52. Defendants knowingly or with deliberate recklessness omitted the material information identified above in the Solicitation Statement, causing statements therein to be materially incomplete and misleading.
53. By reason of the foregoing, defendants violated Section 14(e) of the 1934 Act.
54. Because of the false and misleading statements in the Solicitation Statement, plaintiff is threatened with irreparable harm.
55. Plaintiff has no adequate remedy at law.

COUNT II

(Claim for Violation of 14(d) of the 1934 Act Against Defendants)

56. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

57. Section 14(d)(4) of the 1934 Act states:

Any solicitation or recommendation to the holders of such a security to accept or reject a tender offer or request or invitation for tenders shall be made in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

58. Rule 14d-9(d) states, in relevant part:

Any solicitation or recommendation to holders of a class of securities referred to in section 14(d)(1) of the Act with respect to a tender offer for such securities shall include the name of the person making such solicitation or recommendation and the information required by Items 1 through 8 of Schedule 14D-9 (§ 240.14d-101) or a fair and adequate summary thereof[.]

Item 8 requires that directors must “furnish such additional information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading.”

59. The Solicitation Statement violates Section 14(d)(4) and Rule 14d-9 because it omits the material facts set forth above, which renders the Solicitation Statement false and/or misleading.

60. Defendants knowingly or with deliberate recklessness omitted the material information set forth above, causing statements therein to be materially incomplete and misleading.

61. The omissions in the Solicitation Statement are material to plaintiff, and he will be deprived of his entitlement to make a fully informed decision with respect to the Proposed Transaction if such misrepresentations and omissions are not corrected prior to the expiration of the Tender Offer.

62. Plaintiff has no adequate remedy at law.

COUNT III

(Claim for Violation of Section 20(a) of the 1934 Act Against the Individual Defendants, Oracle, Parent, and Purchaser)

63. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

64. The Individual Defendants, Oracle, Parent, and Purchaser acted as controlling persons of Cerner within the meaning of Section 20(a) of the 1934 Act as alleged herein. By virtue of their positions as directors of Cerner and participation in and/or awareness of the Company's operations and/or intimate knowledge of the false statements contained in the Solicitation Statement filed with the SEC, they had the power to influence and control and did influence and control, directly or indirectly, the decision making of the Company, including the content and dissemination of the various statements that plaintiff contends are false and misleading.

65. Each of the Individual Defendants, Oracle, Parent, and Purchaser was provided with or had unlimited access to copies of the Solicitation Statement alleged by plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause them to be corrected.

66. Each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company, and, therefore, is presumed to have had the power to control and influence the particular transactions giving rise to the violations as alleged herein, and exercised the same. The Solicitation Statement contains the unanimous recommendation of the Individual Defendants to approve the Proposed Transaction. They were thus directly connected with and involved in the making of the Solicitation Statement.

67. Oracle, Parent and Purchaser also had direct supervisory control over the composition of the Solicitation Statement and the information disclosed therein, as well as the Information that was omitted and/or misrepresented in the Solicitation Statement.

68. By virtue of the foregoing, the Individual Defendants, Oracle, Parent, and Purchaser violated Section 20(a) of the 1934 Act.

69. As set forth above, the Individual Defendants, Oracle, Parent, and Purchaser had the ability to exercise control over and did control a person or persons who have each violated Section 14(e) of the 1934 Act and Rule 14a-9, by their acts and omissions as alleged herein. By virtue of their positions as controlling persons, these defendants are liable pursuant to Section 20(a) of the 1934 Act.

70. As a direct and proximate result of defendants' conduct, plaintiff is threatened with irreparable harm.

71. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment and relief as follows:

- A. Enjoining defendants and all persons acting in concert with them from proceeding with, consummating, or closing the Proposed Transaction;
- B. In the event defendants consummate the Proposed Transaction, rescinding it and setting it aside or awarding rescissory damages;
- C. Directing the Individual Defendants to file a Solicitation Statement that does not contain any untrue statements of material fact and that states all material facts required in it or necessary to make the statements contained therein not misleading;
- D. Declaring that defendants violated Sections 14(e), 14(d), and 20(a) of the 1934 Act, as well as Rule 14a-9 promulgated thereunder;

E. Awarding plaintiff the costs of this action, including reasonable allowance for plaintiff's attorneys' and experts' fees; and

F. Granting such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury.

Dated: January 26, 2022

RIGRODSKY LAW, P.A.

By: /s/ Gina M. Serra

Seth D. Rigrotsky

Timothy J. MacFall

Gina M. Serra

Vincent A. Licata

825 East Gate Boulevard, Suite 300

Garden City, NY 11530

(516) 683-3516

sdr@rl-legal.com

tjm@rl-legal.com

gms@rl-legal.com

vl@rl-legal.com

Attorneys for Plaintiff

Evan J. Smith
BRODSKY & SMITH
240 Mineola Boulevard
First Floor
Mineola, NY 11501
Telephone: 516.741.4977
Facsimile: 516.741.0626
esmith@brodskysmith.com

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VERNA SCHULTE,
Plaintiff,

vs.
CERNER CORPORATION, WILLIAM D.
ZOLLARS, DAVID FEINBERG,
GERALD BISBEE, JR., MITCHELL E.
DANIELS, JR., JULIE L.
GERBERDING, ELDER GRANGER,
JOHN GREISCH, and MELINDA J.
MOUNT, GEORGE A. RIEDEL, and R.
HALSEY WISE,
Defendants.

Case No.:

Complaint For:

- (1) Violation of § 14 (e) of the Securities Exchange Act of 1934
- (2) Violation of § 14 (d) of the Securities Exchange Act of 1934
- (3) Violation of § 20(a) of the Securities Exchange Act of 1934

JURY TRIAL DEMANDED

Plaintiff, Verna Schulte (“Plaintiff”), by and through her attorneys, alleges upon information and belief, except for those allegations that pertain to her, which are alleged upon personal knowledge, as follows:

SUMMARY OF THE ACTION

1. Plaintiff brings this stockholder action against Cerner Corporation (“Cerner” or the “Company”) and the Company’s Board of Directors (the “Board” or the “Individual Defendants,” and collectively with the Company, the “Defendants”), for violations of Sections 14(e), 14 (d), and 20(a) of the Securities and Exchange Act of 1934 (the “Exchange Act”) as a result of Defendants’ efforts to sell the Company to Oracle Corporation. (“Parent” or “Oracle”) as a result of an unfair process, and to enjoin an upcoming tender offer on a proposed all cash transaction representing a total approximate value of \$28.3 billion (the “Proposed Transaction”).

2. The terms of the Proposed Transaction were memorialized in a December 20, 2021, filing with the Securities and Exchange Commission (“SEC”) on Form 8-K attaching the definitive Agreement and Plan of Merger (the “Merger Agreement”). Under the terms of the Merger Agreement, Oracle will acquire all the outstanding shares of Cerner common stock for \$95.00 per share in cash. As a result, Cerner will become an indirect wholly-owned subsidiary of Oracle.

3. Thereafter, on January 19, 2022, Cerner filed a Solicitation/Recommendation Statement on Schedule 14D-9 (the “Recommendation Statement”) with the SEC in support of the Proposed Transaction.

4. The Proposed Transaction is unfair for a number of reasons. Significantly, the Recommendation Statement describes an insufficient process in which the Board failed to conduct a market check for potentially interested third parties and failed to create a committee of independent and disinterested directors to run the sales process.

5. Next, it appears as though the Board has entered into the Proposed Transaction to procure for itself and senior management of the Company significant and immediate benefits with no thought to Plaintiff as a public stockholder. For instance, pursuant to the terms of the Merger Agreement, upon the consummation of the Proposed Transaction, Company Board Members and executive officers will be able to exchange all Company equity awards for the merger consideration.

6. In violation of the Exchange Act Defendants caused to be filed the materially deficient Recommendation Statement on January 19, 2022, with the SEC in an effort to solicit stockholders, including Plaintiff, to tender their Cerner shares in favor of the Proposed Transaction. The Recommendation Statement is materially deficient, deprives Plaintiff of the

information necessary to make an intelligent, informed and rational decision of whether to tender in favor of the Proposed Transaction, and is thus in violation of the Exchange Act. As detailed below, the Recommendation Statement omits and/or misrepresents material information concerning, among other things: (a) the sales process and in particular certain conflicts of interest for management; (b) the financial projections for Cerner, provided by Cerner to the Company's financial advisors Goldman Sachs & Co. LLC ("Goldman Sachs") and Center view Partners LLC ("Centerview"); and (c) the data and inputs underlying the financial valuation analyses, if any, that purport to support the fairness opinions created by Goldman Sachs and Centerview and provided to the Company and the Board.

7. Accordingly, this action seeks to enjoin the Proposed Transaction.

8. Absent judicial intervention, the Proposed Transaction will be consummated, resulting in irreparable injury to Plaintiff. This action seeks to enjoin the Proposed Transaction.

PARTIES

9. Plaintiff is a citizen of Iowa and, at all times relevant hereto, has been a Cerner stockholder.

10. Defendant Cerner is a healthcare technology company. Cerner is incorporated in Texas and has its principal place of business at 2800 Rock Creek Parkway, North Kansas City, MO 64117. Shares of Cerner common stock are traded on the NASDAQ Stock Exchange under the symbol "CERN".

11. Defendant William D. Zollars ("Zollars") has been a Director of the Company at all relevant times. In addition, Zollars serves as the Chairman of the Board of Directors.

12. Defendant David Feinberg ("Feinberg") has been a director of the Company at all relevant times. Feinberg also serves as the company's Chief Executive Officer ("CEO") and President.

13. Defendant Gerald E. Bisbee, Jr. (“Bisbee”) has been a director of the Company at all relevant times.
14. Defendant Mitchell E. Daniels, Jr. (“Daniels.”) has been a director of the Company at all relevant times.
15. Defendant Julie L. Gerberding (“Gerberding.”) has been a director of the Company at all relevant times.
16. Defendant Elder Granger (“Elder Granger”) has been a director of the Company at all relevant times. In addition, Hausmann serves as the Company’s Chairman of the Board.
17. Defendant Melinda J. Mount (“Mount”) has been a director of the Company at all relevant times.
18. Defendant George A. Riedel (“Riedel”) has been a director of the Company at all relevant times.
19. Defendant R. Halsey Wise (“Wise”) has been a director of the company at all relevant times.
20. Defendants identified in ¶¶ 11 - 19 are collectively referred to as the “Individual Defendants.”
21. Non-Party Oracle is an enterprise technology company. Shares of Oracle common stock are traded on the New York Stock Exchange under the symbol “ORCL.”
22. Non-Party Cedar Acquisition Company (“Merger Sub”) is a wholly owned subsidiary of Oracle created to effectuate the Proposed Transaction.

JURISDICTION AND VENUE

23. This Court has subject matter jurisdiction pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1331 (federal question jurisdiction) as Plaintiff alleges violations of Sections 14(e), 14 (d), and 20(a) of the Exchange Act. This action is not a collusive one to confer jurisdiction on a court of the United States, which it would not otherwise have. The Court has supplemental jurisdiction over any claims arising under state law pursuant to 28 U.S.C. § 1367.

