

[Securities Regulation Daily Wrap Up, FRAUD AND MANIPULATION—D. Del.: RetailMeNot shareholders sue over lack of merger disclosures, \(May 12, 2017\)](#)

Securities Regulation Daily Wrap Up

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By [Mark S. Nelson, J.D.](#)

Shareholders of RetailMeNot, Inc. sued the company and its board of directors claiming to have been short-changed by disclosures made in a recommendation statement filed with the SEC in support of a tender offer for the company's common shares. The tender offer expires May 22, 2017 and the shareholders seek to halt the tender or, alternatively, receive damages if it goes forward ([Boening v. RetailMeNot, Inc.](#), May 10, 2017).

RetailMeNot is a Delaware-chartered and Texas-headquartered "savings destination" offering coupons that link customers to online and bricks-and-mortar retailers. Shareholders said they want additional material information about valuation assessments and management's projections that gird the company's recommendation in favor of the tender offer. They also want details about the standstill agreement and potential conflicts of interest involving RetailMeNot executives.

According to the complaint, Harland Clarke Holdings Corp. announced in April that it would acquire RetailMeNot's Series 1 common stock for \$11.60 per share in cash. The merger contemplates that a Harland Clarke subsidiary will conduct the tender offer, which will be followed by a second-step merger for any shares not tendered. Harland boasted in a press release that the addition of RetailMeNot to its mix of operating companies will help to make Harland's combined companies the "consumer savings destination of choice."

The shareholders' claims are grounded in Exchange Act Sections 14(e) and 14(d)(4) plus Rule 14d-9. They also assert Exchange Act controlling persons claims and seek class certification. Although it is too early to tell if this case could settle, some states ([Delaware](#)) and federal courts ([Seventh Circuit](#)) have employed a plainly material standard in conducting more rigorous scrutiny of settlements in cases where shareholders ask for additional disclosures.

The case is [No. 17-cv-00545](#).

Attorneys: Seth D. Rigrinsky (Rigrinsky & Long, P.A.) for Ashley Boening. Daniel J. Tyukody, Jr. (Greenberg Traurig, LLP) for Retailmenot, Inc..

Companies: Retailmenot, Inc.; Harland Clarke Holdings Corp.

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