24. Personal jurisdiction exists over each defendant either because the defendant conducts business in or maintains operations in this District, or is an individual who is either present in this District for jurisdictional purposes or has sufficient minimum contacts with this District as to render the exercise of jurisdiction over defendant by this Court permissible under traditional notions of fair play and substantial justice.

25. Venue is proper in this District pursuant to 28 U.S.C. § 1391, because Cerner, and each of the Individual Defendants, as Company officers or directors, have extensive contacts within this District, for example, Cerner common stock trades on the NASDAQ exchange, which is headquartered in this District.

SUBSTANTIVE ALLEGATIONS

Company Background

26. Cerner Corporation, together with its subsidiaries, provides health care information technology solutions and tech-enabled services in the United States and internationally. The company offers Cerner Millennium architecture, a person-centric computing framework, which includes clinical, financial, and management information systems that allow providers to access an individual's electronic health record (EHR) at the point of care, and organizes and delivers information for physicians, nurses, laboratory technicians, pharmacists, front- and back-office professionals, and consumers. Cerner Corporation was founded in 1979 and is headquartered in North Kansas City, Missouri.

27. The Company's most recent financial performance press release, revealing financial results from the quarter preceding the announcement of the Proposed Transaction, indicated impressive financial success. For example, in the October 29, 2021 press release announcing its 2021 Q3 financial results, the Company reported milestones such as a Revenue increased 7% to \$1.468 billion as well as an increase in free cash flow to \$312 million, which was up 32%. The company has also recently increased its dividend distribution for common stock.

28. Speaking on the results, Mark Erceg, Executive Vice President and Chief Financial Officer said, “During the third quarter, we delivered solid revenue growth, expanded Adjusted Operating Margin (non-GAAP) by 150 basis points and increased Adjusted Diluted EPS (non-GAAP) by nearly 20%.” He continued on the positive results by stating that “The organizational transformation and productivity measures implemented earlier this year and additional on-going product focus and cost control initiatives are strengthening our business. A clear focus on cash generation is also having a positive impact as evidenced by a 32% increase in Free Cash Flow (non-GAAP) for the quarter. The increase in Free Cash Flow (non-GAAP) and our strong balance sheet allowed us to repurchase \$375 million of shares during the quarter, which brings our year-to-date purchases to \$1.1 billion.”

29. The promise and financial results are not an anomaly, but rather, are indicative of a trend of continued future potential success by Cerner. Clearly, based upon the positive outlook, the Company is likely to have tremendous future success.

30. Despite this upward trajectory, the Individual Defendants have caused Cerner to enter into the Proposed Transaction without providing requisite information to Cerner stockholders such as Plaintiff.

The Flawed Sales Process

31. As detailed in the Recommendation Statement, the process deployed by the Individual Defendants was flawed and inadequate, was conducted out of the self-interest of the Individual Defendants and was designed with only one concern in mind – to effectuate a sale of the Company by any means possible.

32. Notably, the Recommendation Statement indicates that no market check for potentially interested third parties was conducted by the Board or anyone on its behalf.

33. The Recommendation Statement indicates that an informal “Transaction Working Group” committee of the Board was to “provide additional guidance” regarding the sales process. However, the Recommendation Statement indicates that this Transaction Working Group was not delegated any actual authority and was composed at least in part of interested, inside Directors. The Recommendation Statement fails to indicate why a proper, formal, committee of disinterested and independent directors was not created to run the sales process.

34. Moreover, the Recommendation Statement does not explain why it was necessary to engage multiple financial advisors. Notably, for services rendered relating to the Proposed Transaction, Goldman Sachs and Centerview will each receive \$65 million and \$35 million respectively. The Recommendation Statement should explain in detail why this additional expense was necessary, especially given that no market check was conducted by either advisor.

35. In addition, the Recommendation Statement is silent as to the nature of the confidentiality agreements entered into between the Company and potentially interested third parties, including Oracle, throughout the sales process, if any, and whether these agreements differ from each other, and if so in what way. The Recommendation Statement also fails to disclose all specific conditions under which any standstill provision contained in any entered confidentiality agreement entered into between the Company and any potentially interested third parties, including Oracle, throughout the sales process, if any, would fall away.

36. It is not surprising, given this background to the overall sales process, that it was conducted in a completely inappropriate and misleading manner.

The Proposed Transaction

37. On December 20, 2021, Cerner and Oracle issued a joint press release announcing the Proposed Transaction. The press release stated, in relevant part:

AUSTIN, Texas and KANSAS CITY, Mo. — December 20, 2021 —Oracle Corporation (NYSE: ORCL) and Cerner Corporation today jointly announced an agreement for Oracle to acquire Cerner through an all-cash tender offer for \$95.00 per share, or approximately \$28.3 billion in equity value. Cerner is a leading provider of digital information systems used within hospitals and health systems to enable medical professionals to deliver better healthcare to individual patients and communities.

“Working together, Cerner and Oracle have the capacity to transform healthcare delivery by providing medical professionals with better information—enabling them to make better treatment decisions resulting in better patient outcomes,” said Larry Ellison, Chairman and Chief Technology Officer, Oracle. “With this acquisition, Oracle’s corporate mission expands to assume the responsibility to provide our overworked medical professionals with a new generation of easier-to-use digital tools that enable access to information via a hands-free voice interface to secure cloud applications. This new generation of medical information systems promises to lower the administrative workload burdening our medical professionals, improve patient privacy and outcomes, and lower overall healthcare costs.”

“We expect this acquisition to be immediately accretive to Oracle’s earnings on a non-GAAP basis in the first full fiscal year after closing—and contribute substantially more to earnings in the second fiscal year and thereafter,” said Safra Catz, Chief Executive Officer, Oracle. “Healthcare is the largest and most important vertical market in the world—\$3.8 trillion last year in the United States alone. Oracle’s revenue growth rate has already been increasing this year—Cerner will be a huge additional revenue growth engine for years to come as we expand its business into many more countries throughout the world. That’s exactly the growth strategy we adopted when we bought NetSuite—except the Cerner revenue opportunity is even larger.”

“Cerner has been a leader in helping digitize medical care and now it’s time to realize the real promise of that work with the care delivery tools that get information to the right caregivers at the right time,” said David Feinberg, President and Chief Executive Officer, Cerner. “Joining Oracle as a dedicated Industry Business Unit provides an unprecedented opportunity to accelerate our work modernizing electronic health records (EHR), improving the caregiver experience, and enabling more connected, high-quality and efficient patient care. We are also very excited that Oracle is committed to maintaining and growing our community presence, including in the Kansas City area.”

“Oracle’s Autonomous Database, low-code development tools, and Voice Digital Assistant user interface enables us to rapidly modernize Cerner’s systems and move them to our Gen2 Cloud,” said Mike Sicilia, Executive Vice President, Vertical Industries, Oracle. “This can be done very quickly because Cerner’s largest business and most important clinical system already runs on the Oracle Database. No change required there. What will change is the user interface. We will make Cerner’s systems much easier to learn and use by making Oracle’s hands-free Voice Digital Assistant the primary interface to Cerner’s clinical systems. This will allow medical professionals to spend less time typing on computer keyboards and more time caring for patients.”

Highlights

- All-cash tender offer for \$95.00 per share, or approximately \$28.3 billion, that is immediately accretive to Oracle’s earnings.

- Accretive to Oracle's earnings on a non-GAAP basis in the first full fiscal year after closing and will contribute substantially more to earnings in the second fiscal year and thereafter.
- Cerner will be a huge additional revenue growth engine for Oracle for years to come as Oracle expands Cerner's business into many more countries throughout the world.
- Transaction is expected to close in calendar year 2022. The closing of the transaction is subject to receiving certain regulatory approvals and satisfying other closing conditions including Cerner stockholders tendering a majority of Cerner's outstanding shares in the tender offer.
- Oracle anticipates retaining an investment grade credit rating.
- Oracle brings significant experience helping power the largest industries.
- Oracle provides industry solutions that run the core operations for customers in the world's largest industries.

Industries covered by Oracle today include, among others, Financial Services, Telecom, Utilities, Pharmaceuticals, Hospitality, Retail, Food & Beverage, Construction & Engineering, Manufacturing and Government.

Oracle also brings best in class cloud infrastructure to drive digital modernization, substantially lowering the total cost of IT in these critical industry sectors. Cerner is a leader in the healthcare IT industry and a complementary business to Oracle. Cerner is a leading provider of digital information systems used within hospitals to enable medical professionals to deliver better healthcare to individual patients and communities. Cerner has over four decades of experience modernizing electronic health records, improving the caregiver experience, and streamlining and automating clinical and administrative workflows.

Together, Oracle and Cerner will protect customer investments and transform healthcare. According to a recent study by the Mayo Clinic¹, physicians spend 1 to 2 hours on EHRs and desk work for every hour spent in face-to-face contact with patients, as well as an additional 1 to 2 hours of personal time on EHR related activities.

Working together, Cerner and Oracle have the capacity to address these issues and transform healthcare delivery by providing medical professionals with better information—enabling them to make better treatment decisions resulting in better patient outcomes. Customer investments in Cerner are also protected with this combination and will grow in value over time as more modern and connected technologies are made available. With Oracle's resources, infrastructure and cloud capabilities, Cerner will accelerate the pace of product and technology development to enable more connected, high-quality, and efficient care. Oracle's focus on usability and voice enabled user interfaces will dramatically reduce the amount of time that medical providers spend dealing with systems and increase the time they spend directly caring for patients. Significant opportunity to help customers use Oracle's modern technologies such as cloud, AI, ML and other innovations to make care more accessible, secure, efficient and effective for patients and caregivers.

Cerner systems running on the Oracle Gen2 Cloud will be available 24 by 7 by 365. Goal is to deliver zero unplanned downtime in the medical environment. With Cerner systems running on the Oracle database, only specifically authorized medical professionals can access patient data. IT professionals running the systems are unable to look at patient data. Oracle and Cerner are committed to continued and enhanced stewardship of health information, which will be bolstered by Oracle's global operational infrastructure.

Cerner will be organized as a dedicated Industry Business Unit within Oracle. Cerner will be Oracle's anchor asset to expand into healthcare and together we will improve medical care for individuals and communities around the world. Oracle intends to maintain and grow Cerner's community presence, including in the Kansas City area, while utilizing Oracle's global footprint to reach new geographies faster.

Potential Conflicts of Interest

38. The breakdown of the benefits of the deal indicates that Cerner insiders are the primary beneficiaries of the Proposed Transaction, not the Company's public stockholders such as Plaintiff. The Board and the Company's executive officers are conflicted because they will have secured unique benefits for themselves from the Proposed Transaction not available to Plaintiff as a public stockholder of Cerner.

39. Notably, Company insiders, currently own large, illiquid portions of Company stock as well as large amounts of Company stock options, restricted shares, or other equity awards that will be exchanged for the merger consideration upon the consummation of the Proposed Transaction as follows:

<u>me</u>	<u>Shares Held (#)</u> <u>(1)</u>	<u>Value of Shares Held</u> <u>(\$)(2)</u>	<u>Shares Underlying Vested and Accelerated Cerner Compensatory Awards (#)(3)</u>	<u>Value of Shares Underlying Vested and Accelerated Cerner Compensatory Awards (\$)(4)</u>	<u>Shares Underlying Unvested Cerner Compensatory Awards (#)</u>	<u>Value of Shares Underlying Unvested Cerner Compensatory Awards (\$)</u> <u>(5)</u>
Non-Employee Directors						
Gerald E. Bisbee, Jr.	54,716	5,198,020	3,188	302,860	—	—
Mitchell E. Daniels, Jr.	34,272	3,255,840	3,188	302,860	—	—
Julie L. Gerberding	11,844	1,125,180	3,188	302,860	—	—
Elder Granger	2,768	262,960	5,403	513,285	—	—
John J. Greisch	18,985	1,803,575	4,453	423,035	—	—
Melinda J. Mount	10,072	956,840	4,453	423,035	—	—

George A. Riedel	8,372	795,340	4,453	423,035	—	—
R. Halsey Wise	17,402	1,653,190	4,453	423,035	—	—
William D. Zollars	26,588	2,525,860	3,680	349,600	—	—
Executive Officers						
Travis S. Dalton	19,876	1,888,220	24,361	1,661,364	67,511	5,760,680
Daniel P. Devers	10,131	962,445	67,114	2,491,329	34,513	2,689,807
Mark J. Erceg	44,244	4,203,180	—	—	86,408	8,208,760
David T. Feinberg	31,319	2,975,305	—	—	182,778	17,363,910
Jerome Labat	21,946	2,084,870	17,797	1,690,715	68,946	6,549,870
Tracy L. Platt	8,767	832,865	17,501	1,662,595	45,095	4,284,025
Nasim Afsarmanesh (6)	—	—	—	—	—	—

40. In addition, certain employment agreements with certain Cerner executives, entitle such executives to severance packages should their employment be terminated under certain circumstances. These 'golden parachute' packages are significant and will grant each director or officer entitled to them millions of dollars, compensation not shared by Plaintiff as follows.

Golden Parachute Compensation

Name (1)	Cash \$(2)	Equity \$(3)	Perquisites/ Benefits \$(4)	Total (\$)
David T. Feinberg	4,500,000	17,363,910	23,218	21,887,128
Mark J. Erceg	3,080,000	8,208,760	37,546	11,326,306
Jerome Labat	2,300,000	8,240,585	18,612	10,559,197
Brent Shafer	4,126,375	16,503,285	16,580	20,646,240

41. The Recommendation Statement also fails to adequately disclose communications regarding post-transaction employment during the negotiation of the underlying transaction must be disclosed to stockholders. Communications regarding post-transaction employment during the negotiation of the underlying transaction must be disclosed to stockholders. This information is necessary for Plaintiff to understand potential conflicts of interest of management and the Board, as that information provides illumination concerning motivations that would prevent fiduciaries from acting solely in the best interests of the Company's stockholders.

42. Thus, while the Proposed Transaction is not in the best interests of Cerner, Plaintiff or Company stockholders, it will produce lucrative benefits for the Company's officers and directors.

The Materially Misleading and/or Incomplete Recommendation Statement

43. On January 19, 2022, the Cerner Board caused to be filed with the SEC a materially misleading and incomplete Recommendation Statement, that in violation the Exchange Act, failed to provide Plaintiff in her capacity as a Company stockholder with material information and/or provides materially misleading information critical to the total mix of information available to Plaintiff concerning the financial and procedural fairness of the Proposed Transaction.

Omissions and/or Material Misrepresentations Concerning the Sales Process leading up to the Proposed Transaction

44. Specifically, the Recommendation Statement fails to disclose material information concerning the process conducted by the Company and the events leading up to the Proposed Transaction. In particular, the Recommendation Statement fails to disclose:

- a. Adequate reasoning as to why no market check for potentially interested counterparties was performed during the sales process by the Board or anyone on its behalf;
- b. The specific reasoning as to why the Transaction Working Group created by the Board to run the sales process contained Board members who were not disinterested or independent;
- c. The specific reasoning as to why the Transaction Working Group created by the Board to run the sales process was not delegated any actual authority to run the sales process;

- d. The specific reasoning as to why the Company engaged multiple financial advisors;
- e. Whether the terms of any confidentiality agreements entered during the sales process between Cerner on the one hand, and any other third party (including Oracle), if any, on the other hand, differed from one another, and if so, in what way;
- f. All specific conditions under which any standstill provision contained in any entered confidentiality agreement entered into between the Company and potentially interested third parties (including Oracle) throughout the sales process, if any, would fall away; and
- g. The Recommendation Statement also fails to adequately disclose communications regarding post-transaction employment during the negotiation of the underlying transaction must be disclosed to stockholders. Communications regarding post-transaction employment during the negotiation of the underlying transaction must be disclosed to stockholders. This information is necessary for stockholders to understand potential conflicts of interest of management and the Board, as that information provides illumination concerning motivations that would prevent fiduciaries from acting solely in the best interests of the Company's stockholders

Omissions and/or Material Misrepresentations Concerning Cerner's Financial Projections

45. The Recommendation Statement fails to provide material information concerning financial projections for Cerner provided by Cerner management and relied upon by Goldman Sachs and Centerview in their analyses. The Recommendation Statement discloses management-prepared financial projections for the Company which are materially misleading.

46. Notably, in connection with its fairness opinion rendered to the Company Board regarding the Proposed Transaction, Goldman Sachs notes that it reviewed, “certain internal financial analyses and forecasts for Cerner prepared by its management as approved for Goldman Sachs’ use by Cerner.” Similarly, Centerview notes that it reviewed “certain internal information relating to the business, operations, earnings, cash flow, assets, liabilities and prospects of Cerner, including certain financial forecasts, analyses and projections relating to Cerner prepared by management of Cerner.”

47. The Recommendation Statement, therefore, should have, but fails to provide, certain information in the projections that Cerner management provided to the Board, Goldman Sachs, and Centerview. Courts have uniformly stated that “projections ... are probably among the most highly-prized disclosures by investors. Investors can come up with their own estimates of discount rates or [] market multiples. What they cannot hope to do is replicate management’s inside view of the company’s prospects.” *In re Netsmart Techs., Inc. S’holders Litig.*, 924 A.2d 171, 201-203 (Del. Ch. 2007).

48. With regard to the *Cerner Forecasts*, the Recommendation Statement fails to disclose material line items for the following metrics:

- a. Adjusted EBITDA, including all underlying necessary inputs and assumptions, including specifically: GAAP net earnings before interest, taxes, depreciation and amortization, and the specific adjustments made for: (i) share-based compensation expense, (ii) acquisition-related amortization, (iii) organizational restructuring and other expense and (iv) COVID-19 related expense, (v) gain/loss on sales of businesses;

- b. Adjusted EBIT, including all underlying necessary inputs and assumptions, including specifically: stock-based compensation, depreciation and amortization;
- c. Net Operating Profit After Tax, including all underlying necessary inputs and assumptions, including specifically: taxes;
- d. Unlevered Free Cash Flow, including all underlying necessary inputs and assumptions, including specifically: capital expenditures (for all relevant years), changes in net working capital, and depreciation and amortization.

49. With regard to the *Adjusted Operating Earnings and Capital Expenditures Forecasts*, the Recommendation Statement fails to disclose material line items for the following metrics:

- a. Adjusted Operating Earnings, including all underlying necessary inputs and assumptions, including specifically: GAAP operating earnings and the specific adjustments made for: (i) share-based compensation expense, (ii) acquisition-related amortization, (iii) organizational restructuring and other expense, (iv) COVID-19 related expense and (v) gain/loss on sales of businesses;
- b. Capital Expenditures, including all underlying necessary inputs and assumptions, including specifically: expenditures necessary to operate Cerner's business, including capital purchase and capitalized software development costs.

50. With regard to the *Earnings and Dividends Per Share Forecasts*, the Recommendation Statement fails to disclose material line items for the following metrics:

- a. Adjusted Diluted Earnings Per Share, including all underlying necessary inputs and assumptions, including specifically: GAAP net earnings and the specific adjustments made for: (i) share-based compensation expense, (ii) acquisition-related amortization, (iii) organizational restructuring and other expense, (iv) COVID-19 related expense, (v) investment gains, (vi) gain/loss on sales of businesses, (vii) the income tax effect of the aforementioned items, (viii) share-based compensation permanent tax items, and (ix) valuation allowance on deferred tax assets; divided by diluted weighted average shares outstanding, in the applicable period.

51. The Recommendation Statement also fails to disclose a reconciliation of all non-GAAP to GAAP metrics utilized in the projections.

52. This information is necessary to provide Plaintiff in her capacity as a Company stockholder a complete and accurate picture of the sales process and its fairness. Without this information, Plaintiff is not fully informed as to Defendants' actions, including those that may have been taken in bad faith, and cannot fairly assess the process.

53. Without accurate projection data presented in the Recommendation Statement, Plaintiff is unable to properly evaluate the Company's true worth, the accuracy of Goldman Sachs or Centerview's financial analyses, or make an informed decision whether to tender her shares in favor of the Proposed Transaction. As such, the Board is in violation of the Exchange Act by failing to include such information in the Recommendation Statement.

Omissions and/or Material Misrepresentations Concerning the Financial Analyses by Goldman Sachs

54. In the Recommendation Statement, Goldman Sachs describes its fairness opinion and the various valuation analyses performed to render such opinion. However, the descriptions fail to include necessary underlying data, support for conclusions, or the existence of, or basis for, underlying assumptions. Without this information, one cannot replicate the analyses, confirm the valuations or evaluate Goldman Sachs' fairness opinion.

55. With respect to the *Implied Premia and Multiples*, the Recommendation Statement fails to disclose the following:

- a. The total number of fully diluted Shares outstanding as of December 16, 2021; and
- b. Cerner's net debt as of November 30, 2021.

56. With respect to the *Illustrative Discounted Cash Flow Analysis*, the Recommendation Statement fails to disclose the following:

- a. The specific inputs and assumptions used to determine the utilized discount rate range of 6.25% to 7.75%;
- b. Cerner's weighted average cost of capital;
- c. The terminal values for Cerner calculated;
- d. The specific inputs and assumptions used to determine the utilized perpetuity growth rate range of 1.75% to 2.50%;
- e. The specific inputs and assumptions used to determine the implied exit terminal year LTM EBITDA multiples ranging from 8.4x to 13.6x;
- f. The specific certain company-specific inputs utilized, including Cerner's target capital structure weightings, the cost of long-term debt, future applicable marginal cash tax rate and a beta for Cerner, as well as certain financial metrics for the United States financial markets generally;
- g. The total number of fully diluted Shares outstanding as of December 16, 2021; and
- h. Cerner's net debt as of November 30, 2021.

57. With respect to the *Illustrative Present Value of Future Stock Price Analysis*, the Recommendation Statement fails to disclose the following:

- a. The specific inputs and assumptions used to determine the implied exit terminal year NTM P/E multiples ranging from 20.0x to 25.0x;
- b. The specific inputs and assumptions used to determine the utilized discount rate of 7.4%; and
- c. Cerner's cost of equity,

58. With respect to the *Selected Precedent Transactions Analysis*, the Recommendation Statement fails to disclose the following:

- a. The specific date on which each selected precedent transaction closed;
- b. The value of each selected precedent transaction; and
- c. The total number of fully diluted Shares outstanding as of December 16, 2021; and
- d. Cerner's net debt as of November 30, 2021.

59. These disclosures are critical for Plaintiff to be able to make an informed decision on whether to tender her shares in favor of the Proposed Transaction.

60. Without the omitted information identified above, Plaintiff is missing critical information necessary to evaluate whether the proposed consideration truly maximizes her value and serves her interest as a stockholder. Moreover, without the key financial information and related disclosures, Plaintiff cannot gauge the reliability of the fairness opinion and the Board's determination that the Proposed Transaction is in her best interests as a public Cerner stockholder. As such, the Board has violated the Exchange Act by failing to include such information in the Recommendation Statement.

Omissions and/or Material Misrepresentations Concerning the Financial Analyses by Centerview

61. In the Recommendation Statement, Centerview describes its fairness opinion and the various valuation analyses performed to render such opinion. However, the descriptions fail to include necessary underlying data, support for conclusions, or the existence of, or basis for, underlying assumptions. Without this information, one cannot replicate the analyses, confirm the valuations or evaluate Centerview's fairness opinion.

62. With respect to the *Selected Public Companies Analysis*, the Recommendation Statement fails to disclose the following:

- a. The specific inputs and assumptions used to determine the utilized reference range of EV / 2022E EBITDA multiples of 9.5x to 14.5x;
- b. Cerner's estimated net debt as of December 31, 2021; and
- c. The number of fully-diluted outstanding Shares as of December 16, 2021.

63. With respect to the *Selected Precedent Transactions Analysis*, the Recommendation Statement fails to disclose the following:

- a. The specific inputs and assumptions used to determine the utilized reference range of EV / LTM EBITDA multiples of 14.0x to 18.0x;
- b. The specific date on which each selected precedent transaction closed;
- c. The value of each selected precedent transaction; and
- d. Cerner's estimated net debt as of December 31, 2021; and
- e. The number of fully-diluted outstanding Shares as of December 16, 2021.

64. With respect to the *Discounted Cash Flow Analysis*, the Recommendation Statement fails to disclose the following:
- a. The specific inputs and assumptions used to determine the utilized discount rate range of 7.25% to 8.50%;
 - b. Cerner's weighted average cost of capital;
 - c. The terminal values for Cerner calculated;
 - d. The specific inputs and assumptions used to determine the utilized perpetuity growth rate range of 2.50% to 3.50%;
 - e. Cerner's estimated net debt as of December 31, 2021; and
 - f. The number of fully-diluted outstanding Shares as of December 16, 2021.

65. With respect to the *Analyst Price Targets*, the Recommendation Statement fails to disclose the following:

- a. The specific price targets utilized; and
- b. The identity of the firms and/or analysts that generated the utilized price targets.

66. These disclosures are critical for Plaintiff to be able to make an informed decision on whether to tender her shares in favor of the Proposed Transaction.

67. Without the omitted information identified above, Plaintiff is missing critical information necessary to evaluate whether the proposed consideration truly maximizes her value and serves her interest as a stockholder. Moreover, without the key financial information and related disclosures, Plaintiff cannot gauge the reliability of the fairness opinion and the Board's determination that the Proposed Transaction is in her best interests as a public Cerner stockholder. As such, the Board has violated the Exchange Act by failing to include such information in the Recommendation Statement.

FIRST COUNT

Violations of Section 14(e) of the Exchange Act

(Against All Defendants)

68. Plaintiff repeats all previous allegations as if set forth in full herein.

69. Defendants have disseminated the Recommendation Statement with the intention of soliciting stockholders, including Plaintiff, to tender their shares in favor of the Proposed Transaction.

70. Section 14(e) of the Exchange Act provides that in the solicitation of shares in a tender offer, “[i]t shall be unlawful for any person to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading[.].”

71. The Recommendation Statement was prepared in violation of Section 14(e) because it is materially misleading in numerous respects and omits material facts, including those set forth above. Moreover, in the exercise of reasonable care, Defendants knew or should have known that the Recommendation Statement is materially misleading and omits material facts that are necessary to render them non-misleading.

72. The Individual Defendants had actual knowledge or should have known of the misrepresentations and omissions of material facts set forth herein.

73. The Individual Defendants were at least negligent in filing a Recommendation Statement that was materially misleading and/or omitted material facts necessary to make the Recommendation Statement not misleading.

74. The misrepresentations and omissions in the Recommendation Statement are material to Plaintiff, and Plaintiff will be deprived of her entitlement to decide whether to tender its shares on the basis of complete information if such misrepresentations and omissions are not corrected prior to the expiration of the tender offer period regarding the Proposed Transaction.

75. Plaintiff has no adequate remedy at law.

SECOND COUNT

Violations of Section 14(d)(4) of the Exchange Act and SEC Rule 14d-9

(Against all Individual Defendants)

76. Plaintiff repeats and realleges all previous allegations as if set forth in full herein.

77. Defendants have disseminated the Recommendation Statement with the intention of soliciting stockholders, including Plaintiff, to tender their shares in favor of the Proposed Transaction.

78. Section 14(d)(4) requires Defendants to make full and complete disclosure in connection with a tender offer.

79. SEC Rule 14d-9 requires a Company's directors to, furnish such additional information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading.

80. Here, the Recommendation Statement violates both Section 14(d)(4) and SEC Rule 14d-9 because it because it is materially misleading in numerous respects, omits material facts, including those set forth above and Defendants knowingly or recklessly omitted the material facts from the Recommendation Statement.

81. The misrepresentations and omissions in the Recommendation Statement are material to Plaintiff, and Plaintiff will be deprived of her entitlement to decide whether to tender her shares on the basis of complete information if such misrepresentations and omissions are not corrected prior to the expiration of the tender offer period regarding the Proposed Transaction.

82. Plaintiff has no adequate remedy at law.

THIRD COUNT

Violations of Section 20(a) of the Exchange Act

(Against all Individual Defendants)

83. Plaintiff repeats all previous allegations as if set forth in full herein.

84. The Individual Defendants were privy to non-public information concerning the Company and its business and operations via access to internal corporate documents, conversations and connections with other corporate officers and employees, attendance at management and Board meetings and committees thereof and via reports and other information provided to them in connection therewith. Because of their possession of such information, the Individual Defendants knew or should have known that the Recommendation Statement was materially misleading to Plaintiff in her capacity as a Company stockholder.

85. The Individual Defendants were involved in drafting, producing, reviewing and/or disseminating the materially false and misleading statements complained of herein. The Individual Defendants were aware or should have been aware that materially false and misleading statements were being issued by the Company in the Recommendation Statement and nevertheless approved, ratified and/or failed to correct those statements, in violation of federal securities laws. The Individual Defendants were able to, and did, control the contents of the Recommendation Statement. The Individual Defendants were provided with copies of, reviewed and approved, and/or signed the Recommendation Statement before its issuance and had the ability or opportunity to prevent its issuance or to cause it to be corrected.

86. The Individual Defendants also were able to, and did, directly or indirectly, control the conduct of Cerner's business, the information contained in its filings with the SEC, and its public statements. Because of their positions and access to material non-public information available to them but not the public, the Individual Defendants knew or should have known that the misrepresentations specified herein had not been properly disclosed to and were being concealed from Plaintiff and Company, and that the Recommendation Statement was misleading. As a result, the Individual Defendants are responsible for the accuracy of the Recommendation Statement and are therefore responsible and liable for the misrepresentations contained herein.

87. The Individual Defendants acted as controlling persons of Cerner within the meaning of Section 20(a) of the Exchange Act. By reason of their position with the Company, the Individual Defendants had the power and authority to cause Cerner to engage in the wrongful conduct complained of herein. The Individual Defendants controlled Cerner and all of its employees. As alleged above, Cerner is a primary violator of Section 14 of the Exchange Act and SEC Rule 14a-9. By reason of their conduct, the Individual Defendants are liable pursuant to section 20(a) of the Exchange Act.

WHEREFORE, Plaintiff demands injunctive relief, in her favor and against the Defendants, as follows:

A. Enjoining the Proposed Transaction;

B. In the event Defendants consummate the Proposed Transaction, rescinding it and setting it aside or awarding rescissory damages to Plaintiff;

C. Directing the Individual Defendants to exercise their fiduciary duties to disseminate a Recommendation Statement that does not contain any untrue statements of material fact and that states all material facts required in it or necessary to make the statements contained therein not misleading;

D. Awarding Plaintiff the costs of this action, including reasonable allowance for Plaintiff's attorneys' and experts' fees; and

E. Granting such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury on all issues which can be heard by a jury.

Dated: January 27, 2022

BRODSKY & SMITH

By: /s/ Evan j. Smith

Evan j. Smith

240 mineola Boulevard

Mineola, NY 11501

Phone: (516) 741-4977

Facsimile (561) 741-0626

Counsel for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LEROY BERRY,

Plaintiff,

v.

CERNER CORPORATION, WILLIAM D.
ZOLLARS, DAVID FEINBERG, GERALD E.
BISBEE, JR., MITCHELL E. DANIELS, JR.,
JULIE L. GERBERDING, ELDER GRANGER,
JOHN GREISCH, MELINDA J. MOUNT,
GEORGE A. RIEDEL, and R. HALSEY WISE,

Defendants.

Civil Action No.

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

JURY TRIAL DEMANDED

Plaintiff Leroy Berry (“Plaintiff”) by and through his undersigned attorneys, brings this action on behalf of himself, and alleges the following based upon personal knowledge as to those allegations concerning Plaintiff and, as to all other matters, upon the investigation of counsel, which includes, without limitation: (a) review and analysis of public filings made by Cerner Corporation (“Cerner” or the “Company”) and other related parties and non-parties with the United States Securities and Exchange Commission (“SEC”); (b) review and analysis of press releases and other publications disseminated by certain of the Defendants (defined below) and other related non-parties; (c) review of news articles, shareholder communications, and postings on Cerner’s website concerning the Company’s public statements; and (d) review of other publicly available information concerning Cerner and the Defendants.

NATURE OF THE ACTION

1. Plaintiff brings this action on behalf of himself against the Company and members of the Company’s Board of Directors (the “Board” or the “Individual Defendants”) for violations of Sections 14(d)(4), 14(e) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. §§ 78n(d)(4), 78n(e), 78t(a), and SEC Rule 14d-9, 17 C.F.R. §240.14d-9(d) (“Rule 14d-9”), in connection with the proposed acquisition of the Company by affiliates of Oracle Corporation (“Oracle”) (the “Proposed Transaction”).

2. On December 20, 2021, the Company entered into an Agreement and Plan of Merger (the “Merger Agreement”) with Oracle, OC Acquisition LLC, a wholly owned subsidiary of Oracle (“Parent”), and Cedar Acquisition Corporation, a wholly owned subsidiary of Parent (“Purchaser”). Pursuant to the terms of the Merger Agreement, each Cerner common share issued and outstanding will be converted into the right to receive \$95.00 per share, in cash (the “Merger Consideration”). In connection with the Proposed Transaction, Purchaser commenced a tender offer to acquire all of Cerner’s outstanding common stock and will expire on February 15, 2022 (the “Tender Offer”).

3. On January 19, 2022, the Company filed an incomplete and materially misleading Recommendation Statement with the SEC (the “Recommendation Statement”) in connection with the Proposed Transaction. The Recommendation Statement omits material information concerning the Proposed Transaction.

4. Accordingly, the failure to adequately disclose such material information constitutes a violation of Sections 14(d), 14(e) and 20(a) of the Exchange Act as Cerner’s stockholders need such information in order to make a fully informed decision whether to tender their shares in support of the Proposed Transaction or seek appraisal.

5. As set forth more fully herein, Plaintiff seeks to enjoin Defendants from proceeding with the Proposed Transaction.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1331 as Plaintiff alleges violations of Sections 14(d)(4), 14(e) and 20(a) of the Exchange Act

7. This Court has personal jurisdiction over all of the Defendants because each is either a corporation that conducts business in, solicits shareholders in, and/or maintains operations within, this District, or is an individual who is either present in this District for jurisdictional purposes or has sufficient minimum contacts with this District so as to make the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

8. Venue is proper under 28 U.S.C. § 1391 because a substantial portion of the transactions and wrongs complained of herein occurred in this District.

THE PARTIES

9. Plaintiff has been the owner of the common stock of Cerner since prior to the transaction herein complained of and continuously to date.

10. Defendant Cerner is a Delaware corporation with its principal executive offices located at 2800 Rock Creek Parkway, North Kansas City, Missouri 64117. The Company's stock trades on the NASDAQ under the ticker "CERN."

11. Defendant William D. Zollars ("Zollars") is and has been the Chairman of the Board of the Company at all times during the relevant time period.

12. Defendant David Feinberg ("Feinberg") is and has been the President, Chief Executive Officer ("CEO"), and a member of the Company's Board at all times during the relevant time period.

13. Defendant Gerald E. Bisbee, Jr. (“Bisbee”) is and has been a member of the Company’s Board at all times during the relevant time period.
14. Defendant Mitchell E. Daniels, Jr. (“Daniels”) is and has been a member of the Company’s Board at all times during the relevant time period.
15. Defendant Julie L. Gerberding (“Gerberding”) is and has been a member of the Company’s Board at all times during the relevant time period.
16. Defendant Elder Granger (“Granger”) is and has been a member of the Company’s Board at all times during the relevant time period.
17. Defendant John Greisch (“Greisch”) is and has been a member of the Company’s Board at all times during the relevant time period.
18. Defendant Melinda J. Mount (“Mount”) is and has been a member of the Company’s Board at all times during the relevant time period.
19. Defendant George A. Riedel (“Riedel”) is and has been a member of the Company’s Board at all times during the relevant time period.
20. Defendant R. Halsey Wise (“Wise”) is and has been a member of the Company’s Board at all times during the relevant time period.
21. Defendants Zollars, Feinberg, Bisbee, Daniels, Gerberding, Granger, Greisch, Mount, Riedel, and Wise are collectively referred to herein as the “Individual Defendants.”
22. Defendant Cerner, along with the Individual Defendants, are collectively referred to herein as “Defendants.”

SUBSTANTIVE ALLEGATIONS

Background of the Company

23. Cerner, together with its subsidiaries, provides health care information technology solutions and tech-enabled services in the United States and internationally. The Company offers Cerner Millennium architecture, a person-centric computing framework, which includes clinical, financial, and management information systems that allow providers to access an individual's electronic health record (EHR) at the point of care, and organizes and delivers information for physicians, nurses, laboratory technicians, pharmacists, front- and back-office professionals, and consumers. It also provides HealtheIntent platform, a cloud-based platform to aggregate, transform, and reconcile data across the continuum of care; and CareAware, an EHR agnostic platform that facilitates connectivity of health care devices to EHRs. In addition, the Company offers a portfolio of clinical and financial health care information technology solutions, as well as departmental and care coordination solutions. Further, it provides tech-enabled services, such as implementation and training, remote hosting, operational management services, revenue cycle services, support and maintenance, health care data analysis, real-world evidence, clinical process optimization, transaction processing, employer health centers, employee wellness programs, and third-party administrator services; and complementary hardware and devices for third parties. The Company serves integrated delivery networks, physician groups and networks, managed care organizations, hospitals, medical centers, reference laboratories, home health agencies, blood banks, imaging centers, pharmacies, pharmaceutical manufacturers, employers, governments, and public health organizations.

The Company Announces the Proposed Transaction

24. On December 20, 2021, the Company jointly issued a press release announcing that the Company had entered an agreement in connection with the Proposed Transaction. The press release stated, in pertinent part:

AUSTIN, Texas and KANSAS CITY, Mo. — December 20, 2021 — Oracle Corporation (NYSE: ORCL) and Cerner Corporation today jointly announced an agreement for Oracle to acquire Cerner through an all-cash tender offer for \$95.00 per share, or approximately \$28.3 billion in equity value. Cerner is a leading provider of digital information systems used within hospitals and health systems to enable medical professionals to deliver better healthcare to individual patients and communities.

“Working together, Cerner and Oracle have the capacity to transform healthcare delivery by providing medical professionals with better information—enabling them to make better treatment decisions resulting in better patient outcomes,” said Larry Ellison, Chairman and Chief Technology Officer, Oracle. “With this acquisition, Oracle’s corporate mission expands to assume the responsibility to provide our overworked medical professionals with a new generation of easier-to-use digital tools that enable access to information via a *hands-free* voice interface to secure cloud applications. This new generation of medical information systems promises to lower the administrative workload burdening our medical professionals, improve patient privacy and outcomes, and lower overall healthcare costs.”

“We expect this acquisition to be immediately accretive to Oracle’s earnings on a non-GAAP basis in the first full fiscal year after closing—and contribute substantially more to earnings in the second fiscal year and thereafter,” said Safra Catz, Chief Executive Officer, Oracle. “Healthcare is the largest and most important vertical market in the world—\$3.8 trillion last year in the United States alone. Oracle’s revenue growth rate has already been increasing this year—Cerner will be a huge additional revenue growth engine for years to come as we expand its business into many more countries throughout the world. That’s exactly the growth strategy we adopted when we bought NetSuite—except the Cerner revenue opportunity is even larger.”

“Cerner has been a leader in helping digitize medical care and now it’s time to realize the real promise of that work with the care delivery tools that get information to the right caregivers at the right time,” said David Feinberg, President and Chief Executive Officer, Cerner. “Joining Oracle as a dedicated Industry Business Unit provides an unprecedented opportunity to accelerate our work modernizing electronic health records (EHR), improving the caregiver experience, and enabling more connected, high-quality and efficient patient care.”

We are also very excited that Oracle is committed to maintaining and growing our community presence, including in the Kansas City area.”

“Oracle’s Autonomous Database, low-code development tools, and Voice Digital Assistant user interface enables us to rapidly modernize Cerner’s systems and move them to our Gen2 Cloud,” said Mike Sicilia, Executive Vice President, Vertical Industries, Oracle. “This can be done very quickly because Cerner’s largest business and most important clinical system already runs on the Oracle Database. No change required there. What will change is the user interface. We will make Cerner’s systems much easier to learn and use by making Oracle’s *hands-free* Voice Digital Assistant the primary interface to Cerner’s clinical systems. This will allow medical professionals to spend less time typing on computer keyboards and more time caring for patients.”

Highlights

- All-cash tender offer for \$95.00 per share, or approximately \$28.3 billion, that is immediately accretive to Oracle’s earnings.
 - Accretive to Oracle’s earnings on a non-GAAP basis in the first full fiscal year after closing and will contribute substantially more to earnings in the second fiscal year and thereafter.
 - Cerner will be a huge additional revenue growth engine for Oracle for years to come as Oracle expands Cerner’s business into many more countries throughout the world.
 - Transaction is expected to close in calendar year 2022. The closing of the transaction is subject to receiving certain regulatory approvals and satisfying other closing conditions including Cerner stockholders tendering a majority of Cerner’s outstanding shares in the tender offer.
 - Oracle anticipates retaining an investment grade credit rating.
- Oracle brings significant experience helping power the largest industries.
 - Oracle provides industry solutions that run the core operations for customers in the world’s largest industries.
 - Industries covered by Oracle today include, among others, Financial Services, Telecom, Utilities, Pharmaceuticals, Hospitality, Retail, Food & Beverage, Construction & Engineering, Manufacturing and Government.
 - Oracle also brings best in class cloud infrastructure to drive digital modernization, substantially lowering the total cost of IT in these critical industry sectors.

- Cerner is a leader in the healthcare IT industry and a complementary business to Oracle.
 - Cerner is a leading provider of digital information systems used within hospitals to enable medical professionals to deliver better healthcare to individual patients and communities.
 - Cerner has over four decades of experience modernizing electronic health records, improving the caregiver experience, and streamlining and automating clinical and administrative workflows.
- Together, Oracle and Cerner will protect customer investments and transform healthcare.
 - According to a recent study by the Mayo Clinic¹, physicians spend 1 to 2 hours on EHRs and desk work for every hour spent in face-to-face contact with patients, as well as an additional 1 to 2 hours of personal time on EHR related activities.
 - Working together, Cerner and Oracle have the capacity to address these issues and transform healthcare delivery by providing medical professionals with better information—enabling them to make better treatment decisions resulting in better patient outcomes.
 - Customer investments in Cerner are also protected with this combination and will grow in value over time as more modern and connected technologies are made available.
 - With Oracle’s resources, infrastructure and cloud capabilities, Cerner will accelerate the pace of product and technology development to enable more connected, high-quality, and efficient care.
 - Oracle’s focus on usability and voice enabled user interfaces will dramatically reduce the amount of time that medical providers spend dealing with systems and increase the time they spend directly caring for patients.
 - Significant opportunity to help customers use Oracle’s modern technologies such as cloud, AI, ML and other innovations to make care more accessible, secure, efficient and effective for patients and caregivers.
 - Cerner systems running on the Oracle Gen2 Cloud will be available 24 by 7 by 365. Goal is to deliver zero unplanned downtime in the medical environment.
 - With Cerner systems running on the Oracle database, only specifically authorized medical professionals can access patient data. IT professionals running the systems are unable to look at patient data.
 - Oracle and Cerner are committed to continued and enhanced stewardship of health information, which will be bolstered by Oracle’s global operational infrastructure.

- Cerner will be organized as a dedicated Industry Business Unit within Oracle.
 - Cerner will be Oracle's anchor asset to expand into healthcare and together we will improve medical care for individuals and communities around the world.
 - Oracle intends to maintain and grow Cerner's community presence, including in the Kansas City area, while utilizing Oracle's global footprint to reach new geographies faster.

**FALSE AND MISLEADING STATEMENTS
AND/OR MATERIAL OMISSIONS IN THE RECOMMENDATION STATEMENT**

25. On January 19, 2022, the Company authorized the filing of the Recommendation Statement with the SEC. The Recommendation Statement recommends that the Company's stockholders tender their shares in favor of the Proposed Transaction.

26. Defendants were obligated to carefully review the Recommendation Statement prior to its filing with the SEC and dissemination to the Company's unitholders to ensure that it did not contain any material misrepresentations or omissions. However, the Recommendation Statement misrepresents and/or omits material information that is necessary for the Company's shareholders to make informed decisions concerning whether to tender their shares in favor of the Proposed Transaction.

**Material False and Misleading Statements or Material
Misrepresentations or Omissions Regarding Management's Projections**

27. The Recommendation Statement contains financial projections prepared by senior members of Cerner's management in connection with the Proposed Transaction, but fails to provide material information concerning such.

28. The SEC has repeatedly emphasized that disclosure of non-GAAP projections can be inherently misleading, and has therefore heightened its scrutiny of the use of such projections.¹ Indeed, on May 17, 2016, the SEC's Division of Corporation Finance released new and updated Compliance and Disclosure Interpretations ("C&DIs") on the use of non-GAAP financial measures that demonstrate the SEC's tightening policy.² One of the new C&DIs regarding forward-looking information, such as financial projections, explicitly requires companies to provide any reconciling metrics that are available without unreasonable efforts.

29. In order to make management's projections included in the Recommendation Statement materially complete and not misleading, Defendants must provide a reconciliation table of the non-GAAP measures to the most comparable GAAP measures.

30. Specifically, with respect to the Company's financial projections, the Company must disclose the line item projections for the financial metrics that were used to calculate the non-GAAP measures, including, but not limited to, all line items used to calculate: (i) Adjusted EBITDA; (ii) Adjusted EBIT; (iii) Net Operating Profit After Tax; (iv) Unlevered Free Cash Flow; (v) Adjusted Operating Earnings; and (vi) Adjusted Diluted Earnings Per Share.

31. Disclosure of the above line item projections is vital to provide investors with the complete mix of information necessary to make an informed decision when deciding whether to tender their shares in connection with the Proposed Transaction.

¹ See, e.g., Nicolas Grabar and Sandra Flow, Non-GAAP Financial Measures: The SEC's Evolving Views, Harvard Law School Forum on Corporate Governance and Financial Regulation (June 24, 2016), available at <https://corpgov.law.harvard.edu/2016/06/24/non-gaap-financial-measures-the-secs-evolving-views/>; Gretchen Morgenson, Fantasy Math Is Helping Companies Spin Losses Into Profits, N.Y. Times, Apr. 22, 2016, available at http://www.nytimes.com/2016/04/24/business/fantasy-math-is-helping-companies-spin-losses-into-profits.html?_r=0.

² Non-GAAP Financial Measures, Compliance & Disclosure Interpretations, U.S. SECURITIES AND EXCHANGE COMMISSION (May 17, 2017), available at <https://www.sec.gov/divisions/corpfin/guidance/nongaapinterp.htm>.

**Material False and Misleading Statements or Material
Misrepresentations or Omissions Regarding the Financial Opinions**

32. The Recommendation Statement contains the financial analyses and opinion of Centerview Partners LLC (“Centerview”) and Goldman Sachs’s & Co. LLC (“Goldman”) concerning the Proposed Transaction but fails to provide material information concerning such.

33. With respect to Centerview’s *Selected Precedent Transaction Analysis*, the Recommendation Statement fails to disclose the closing dates for each transaction.

34. With respect to Centerview’s *Discounted Cash Flow Analysis*, the Recommendation Statement fails to disclose: (i) the inputs and assumptions underlying Centerview’s use of discount rates ranging from 7.25% to 8.50%; (ii) Cerner’s weighted average cost of capital; (iii) Cerner’s projected terminal values for the period ending December 30, 2030; (iv) the inputs and assumptions underlying Centerview’s use of perpetuity growth rates ranging from 2.5% to 3.5%; and (v) the number of fully-diluted outstanding shares of Cerner as of December 16, 2021.

35. With respect to Centerview’s *Analyst Price Targets* analysis, the Recommendation Statement fails to disclose: (i) the individual price targets observed; and (ii) the sources thereof.

36. With respect to Goldman’s *Illustrative Discounted Cash Flow Analysis*, the Recommendation Statement fails to disclose: (i) the inputs and assumptions underlying Goldman’s use of discount rates ranging from 6.25% to 7.75%; (ii) Cerner’s weighted average cost of capital; (iii) the inputs and assumptions underlying Goldman’s use of a perpetuity growth rate range of 1.75% to 2.5%; (iv) Cerner’s net debt used in the analysis; (v) the total number of fully diluted shares outstanding of company common stock.

37. With respect to Goldman's *Illustrative Present Value of Future Stock Price Analysis*, the Recommendation Statement fails to disclose: (i) the inputs and assumptions underlying Goldman's use of discount rate of 7.4%; and (ii) the inputs and assumptions underlying Goldman's use of multiples ranging from 20.0x to 25.0x.

38. With respect to Goldman's *Selected Precedent Transaction Analysis*, the Recommendation Statement fails to disclose: (i) the closing dates of the transactions; and (ii) the total value of the transactions.

39. With respect to Goldman Sachs' *Premia Paid Analysis*, the Recommendation Statement fails to disclose: (i) each transaction observed by Goldman Sachs in the analysis; (ii) the premiums paid.

40. When a banker's endorsement of the fairness of a transaction is touted to shareholders, the valuation methods used to arrive at that opinion as well as the key inputs and range of ultimate values generated by those analyses must also be fairly disclosed. Moreover, the disclosure of projected financial information is material because it provides stockholders with a basis to project the future financial performance of a company and allows stockholders to better understand the financial analyses performed by the company's financial advisor in support of its fairness opinion.

41. Without the above described information, the Company's shareholders are not fully informed with respect to the Proposed Transaction. Accordingly, in order to provide shareholders with a complete mix of information, the omitted information described above should be disclosed.

COUNT I
(Against All Defendants for Violations of Section 14(d)
of the Exchange Act and Rule 14d-9 Promulgated Thereunder)

42. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

43. Section 14(d)(4) of the Exchange Act and Rule 14d-9 promulgated thereunder makes it a requirement to make full and complete disclosure in connection with tender offers.

44. As discussed herein, the Recommendation Statement, while soliciting shareholder support for the Proposed Transaction, misrepresent and/or omit material facts concerning the Proposed Transaction.

45. Defendants prepared, reviewed, filed and disseminated the false and misleading Recommendation Statement to Cerner's shareholders. In doing so, Defendants knew or recklessly disregarded that the Recommendation Statement failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

46. The omissions and incomplete and misleading statements in the Recommendation Statement are material in that a reasonable shareholder would consider them important in deciding whether to tender their shares in favor of the Proposed Transaction. In addition, a reasonable investor would view such information as altering the "total mix" of information made available to shareholders.

47. By virtue of their positions within the Company and/or roles in the process and in the preparation of the Recommendation Statement, Defendants were undoubtedly aware of this information and had previously reviewed it, including participating in the Proposed Transaction negotiation and sales process and reviewing Cerner's financial advisor's complete financial analyses purportedly summarized in the Recommendation Statement.

48. The Individual Defendants undoubtedly reviewed and relied upon the omitted information identified above in connection with their decision to approve and recommend the Proposed Transaction.

49. Cerner is deemed negligent as a result of the Individual Defendants' negligence in preparing and reviewing the Recommendation Statement.

50. Defendants knew that Plaintiff and other shareholders would rely upon the Recommendation Statement in determining whether to tender their shares in favor of the Proposed Transaction.

51. As a direct and proximate result of Defendants' unlawful course of conduct in violation of Section 14(d)(4) of the Exchange Act and Rule 14d-9 promulgated thereunder, absent injunctive relief from the Court, Plaintiff and other shareholders will suffer irreparable injury by being denied the opportunity to make an informed decision as to whether to tender their shares in favor of the Proposed Transaction.

52. Plaintiff has no adequate remedy at law.

COUNT II

(Against All Defendants for Violation Of Section 14(e) of the Exchange Act)

53. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

54. Defendants violated Section 14(e) of the Exchange Act by issuing the Recommendation Statement in which they made false statements of material fact or failed to state all material facts that would be necessary to make the statements made, in light of the circumstances, not misleading, or engaged in deceptive or manipulative acts or practices, in connection with the Proposed Transaction.

55. Defendants knew that Plaintiff and the Company's shareholders would rely upon their statements made in the Recommendation Statement in determining whether to tender shares in favor of the Proposed Transaction.

56. As a direct and proximate result of Defendants' unlawful course of conduct in violation of Section 14(e) of the Exchange Act, absent injunctive relief from the Court, Plaintiff and other shareholders will suffer irreparable injury by being denied the opportunity to make an informed decision as to whether to tender their shares in favor of the Proposed Transaction.

COUNT III
(Against the Individual Defendants for
Violations of Section 20(a) of the Exchange Act)

57. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

58. The Individual Defendants acted as controlling persons of Cerner within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their positions as officers and/or directors of Cerner, and participation in and/or awareness of the Company's operations and/or intimate knowledge of the false statements contained in the Recommendation Statement filed with the SEC, they had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which Plaintiff contends are false and misleading.

59. Each of the Individual Defendants were provided with or had unlimited access to copies of the Recommendation Statement and other statements alleged by Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

60. In particular, each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company, and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations alleged herein, and exercised the same. The Recommendation Statement contain the unanimous recommendation of each of the Individual Defendants to approve the Proposed Transaction. They were thus directly connected with and involved in the making of the Recommendation Statement.

61. As set forth above, the Individual Defendants had the ability to exercise control over and did control a person or persons who have each violated Section 14(e) of the Exchange Act, by their acts and omissions as alleged herein. By virtue of their positions as controlling persons and the acts described herein, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act.

62. As a direct and proximate result of Individual Defendants' conduct, Plaintiff will be irreparably harmed.

63. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment and relief as follows:

A. Preliminarily and permanently enjoining Defendants and all persons acting in concert with them from proceeding with, consummating, or closing the Proposed Transaction;

B. Directing the Individual Defendants to disseminate an Amendment to the Recommendation Statement that does not contain any untrue statements of material fact and that states all material facts required in it or necessary to make the statements contained therein not misleading;

- C. Directing Defendants to account to Plaintiff for their damages sustained because of the wrongs complained of herein;
- D. Awarding Plaintiff the costs of this action, including reasonable allowance for Plaintiff's attorneys' and experts' fees; and
- E. Granting such other and further relief as this Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury.

Dated: February 1, 2022

Respectfully submitted,

By: /s/ Joshua M. Lifshitz
Joshua M. Lifshitz
Email: jml@jlclasslaw.com

LIFSHITZ LAW PLLC

1190 Broadway,
Hewlett, New York 11557
Telephone: (516) 493-9780
Facsimile: (516) 280-7376

Attorneys for Plaintiff

Daniel Sadeh, Esq.
HALPER SADEH LLP
667 Madison Avenue, 5th Floor
New York, NY 10065
Telephone: (212) 763-0060
Facsimile: (646) 776-2600
Email: sadeh@halpersadeh.com

Counsel for Plaintiff

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

CHRISTINA HANSEN,

Plaintiff,

v.

CERNER CORPORATION, DAVID FEINBERG, WILLIAM D.
ZOLLARS, GERALD E. BISBEE, JR., MITCHELL E. DANIELS,
JR., JULIE L. GERBERDING, ELDER GRANGER, JOHN
GREISCH, MELINDA J. MOUNT, GEORGE A. RIEDEL, and
R. HALSEY WISE,

Defendants.

Case No:

JURY TRIAL DEMANDED

COMPLAINT FOR VIOLATIONS OF THE FEDERAL SECURITIES LAWS

Plaintiff Christina Hansen (“Plaintiff”), by Plaintiff’s undersigned attorneys, for Plaintiff’s complaint against Defendants (defined below), alleges the following based upon personal knowledge as to Plaintiff and Plaintiff’s own acts, and upon information and belief as to all other matters, based upon, *inter alia*, the investigation conducted by and through Plaintiff’s attorneys.

NATURE OF THE ACTION

1. This is an action against Cerner Corporation (“Cerner” or the “Company”) and its Board of Directors (the “Board” or the “Individual Defendants”) for their violations of Sections 14(e), 14(d)(4), and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C.

JURISDICTION AND VENUE

2. The claims asserted herein arise under and pursuant to Sections 14(e), 14(d)(4), and 20(a) of the Exchange Act (15 U.S.C. §§ 78n(e), 78n(d)(4), and 78t(a)) and Rule 14d-9 promulgated thereunder by the SEC (17 C.F.R. § 240.14d-9).
3. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331, and Section 27 of the Exchange Act, 15 U.S.C. § 78aa.
4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)) as a substantial portion of the transactions and wrongs complained of herein had an effect in this District, the alleged misstatements entered and the subsequent damages occurred in this District, and the Company conducts business in New York City.
5. In connection with the acts, conduct and other wrongs alleged in this complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including but not limited to, the United States mails, interstate telephone communications and the facilities of the national securities exchange.

PARTIES

6. Plaintiff is, and has been at all relevant times hereto, an owner of Cerner common stock.
7. Defendant Cerner, together with its subsidiaries, provides health care information technology solutions and tech-enabled services in the United States and internationally. The Company is incorporated in Delaware. The Company’s common stock trades on the NASDAQ under the ticker symbol, “CERN.”

8. Defendant William D. Zollars (“Zollars”) is Chairman of the Board of the Company.
9. Defendant David Feinberg (“Feinberg”) is President, Chief Executive Officer, and a director of the Company.
10. Defendant Gerald E. Bisbee, Jr. (“Bisbee”) is a director of the Company.
11. Defendant Mitchell E. Daniels, Jr. (“Daniels”) is a director of the Company.
12. Defendant Julie L. Gerberding (“Gerberding”) is a director of the Company.
13. Defendant Elder Granger (“Granger”) is a director of the Company.
14. Defendant John Greisch (“Greisch”) is a director of the Company.
15. Defendant Melinda J. Mount (“Mount”) is a director of the Company.
16. Defendant George A. Riedel (“Riedel”) is a director of the Company.
17. Defendant R. Halsey Wise (“Wise”) is a director of the Company.
18. Defendants Zollars, Feinberg, Bisbee, Daniels, Gerberding, Granger, Greisch, Mount, Riedel, and Wise are collectively referred to herein as the “Individual Defendants.”
19. Defendants Cerner and the Individual Defendants are collectively referred to herein as the “Defendants.”

SUBSTANTIVE ALLEGATIONS

A. The Proposed Transaction

20. On December 20, 2021, Cerner and Oracle announced an agreement for Oracle to acquire Cerner through an all-cash tender offer for \$95.00 per share. The press release announcing the Proposed Transaction states, in pertinent part:

NEWS PROVIDED BY

Oracle

Dec 20, 2021, 09:37 ET

AUSTIN, Texas and KANSAS CITY, Mo., Dec. 20, 2021 /PRNewswire/ — Oracle Corporation (NYSE: ORCL) and Cerner Corporation today jointly announced an agreement for Oracle to acquire Cerner through an all-cash tender offer for \$95.00 per share, or approximately \$28.3 billion in equity value. Cerner is a leading provider of digital information systems used within hospitals and health systems to enable medical professionals to deliver better healthcare to individual patients and communities.

* * *

About Oracle

Oracle offers integrated suites of applications plus secure, autonomous infrastructure in the Oracle Cloud. For more information about Oracle (NYSE: ORCL), please visit us at www.oracle.com.

About Cerner

Cerner’s health technologies connect people and information systems at thousands of contracted provider facilities worldwide dedicated to creating smarter and better care for individuals and communities. Recognized globally for innovation, Cerner assists clinicians in making care decisions and assists organizations in managing the health of their populations. The company also offers a connected clinical and financial ecosystem to help manage day-to-day revenue functions, as well as a wide range of services to support clinical, financial and operational needs, focused on people. For more information, visit Cerner.com.

21. On January 19, 2022, Defendants caused to be filed with the SEC a Schedule 14D-9 Solicitation/Recommendation Statement under Section 14(d)(4) of the Exchange Act (the “Solicitation Statement”) in connection with the Proposed Transaction.

B. The Solicitation Statement Contains Materially False and Misleading Statements and Omissions

22. The Solicitation Statement, which recommends that Cerner shareholders tender their shares in connection with the Proposed Transaction, omits and/or misrepresents material information concerning: (i) Cerner’s financial projections; (ii) the financial analyses performed by

the Company's financial advisors, Goldman Sachs & Co. LLC ("Goldman") and Centerview Partners LLC ("Centerview"), in connection with their fairness opinions; and (iii) potential conflicts of interest involving Centerview.

23. The omission of the material information (referenced below) renders the following sections of the Solicitation Statement false and misleading, among others: (i) Recommendation of the Cerner Board; (ii) Reasons for the Recommendation of the Cerner Board; (iii) Opinions of Cerner's Financial Advisors; and (iv) Certain Prospective Financial Information about Cerner.

24. The tender offer in connection with the Proposed Transaction is set to expire at 12:00 midnight, Eastern Time, at the end of the day on February 15, 2022 (the "Expiration Date"). It is imperative that the material information that was omitted from the Solicitation Statement be disclosed to the Company's shareholders prior to the Expiration Date to enable them to make an informed decision as to whether to tender their shares. Plaintiff may seek to enjoin Defendants from closing the tender offer or the Proposed Transaction unless and until the material misstatements and omissions (referenced below) are remedied. In the event the Proposed Transaction is consummated, Plaintiff may seek to recover damages resulting from Defendants' misconduct.

1. Material Omissions Concerning Cerner's Financial Projections

25. The Solicitation Statement omits material information concerning Cerner's financial projections.

26. With respect to the Company's financial projections, the Solicitation Statement fails to disclose: (1) all line items underlying the Company's financial projections; (2) the Company's net income projections; and (3) a reconciliation of all non-GAAP to GAAP metrics.

27. The disclosure of this information is material because it would provide the Company's shareholders with a basis to project the future financial performance of the Company

and would allow shareholders to better understand the financial analyses performed by the Company's financial advisors in support of their fairness opinions. Shareholders cannot hope to replicate management's inside view of the future prospects of the Company. Without such information, which is uniquely possessed by Defendant(s) and the Company's financial advisors, the Company's shareholders are unable to determine how much weight, if any, to place on the Company's financial advisors' fairness opinions in determining whether to tender their shares in connection Proposed Transaction.

28. When a company discloses non-GAAP financial metrics in a Solicitation Statement that were relied upon by its board of directors in recommending that shareholders exercise their corporate suffrage rights in a particular manner, the company must also disclose, pursuant to SEC Regulation G, all projections and information necessary to make the non-GAAP metrics not misleading, and must provide a reconciliation (by schedule or other clearly understandable method) of the differences between the non-GAAP financial metrics disclosed or released with the most comparable financial metrics calculated and presented in accordance with GAAP. 17 C.F.R. § 244.100.¹

29. The above-referenced omitted information, if disclosed, would significantly alter the total mix of information available to the Company's shareholders.

¹ Mary Jo White, *Keynote Address, International Corporate Governance Network Annual Conference: Focusing the Lens of Disclosure to Set the Path Forward on Board Diversity, Non-GAAP, and Sustainability* (June 27, 2016), <https://www.sec.gov/news/speech/chair-white-icgn-speech.html> (footnotes omitted) (last visited Jan. 24, 2022) (“And last month, the staff issued guidance addressing a number of troublesome practices which can make non-GAAP disclosures misleading: the lack of equal or greater prominence for GAAP measures; exclusion of normal, recurring cash operating expenses; individually tailored non-GAAP revenues; lack of consistency; cherry-picking; and the use of cash per share data. I strongly urge companies to carefully consider this guidance and revisit their approach to non-GAAP disclosures.”)

2. Material Omissions Concerning the Financial Advisors' Analyses

30. In connection with the Proposed Transaction, the Solicitation Statement omits material information concerning analyses performed by Goldman and Centerview.

31. The valuation methods, underlying assumptions, and key inputs used by Goldman and Centerview in rendering their purported fairness opinions must be fairly disclosed to the Company's shareholders. The description of Goldman's and Centerview's fairness opinions and analyses, however, fail to include key inputs and assumptions underlying those analyses.

32. Without the information described below, the Company's shareholders are unable to fully understand Goldman's and Centerview's fairness opinions and analyses, and are thus unable to determine how much weight, if any, to place on them in determining whether to tender their shares in connection with the Proposed Transaction. This omitted information, if disclosed, would significantly alter the total mix of information available to the Company's shareholders.

A. Goldman's Analyses

33. The Solicitation Statement fails to disclose the following concerning Goldman's "Illustrative *Discounted Cash Flow Analysis*": (1) the individual inputs and assumptions underlying the (i) discount rates ranging from 6.25% to 7.75%, (ii) perpetuity growth rates ranging from 1.75% to 2.5%, and (iii) exit terminal year LTM EBITDA multiples ranging from 8.4x to 13.6x; (2) the terminal values for Cerner; (3) Cerner's net debt as of November 30, 2021; and (4) the total number of the Company's fully diluted shares as of December 16, 2021.

34. The Solicitation Statement fails to disclose the following concerning Goldman's "Selected *Precedent Transactions Analysis*": (1) the closing date of each transaction; and (2) the value of each transaction.

35. With respect to Goldman's "Premia *Paid Analysis*," the Solicitation Statement fails to disclose each transaction and the individual premiums paid therein.

B. Centerview's Analyses

36. With respect to Centerview's "Selected *Public Company Analysis*," the Solicitation Statement fails to disclose the financial metrics of each company Centerview observed in its analysis, including each company's enterprise value and EBITDA.

37. The Solicitation Statement fails to disclose the following concerning Centerview's "Selected *Precedent Transactions Analysis*": (1) the closing date of each transaction; and (2) the value of each transaction.

38. The Solicitation Statement fails to disclose the following concerning Centerview's "Discounted *Cash Flow Analysis*": (1) the individual inputs and assumptions underlying the (i) discount rates ranging from 7.25% to 8.50%, and (ii) perpetuity growth rates ranging from 2.5% to 3.5%; (2) the terminal values of the Company; (3) Cerner's estimated net debt as of December 31, 2021; and (4) the number of fully-diluted outstanding Company shares as of December 16, 2021.

39. The Solicitation Statement fails to disclose the following concerning Centerview's "Analyst *Price Targets*" analysis: (1) the individual price targets observed by Centerview in its analysis; and (2) the sources thereof.

3. Material Omissions Concerning Potential Conflicts of Interest Involving Centerview

40. The Solicitation Statement omits material information concerning potential conflicts of interest involving Centerview.

41. The Solicitation Statement provides that, "[d]uring the two year period ended December 20, 2021, the Investment Banking Division of Goldman Sachs has not been engaged by the Significant Shareholder² or its affiliates to provide financial advisory or underwriting services for which Goldman Sachs has recognized compensation."

² The Solicitation Statement defines the "Significant Shareholder" as Lawrence Ellison, the Chairman and Chief Technology Officer of Oracle.

42. Yet, the Solicitation Statement fails to disclose the timing and nature of the past services Centerview and/or its affiliates provided the Significant Shareholder and/or its affiliates, including the amount of compensation Centerview received or expects to receive for providing each service within the past two years of the date of its fairness opinion.

43. Disclosure of a financial advisor's compensation and potential conflicts of interest to shareholders is required due to their central role in the evaluation, exploration, selection, and implementation of strategic alternatives and the rendering of any fairness opinions. Disclosure of a financial advisor's potential conflicts of interest may inform shareholders on how much weight to place on that analysis.

44. The omission of the above-referenced information renders the Solicitation Statement materially incomplete and misleading. This information, if disclosed, would significantly alter the total mix of information available to the Company's shareholders.

COUNT I
For Violations of Section 14(e) of the Exchange Act
Against All Defendants

45. Plaintiff repeats and re-alleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

46. Section 14(e) of the Exchange Act states, in relevant part:

It shall be unlawful for any person to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading . . . in connection with any tender offer or request or invitation for tenders[.]

47. During the relevant period, Defendants, individually and in concert, directly or indirectly, disseminated or approved the false and misleading Solicitation Statement specified above, which failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in violation of Section 14(e) of the Exchange Act.

48. Each of the Individual Defendants, by virtue of their positions within the Company as officers and/or directors, were aware of materially false and/or misleading and/or omitted information but failed to disclose such information, in violation of Section 14(e) of the Exchange Act. Defendants, by use of the mails and means and instrumentalities of interstate commerce, solicited and/or permitted the use of their names to file and disseminate the Solicitation Statement with respect to the Proposed Transaction.

49. The false and misleading statements and omissions in the Solicitation Statement are material in that a reasonable shareholder would consider them important in deciding whether to tender their shares in connection with the Proposed Transaction.

50. Defendants acted knowingly or with deliberate recklessness in filing or causing the filing of the materially false and misleading Solicitation Statement.

51. By reason of the foregoing, Defendants violated Section 14(e) of the Exchange Act.

52. Because of the false and misleading statements in the Solicitation Statement, Plaintiff is threatened with irreparable harm.

COUNT II
For Violations of Section 14(d)(4) of the Exchange Act and Rule 14d-9 Promulgated
Thereunder
Against All Defendants

53. Plaintiff repeats and re-alleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

54. Defendants caused the Solicitation Statement to be issued with the intent to solicit shareholder support for the Proposed Transaction.

55. Section 14(d)(4) of the Exchange Act and SEC Rule 14d-9 promulgated thereunder require full and complete disclosure in connection with tender offers. Specifically, Section 14(d)(4) states, in relevant part:

Any solicitation or recommendation to the holders of such a security to accept or reject a tender offer or request or invitation for tenders shall be made in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

56. SEC Rule 14d-9(d), adopted to implement Section 14(d)(4) of the Exchange Act, states, in relevant part:

Any solicitation or recommendation to holders of a class of securities referred to in section 14(d)(1) of the Act with respect to a tender offer for such securities shall include the name of the person making such solicitation or recommendation and the information required by Items 1 through 8 of Schedule 14D-9 (§ 240.14d-101) or a fair and adequate summary thereof[.]

57. In accordance with SEC Rule 14d-9, Item 8 of Schedule 14D-9 requires that a company:

Furnish such additional material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading.

58. During the relevant period, Defendants, individually and in concert, directly or indirectly, disseminated or approved the false and misleading Solicitation Statement specified above, which failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in violation of Section 14(d)(4) of the Exchange Act and SEC Rule 14d-9.

59. Each of the Individual Defendants, by virtue of their positions within the Company as officers and/or directors, were aware of materially false and/or misleading and/or omitted

information but failed to disclose such information, in violation of Section 14(d)(4) of the Exchange Act and SEC Rule 14d-9. Defendants, by use of the mails and means and instrumentalities of interstate commerce, solicited and/or permitted the use of their names to file and disseminate the Solicitation Statement with respect to the Proposed Transaction.

60. Defendants acted knowingly or with deliberate recklessness in filing the materially false and misleading Solicitation Statement which omitted material information.

61. The false and misleading statements and omissions in the Solicitation Statement are material in that a reasonable shareholder would consider them important in deciding whether to tender their shares in connection with the Proposed Transaction.

COUNT III
Violations of Section 20(a) of the Exchange Act
Against the Individual Defendants

62. Plaintiff repeats and re-alleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

63. The Individual Defendants acted as control persons of the Company within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their senior positions as officers and/or directors of the Company and participation in and/or awareness of the Company's operations and/or intimate knowledge of the false statements contained in the Solicitation Statement filed with the SEC, they had the power to and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the false and misleading Solicitation Statement.

64. Each of the Individual Defendants was provided with or had unlimited access to copies of the Solicitation Statement and other statements alleged by Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected. As officers and/or directors of a publicly

owned company, the Individual Defendants had a duty to disseminate accurate and truthful information with respect to the Solicitation Statement, and to correct promptly any public statements issued by the Company which were or had become materially false or misleading.

65. In particular, each of the Individual Defendants had direct and supervisory involvement in the operations of the Company, and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same. The Individual Defendants were provided with or had unlimited access to copies of the Solicitation Statement and had the ability to prevent the issuance of the statements or to cause the statements to be corrected. The Solicitation Statement at issue contains the recommendation of the Individual Defendants to tender their shares pursuant to the Proposed Transaction. Thus, the Individual Defendants were directly involved in the making of the Solicitation Statement.

66. In addition, as the Solicitation Statement sets forth at length, and as described herein, the Individual Defendants were involved in negotiating, reviewing, and approving the Proposed Transaction. The Solicitation Statement purports to describe the various issues and information that they reviewed and considered—descriptions which had input from the Individual Defendants.

67. By virtue of the foregoing, the Individual Defendants have violated Section 20(a) of the Exchange Act.

68. As set forth above, the Individual Defendants had the ability to exercise control over and did control a person or persons who have each violated Sections 14(e), 14(d)(4), and Rule 14d-9 promulgated thereunder, by their acts and omissions as alleged herein. By virtue of their positions as controlling persons, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of Defendants' conduct, the Company's shareholders will be irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment and relief as follows:

- A. Preliminarily and permanently enjoining Defendants and all persons acting in concert with them from proceeding with, consummating, or closing the Proposed Transaction and the tender offer in connection with the Proposed Transaction, unless and until Defendants disclose and disseminate the material information identified above to the Company's shareholders;
- B. In the event Defendants consummate the Proposed Transaction, rescinding it and setting it aside or awarding Plaintiff rescissory damages;
- C. Declaring that Defendants violated Sections 14(e), 14(d)(4), and 20(a) of the Exchange Act, and Rule 14d-9 promulgated thereunder;
- D. Awarding Plaintiff reasonable costs and expenses incurred in this action, including counsel fees and expenses and expert fees; and
- E. Granting such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

Dated: February 2, 2022

Respectfully submitted,

HALPER SADEH LLP

By: /s/ Daniel Sadeh
Daniel Sadeh, Esq.
Zachary Halper, Esq. (to be admitted *pro hac vice*)
667 Madison Avenue, 5th Floor
New York, NY 10065
Telephone: (212) 763-0060
Facsimile: (646) 776-2600
Email: sadeh@halpersadeh.com
zhalper@halpersadeh.com

Counsel for Plaintiff

Calculation of Filing Fee Tables

SC TO-T
(Form Type)

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

Table 1 — Transaction Value

	Transaction Valuation	Fee rate	Amount of Filing Fee**
Fees to Be Paid	0.00	0.00	0.00
Fees Previously Paid	\$28,477,199,240.00		\$2,639,836.37
Total Transaction Valuation*	\$28,477,199,240.00		
Total Fees Due for Filing			\$2,639,836.37
Total Fees Previously Paid			\$2,639,836.37
Total Fee Offsets			0.00
Net Fee Due			0.00

* Estimated solely for purposes of calculating the filing fee. This calculation is based on the offer to purchase all of the issued and outstanding shares of common stock, par value \$0.01 per share, of Cerner Corporation (“Cerner”), at a purchase price of \$95.00 per share, net to the seller in cash, without interest thereon and subject to any required tax withholding. Such shares consist of: (i) 292,952,521 shares of common stock of Cerner that were issued and outstanding as of January 11, 2022; (ii) 3,262,118 shares of common stock of Cerner potentially issuable upon exercise of outstanding exercisable in-the-money stock options as of January 11, 2022; (iii) 2,995,301 shares of common stock of Cerner issuable upon the settlement of outstanding restricted stock units as of January 11, 2022; and (iv) 550,052 shares of common stock of Cerner issuable upon the settlement of outstanding performance share units as of January 11, 2022. The foregoing figures have been provided by the issuer to the offeror and are as of January 11, 2022, the most recent practicable date.

** The filing fee was calculated in accordance with Rule 0-11 under the Securities Exchange Act of 1934, as amended, and Fee Rate Advisory No. 1 for Fiscal Year 2022, issued August 23, 2021, by multiplying the transaction value by 0.0000927.

Table 2 — Fee Offset Claims and Sources

	<u>Registrant or Filer Name</u>	<u>Form or Filing Type</u>	<u>File Number</u>	<u>Initial Filing Date</u>	<u>Filing Date</u>	<u>Fee Offset Claimed</u>	<u>Fee Paid with Fee Offset Source</u>
Fee Offset Claims		SC TO-T	005-38281	1/19/2022		0.00	
Fee Offset Sources					1/19/2022		0.00